

# **Safeguarding (Clergy Risk Assessment) Regulations 2016**

In exercise of the power under paragraph 3(1) of Canon C 30, the House of Bishops makes these Regulations:

## **Citation, commencement and interpretation**

1. (1) These Regulations may be cited as the Safeguarding (Clergy Risk Assessment) Regulations 2016.
- (2) These Regulations come into force on 1<sup>st</sup> March 2017.
- (3) The Interpretation Act 1978 applies to these Regulations as if the Canon under which they are made were a Measure of the General Synod of the Church of England.
- (4) In a case where an archbishop gives a direction under paragraph 2(1) of Canon C 30, these Regulations have effect as if—
  - (a) a reference to the bishop of a diocese were a reference to the archbishop,
  - (b) a reference to the diocesan registrar were a reference to the registrar of the archbishop's province,
  - (c) a reference to the diocesan safeguarding advisor were a reference to the Archbishops' Council, and
  - (d) a reference to the diocesan safeguarding panel or to its chair were omitted.

## **Requirement to have regard to House of Bishops' guidance**

2. In carrying out a function under these Regulations, a person must have due regard to guidance issued by the House of Bishops on matters relating to the safeguarding of children and vulnerable adults.

## **Appointment of person to carry out assessment**

3. (1) The bishop of a diocese, having given a direction under paragraph 2 of Canon C 30, must appoint a person to carry out the risk assessment (an "assessor").
  - (2) A person may not be appointed under this regulation unless he or she is included in a list maintained for the purposes of these Regulations by the Archbishops' Council.
  - (3) When making an appointment under this regulation, the bishop must be satisfied that the person is, in all the circumstances of the case, suitable to carry out the risk assessment.
  - (4) The contract under which an appointment under this regulation is made must make provision for the steps which the bishop is to be entitled to take if the person appointed fails to comply with these Regulations; and the contract may, in particular, provide for a failure to do so to be enforceable as if it were a breach of the contract.
  - (5) In acting under this regulation, the bishop must have due regard to the advice of the diocesan safeguarding advisor.

## **Procedure for carrying out assessment**

4. (1) Where the bishop of a diocese appoints a person under regulation 3 to carry out a risk assessment, the diocesan safeguarding advisor must—

- (a) prepare the terms of reference for the assessment, and
  - (b) submit them to the bishop for approval.
- (2) The bishop, having approved the terms of reference, must ensure that the diocesan safeguarding advisor gives the assessor—
- (a) a written statement which sets out the terms of reference, and
  - (b) such other information as the bishop considers relevant to the assessment, having due regard to—
    - (i) the advice given by the diocesan registrar, and
    - (ii) the advice given by the diocesan safeguarding advisor.
- (3) The bishop must also ensure that the diocesan safeguarding advisor gives the person required to undergo the assessment a written statement which—
- (a) sets out the terms of reference,
  - (b) gives the reason for requiring the assessment,
  - (c) gives the name of the assessor,
  - (d) explains how the assessment is proposed to be carried out, and
  - (e) refers to the possibility that the bishop may give a copy of the written assessment, or a copy of it in a redacted form, to the police, a local authority or others concerned with the safeguarding of children or vulnerable adults.
- (4) A failure to comply with a reasonable requirement imposed by the assessor on the person required to undergo the assessment is to be regarded as a failure to comply with the direction given under paragraph 2 of Canon C 30 to undergo the assessment (with paragraph 2(8) of the Canon applying accordingly).

**Written assessment: content**

5. (1) In a case where the assessor, having carried out a risk assessment, is satisfied that there is a risk of the kind referred to in paragraph 2(3) of Canon C 30 (risk of harm to child or vulnerable adult etc.), the assessor’s written assessment must set out—
- (a) the assessor’s opinion on the nature and likely extent of the risk, and
  - (b) the assessor’s recommendations on how to address or manage that risk.
- (2) Where a risk assessment has involved consideration of a matter certain facts of which are in dispute, the written assessment—
- (a) must set out the matter and the nature and extent of the dispute, but
  - (b) may not make a finding on any fact which is in dispute.

**Draft written assessment: procedure**

6. (1) The assessor, having completed a risk assessment, must give a draft written assessment to the bishop of the diocese.
- (2) The bishop must, subject to paragraph (3), give the draft written assessment to the person to whom the assessment relates.

(3) If the bishop is satisfied that giving the draft written assessment to the person to whom the assessment relates would disclose to him or her information about another person which should not be disclosed without that other person's consent and to the disclosure of which that other person has not consented, the bishop must give the person to whom the assessment relates—

- (a) the draft written assessment in a redacted form, and
- (b) the bishop's written explanation of the reasons for giving the person the draft in that form.

(4) In a case where paragraph (3) applies, the bishop must give the assessor a copy of the draft written assessment in the redacted form.

(5) In acting under this regulation, the bishop must have due regard to—

- (a) the advice given by the diocesan registrar, and
- (b) the advice given by the diocesan safeguarding advisor.

(6) Within 14 days of receiving the draft written assessment, the person to whom the assessment relates may put written questions, and make written submissions, to the assessor on the draft written assessment.

(7) Within 14 days of receiving questions put under paragraph (6), the assessor must give the person answers to those questions.

(8) Within 14 days of receiving those answers, the person may make written submissions to the assessor on the answers and on the draft report in light of the answers.

(9) But except as permitted by paragraphs (6) and (8), the person may not put questions or make submissions in any manner to the assessor on the assessment.

(10) In paragraphs (6) and (8), the references to the draft written assessment are, in a case where paragraph (3) applies, references to the draft in the redacted form.

### **Final written assessment: procedure**

7. (1) The assessor, having amended a draft written assessment as he or she thinks appropriate in response to any submissions made under regulation 6, must give the final written assessment to the bishop of the diocese.

(2) The bishop must, subject to paragraph (3), give the final written assessment to the person to whom the assessment relates.

(3) If the bishop is satisfied that giving the final written assessment to the person to whom the assessment relates would disclose to him or her information about another person which should not be disclosed without that other person's consent and to the disclosure of which that other person has not consented, the bishop must give the person to whom the assessment relates—

- (a) the final written assessment in a redacted form, and
- (b) the bishop's written explanation of the reasons for giving the person the final written assessment in that form.

(4) The bishop must give a copy of the final written assessment to—

- (a) the diocesan safeguarding advisor, and
- (b) the chair of the diocesan safeguarding panel.

(5) If the bishop is satisfied that it is necessary or appropriate to do so, the bishop must also give a copy of the final written assessment to the police, a local authority or such other person concerned with the safeguarding of children or vulnerable adults as the bishop considers appropriate.

(6) In acting under this regulation, the bishop must have due regard to—

- (a) the advice given by the diocesan registrar, and
- (b) the advice given by the diocesan safeguarding advisor.

(7) In sub-paragraphs (4) and (5), references to the final written assessment are, in a case where paragraph (3) applies, references to the final written assessment in the redacted form.

(8) In this regulation and regulation 8, “diocesan safeguarding panel” means the persons appointed to give the bishop of the diocese advice on and assistance with the development and implementation within the diocese of its policies on matters relating to the safeguarding of children and vulnerable adults.

### **Bishop’s responsibilities following assessment**

8. (1) The bishop of a diocese, having received a final written assessment, must invite the person to whom the assessment relates to attend a meeting with the bishop to discuss—

- (a) the opinions and any recommendations contained in the written assessment, and
- (b) any action which the bishop proposes to take in response to the assessment.

(2) Where the bishop proposes to take action in response to the assessment, the bishop must give the person written notification of the proposed action and the reasons for it; but the notification must not be given until—

- (a) a meeting has taken place in response to the invitation under paragraph (1), or
- (b) the bishop is satisfied that the person will not attend a meeting with him or her.

(3) Within 14 days of receiving a notification under paragraph (2), the person to whom the assessment relates may make written submissions to the bishop on the bishop’s proposals; but, except as permitted by this paragraph, the person may not put questions or make submissions in any manner to the bishop on the proposals.

(4) The bishop, having received any submissions made under paragraph (3), must give a copy of them to—

- (a) the diocesan safeguarding advisor, and
- (b) the chair of the diocesan safeguarding panel.

(5) Having reviewed the proposed action in the light of any submissions made under paragraph (3), the bishop—

- (a) must decide whether to take action and, if so, what action to take, and
- (b) if the bishop decides to take action, must give the person to whom the assessment relates written notification of the decision and a written explanation of the reasons for it.

(6) Where the bishop decides to take no action in response to the assessment, the bishop must give the person to whom the assessment relates written notification accordingly.

(7) In deciding whether to take action in response to the assessment, or what action to take in response to it, the bishop must have due regard to—

- (a) the advice given by the diocesan registrar,
- (b) the advice given by the diocesan safeguarding advisor, and
- (c) the advice given by the chair of the diocesan safeguarding panel.

**Power of bishop to extend time limits**

9. (1) In a case where the bishop of a diocese gives a direction under paragraph 2 of Canon C 30, the bishop—
- (a) may extend the duration of a time period provided for by these Regulations in their application to that case by such amount as the bishop determines, and
  - (b) if a time period provided for by these Regulations has expired, may authorise a further time period to have effect in the application of these Regulations to that case, beginning at such time, and ending at such time, as the bishop determines.
- (2) The reference in each of paragraphs (1)(a) and (b) to a time period provided for by these Regulations includes a reference to a time period extended under paragraph (1)(a) and a reference to a time period authorised under paragraph (1)(b).
- (3) If the bishop exercises a power under paragraph (1), the bishop must in writing inform those affected accordingly.

Made 13<sup>th</sup> December 2016.