SECTION 10 – WHEN THINGS GO WRONG

10.1 Introduction

In 2001, the House of Bishops stated that “The Church is required by God to foster relationships of the utmost integrity, truthfulness and trustworthiness”. However, sometimes relationships in the parish become strained. There may, for example, be tension between the incumbent and a curate, between a long established Licensed Lay Minister (LLM) and a newly arrived clergyperson, or indeed between any two individuals in the leadership team.

Recognising that problems can sometimes arise does not undermine or debase the value of the community; it simply acknowledges our human frailty and is a first step in tackling and reducing problems no matter how rare they are.

Acknowledging the fact that the assistant curates in training and their training incumbents are developing new relationships in the context of learning, we have developed a document that may support when it feels like things are going wrong in the training context. Please click on the link below to access the document.

http://odbf.co.uk/uYYdIB

Before using the formal stages of grievance and disciplinary procedures as described below, please use all informal stages to resolve conflict and address any misunderstanding that arises. To facilitate this, the Diocese has trained mediators available to help in such circumstances.

Mediation is a way of sorting out disagreements or disputes. A neutral third person works with those in disagreement or dispute to help them reach an agreement that will sort out their problems. It is voluntary - people only take part if they want to, and to be successful participants have to want it to work. Some costs will be incurred which depending on the circumstances may be borne by the individuals, the parish or the diocese.

Useful Contacts
Ms Rosemary Tucker; Tel: 01865 378561
The Revd Denis Smith; Tel: 0118 9427786
The Revd Canon David Hodgson; Tel: 0118 9792999
The Revd Mary Carney; Tel: 01865 515325

10.2 Grievance Procedure

Office holders have the right to seek redress if they have concerns that cannot be resolved during the normal course of their duties. Those in Common Tenure appointments have this right formally recognised in the Ecclesiastical Offices (Terms of Service) Measure 2009.
The objective of the grievance procedure, as detailed in the Grievance Code of Practice issued by the Archbishops' Council, is to deal with such complaints promptly, fairly, and consistently, with a focus on mediation and conciliation wherever possible.

The underlying principles of the procedure are as follows:
- All grievances will be taken seriously and responded to fairly and quickly
- Grievances will be dealt with informally wherever possible
- Awareness of confidentiality at all times
- The focus will be on issues not personalities
- Account will be taken of the legitimate interests of all concerned
- Office holders will have the right of representation by a colleague or trade union representative at any meeting
- Grievances may be pursued without fear of sanction

This grievance procedure is available to all office holders under common tenure and is intended to provide a means of addressing grievances relating to the exercise of the office held, which may include issues relating to:
- the interpretation and application of terms and conditions of service
- housing
- ministerial development reviews
- continuing ministerial development
- (in the case of training posts) provision of suitable training and experience or the result of an assessment at the end of the training.

Please note that in the case of bullying and harassment, the diocesan ‘Dignity at Work’ policy and procedure will be initially used to set out the informal steps you may want to take before making a formal complaint under this procedure.

The key stages of the grievance procedure are summarised below:

- **Informal stage** – wherever possible attempts should be made to address the person or body responsible for the matter directly and attempt to resolve the grievance informally including the possibility of mediation.

- **Formal stage** – if the grievance has not been resolved informally or within a reasonable time period, the office holder may choose to proceed to the formal stage which is comprised of:
  - **Stage one** – the grievance needs to be set out in writing, describing what attempts have been made to resolve the matter informally and what the desired remedy is.
  - **Stage two** – the person handling the grievance will investigate the matter and then hold a meeting to discuss the issues. This will be followed by a letter detailing the decisions made regarding appropriate resolution.
Stage three – if the matter is not been resolved satisfactorily then the office holder may appeal in writing. They will then be invited to attend a meeting to discuss the issues. The decision of the appeal body will be given in writing. There is no further right of appeal.

The Diocese of Oxford will adhere to the Code of Practice issued by The Archbishops’ Council at all times. Full information on the procedure and guidelines are available by following the links below

Grievance Procedure Code of Practice
http://www.churchofengland.org/media/56747/grievanceprocedure%20cop.pdf

Grievance Procedure – supporting advice
http://www.churchofengland.org/media/56749/grievanceprocadvice%20sa.pdf

Clergy, other than those in Common Tenure appointments, may refer to: ‘A grievance procedure for Licensed Ministers’ produced by the national church when they have concerns that cannot be resolved informally.

http://odbf.co.uk/vwYAPu

10.3 Disciplinary procedures

The Clergy Discipline Measure 2003 (that came into effect in 2006) provides a structure for dealing efficiently and fairly with formal complaints of misconduct against any member of the clergy.

All admitted to holy orders in the Church of England are covered by the Measure, whether or not in licensed ministry.

A disciplinary process can only be started by a formal written complaint of misconduct, which is made to the Bishop.

There are four grounds on which misconduct may be alleged, namely: acting in breach of ecclesiastical law; failing to do something which should have been done under ecclesiastical law; neglecting to perform or being inefficient in performing the duties of office; or engaging in conduct that is unbecoming or inappropriate to the office and work of the clergy.

- The complainant must produce written evidence in support of the complaint, and verify the complaint by a statement of truth.
- The complaint and evidence in support are referred by the Bishop to the diocesan registrar for advice.
- Having received the registrar’s advice, the Bishop may decide that the complaint should be dismissed, in which case it will proceed no further under the Measure.
If on the other hand the bishop considers that the complainant has a proper interest in complaining and that the complaint deserves further consideration, he will invite the Priest or Deacon about whom the complaint is made to send a written answer verified by a statement of truth, together with evidence in support.

The Bishop will then decide which of five possible courses of action available to him under the Measure is the appropriate one to pursue. He can:

a. take no further action;
b. record the complaint conditionally for a period of up to five years, such that if another complaint is made within that time and is dealt with under paragraphs c, d or e below, the two complaints may then be dealt with together;
c. refer the complaint to a conciliator in an attempt to obtain agreement between the complainant and the respondent as to how the complaint should be resolved;
d. impose a disciplinary penalty (but only with the consent of the respondent); or
e. require the complaint to be formally investigated by the Designated Officer, a barrister employed in the Church of England Legal Office.

Full details on the Disciplinary Measure including the process are found by following the link below

10.4 Bullying and Harassment

As indicated above, formal procedures do exist in the Church for dealing with grievances and complaints about behaviors. However, it is felt that a complaint of bullying and harassment is a particularly sensitive matter to deserve special national guidance and diocesan policy and procedure developed.

In our diocese we believe that the Church is required by God to foster relationships of the utmost integrity, truthfulness and trustworthiness. Abuse, harassment and bullying – however rare - will not be tolerated in the Diocese. All complaints of abuse, harassment and bullying will be taken seriously and thoroughly investigated.

Please follow the link below to access the national Church ‘Dignity at Work’ guidance
http://www.churchofengland.org/media/1167938/dignity%20at%20work%20booklet.pdf
The Diocese of Oxford Policy and Procedure on 'Dignity at Work' has been approved by Bishop's Staff Team and it is available here. Please click here to access the main policy and its related documents.'
Dignity at work: Policy and procedure (http://odbf.co.uk/ryPhmV)

Annex A (http://odbf.co.uk/rJK09b)
I think I have been the target of bullying or harassment, what can I do?

Annex B (http://odbf.co.uk/v5J635)
I have been accused of bullying or harassment, what can I do?

Annex C (http://odbf.co.uk/sYexsv)
Resources available to support understanding of the issues involved as well as handling of a bullying and harassment case

10.5 Capability Procedure

The Capability Procedure is a right and responsibility associated with Common Tenure. However, with mutual consent the Diocese may permit its use more widely.

The Capability code of practice is designed to come into operation when there are concerns about whether an individual, whose performance is thought to fall below an acceptable minimum standard, is managing or coping. It is designed to be supportive and developmental. Any concern will be treated seriously, but it will first be examined to see if there are any grounds to the concern. Most concerns should be resolved informally. Formal action under the code of practice should only occur some way down the line and when all else has failed. There are 3 formal stages and each stage has the right to appeal.

The procedure contains many built in safeguards including:

- The right to be informed in advance, and in writing, of the nature of the performance issue, the procedure to be followed, and the possible actions that may be taken,
- The involvement of a panel, not an individual, at every formal stage,
- The requirement to take human resources advice,
- The right to be supported by a friend or trade union representative during the formal stages of the process.
- The right to respond to all points raised
- The right of appeal

The capability procedure will not be used in trivial or unsubstantiated cases, and can only be invoked by the Bishop, Archdeacon or someone specifically designated on their behalf, after a thorough investigation of the facts, and an interview with the clergy concerned.

The procedure will normally consist of the following stages but can be discontinued at any point if the required improvements are made:

- Informal warning
- Formal procedure stage one – formal written warning

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Formal procedure stage two – final formal written warning
Formal procedure stage three – removal from current office

Diocese of Oxford will adhere to the Code of Practice issued by The Archbishops’ Council at all times. Full information on the procedure and guidelines are available:

Capability Procedure Code of Practice
http://www.churchofengland.org/media/56741/10%204%2027%20capability%20code%20of%20practice%20-%20final.pdf

Capability Procedure – supporting advice
http://www.churchofengland.org/media/56745/10%203%2026%20capability%20supporting%20advice.pdf

10.6 Relationship between MDR and capability procedure

While MDR and the capability procedure are two separate and self-contained procedures as described in the relevant sections within this handbook and supporting documentation, it is also true that they need to be consistent.

The capability procedure aims to develop and improve the performance of the individual concerned, a shared goal with MDR, however, MDR must not be used as a substitute for the capability procedure or its informal stages.

If there is an issue of capability, this will be dealt using the initial stages of the capability procedure, and will be made clear to the office holder that their performance is not of an acceptable standard, and that the formal procedure will be activated unless their performance improves.

That said, it would be open to question whether the capability procedure had been properly followed if the written record of the MDR did not provide evidence that issues about performance and the need to improve had been raised with the office holder.

10.7 Respondent in Employment Tribunal Proceedings

It is hoped that any dispute or grievance will be resolved internally before an office holder makes an application to an Employment Tribunal.

If an issue cannot be resolved any other way, information on how to make a claim and how the process works can be obtained from www.direct.gov.uk

The body to be treated for the purposes of the Ecclesiastical Offices (Terms of Service) Regulations 2009 as the respondent in any proceedings brought before and Employment Tribunal will be detailed clearly in the office holder’s Statement of Particulars.

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