

NATIONAL TRIBUNAL SERVICE
Including the National Penal Tribunal of England and Wales

39 Eccleston Square, London, SW1V 1BX

**An Introduction to the National Tribunal Service
of England and Wales**

The purpose of this document is to introduce the origins, constitution and work of the National Tribunal Service (NTS). More detailed information will be posted upon the NTS website when the website is operational.

Any enquiries concerning the general work of the NTS may be directed to:

tribunal.office@catholictribunal.org.uk

How has it come into being?

The National Tribunal Service of England and Wales was proposed by decree of the Bishops' Conference on the 17th November 2022, following a debate and formal resolution at the plenary assembly. Approval for a National Penal Tribunal, in first and second instance, was given by the Apostolic Signatura by decree on the 4th May 2023.

Where is it located?

The offices of the NTS are located at the Bishops' Conference at 39 Eccleston Square, London, SW1V 1BX, although it must be stressed that the Bishops' Conference has no role in deciding cases which are brought to the NTS.

What is the Jurisdiction of the National Tribunal?

The concept of a National Tribunal was proposed as part of the Elliott Review, which was an independent review into safeguarding structures in England and Wales. The final report, published in November 2020, recommended the establishment of a National Tribunal to enhance impartiality, transparency as well as consistency of current and future practice in relation to the application of canon law in England and Wales. While the Elliott Report was focused on issues to do with safeguarding, it was acknowledged that a National Tribunal would be involved in many aspects of penal law which affect clergy, religious and

lay people and which go far beyond potential misconduct of a safeguarding nature.

What has changed?

National and regional tribunals are a model of tribunal which are provided for in canon law, with the most common form of national or regional tribunal being concerned with the examination of claims of marriage nullity. Prior to May 2023, each diocesan tribunal had competence to carry out the judicial penal process – the canonical penal trial in other words. However, following approval from the Apostolic Signatura, the Bishops' Conference Decree conferred upon the National Tribunal exclusive competence for carrying out judicial canonical trials, with the exception of those offences which are reserved to the Holy See. In these cases, the Holy See is able to grant competence to the NTS, should this be considered the most appropriate way forward in a particular case.

What is the scope of its work?

The NTS *includes* the National Penal Tribunal of England and Wales, but the work of the NTS is broader than this judicial function. The various functions and services of the NTS will be detailed below.

The National Penal Tribunal of England and Wales

How will the National Tribunal Operate?

This is the Tribunal strictly speaking, and it has two instances. The first instance is based at Eccleston Square and Bishop John Sherrington is the Bishop Moderator of this instance. That is to say, for the first instance penal Tribunal, Bishop Sherrington exercises all the authority that a diocesan bishop enjoys in his own diocesan tribunal. The first instance makes findings and determinations according to the procedure in the 1983 Code of Canon Law when a case is referred to it. This means, in other words, that the Tribunal makes a determination on the allegation, the culpability of the person implicated in misconduct and, where the allegation is sustained, what penalty, if any, is to be imposed.

The second instance Tribunal is the appeal Tribunal. The Bishop Moderator is Bishop Thomas Neylon and, as for the Bishop Moderator in first instance, Bishop Neylon has, for the appeal Tribunal, all the authority that a diocesan bishop enjoys in his diocesan tribunal. The parties in a case – that is to say, the promoter

of justice and the accused/guilty party – can appeal a decision of the first instance Tribunal. The seat of the second instance Tribunal is in Liverpool. Cases which are reserved to the Holy See are appealed to the relevant Dicastery. The existence of a national appeal Tribunal does not prejudice the right of a party to appeal a case to the Roman Rota.

The National Tribunal is also competent to hear cases of members of Churches which fall under the 1990 Code of Canons of the Eastern Churches. In this way, as well as being a National Tribunal, it is also an inter-Ecclesial Tribunal.

Each instance Tribunal has a set of officers who are appointed by decree of the Bishop Moderator with the prior agreement of the voting members of the Bishops’ Conference, according to the terms of the decree of erection. In addition to the Bishop Moderators (who were appointed by unanimous agreement of the bishops), each instance has a judicial vicar, a chancellor, a promoter of justice, and a cohort of judges. There is also a set of advocates who are competent to act for those who are the subject of allegations.

The principal officers of the two Tribunals are:

	First Instance	Second Instance
Judicial Vicar	Rev. John Poland	Rev. Christopher Dawson
Chancellor	Dr Ed Morgan	Dr Ed Morgan
Promoter of Justice	Rev. Canon Bill Agley	Rev. Sean Riley

The NTS is accountable to the Apostolic Signatura for its activity as a National Penal Tribunal. For this reason, it must make a yearly report on its work to the Apostolic Signatura.

A wider resource?

The NTS can be called upon to provide additional services in other aspects of the penal process. These would be requested of the NTS by a diocesan bishop or a similar authority. These may include:

1) The Preliminary Investigation, which is the formal initial canonical investigation which takes place before, and in anticipation of, a possible further canonical process, whether penal judicial or administrative. The preliminary investigation has three aims, with regard to the allegation or concern, namely:

- Facts
- Circumstances

- Imputability (subjective responsibility)

The law allows for a preliminary investigation whenever the diocesan bishop receives information to suggest that a canonical offence may have been committed.

2) The administrative (extra-judicial) penal process. A diocesan bishop (or a similar authority) may conclude that a judicial canonical trial is not appropriate in a particular case. The law allows for an allegation to be tested, a decision made about guilt, and for a penalty to be imposed, by way of decree of an executive authority – by decree of the diocesan bishop or one delegated for this function.

Those Subject to the NTS?

Canonical offences can be committed by many people – priests, deacons, religious, and lay people. For this reason, the NTS is not limited to the examination of allegations of misconduct or offences which pertain only to clerics.

Offences?

The competence of the NTS (and the National Penal Tribunal in particular) extends to any of the offences provided for in canon law, with the exception of those reserved to the Holy See. A list of the offences found in the 1983 Code, as amended, together with potential penalties, is given below. The 1990 Code of Canons of the Eastern Churches contains a slightly different list.

Canonical Offences in the 1983 Code of Canon Law (as Amended)

TITLE I

OFFENCES AGAINST THE FAITH AND THE UNITY OF THE CHURCH

Can. 1364 — § 1. An apostate from the faith, a heretic or a schismatic incurs a *latae sententiae* excommunication, without prejudice to the provision of can. 194 § 1 n. 2; he or she may also be punished with the penalties mentioned in can. 1336 §§ 2-4.

§ 2. If a long-standing contempt or the gravity of scandal calls for it, other penalties may be added, not excluding dismissal from the clerical state.

Can. 1365 — A person who, apart from the case mentioned in canon 1364 § 1, teaches a doctrine condemned by the Roman Pontiff, or by an Ecumenical Council, or obstinately rejects the teaching mentioned in canon 750 § 2 or canon 752 and, when warned by the Apostolic See or the Ordinary, does not retract, is to be punished with a censure and deprivation of office; to these sanctions others mentioned in can. 1336 §§ 2-4 may be added.

Can. 1366 — A person who appeals from an act of the Roman Pontiff to an Ecumenical Council or to the College of Bishops is to be punished with a censure.

Can. 1367 — Parents and those taking the place of parents who hand over their children to be baptised or brought up in a non-Catholic religion are to be punished with a censure or other just penalty.

Can. 1368 — A person is to be punished with a just penalty who, at a public event or assembly, or in a published writing, or by otherwise using the means of social communication, utters blasphemy, or gravely harms public morals, or rails at or excites hatred of or contempt for religion or the Church.

Can. 1369 — A person who profanes a sacred object, moveable or immovable, is to be punished with a just penalty.

TITLE II OFFENCES AGAINST CHURCH AUTHORITIES AND THE EXERCISE OF DUTIES

Can. 1370 — § 1. A person who uses physical force against the Roman Pontiff incurs a *latae sententiae* excommunication reserved to the Apostolic See; if the offender is a cleric, another penalty, not excluding dismissal from the clerical state, may be added according to the gravity of the crime.

§ 2. One who does this against a Bishop incurs a *latae sententiae* interdict and, if a cleric, he incurs also a *latae sententiae* suspension.

§ 3. A person who uses physical force against a cleric or religious or another of Christ's faithful out of contempt for the faith, or the Church, or ecclesiastical authority or the ministry, is to be punished with a just penalty.

Can. 1371 — § 1. A person who does not obey the lawful command or prohibition of the Apostolic See or the Ordinary or Superior and, after being warned, persists in disobedience, is to be punished, according to the gravity of

the case, with a censure or deprivation of office or with other penalties mentioned in can. 1336, §§ 2-4.

§ 2. A person who violates obligations imposed by a penalty is to be punished with the penalties mentioned in can. 1336 §§ 2-4.

§ 3. A person who, in asserting or promising something before an ecclesiastical authority, commits perjury, is to be punished with a just penalty.

§ 4. A person who violates the obligation of observing the pontifical secret is to be punished with the penalties mentioned in can. 1336 §§ 2-4.

§ 5. A person who fails to observe the duty to execute an executive sentence is to be punished with a just penalty, not excluding a censure.

§ 6. A person who neglects to report an offence, when required to do so by a canonical law, is to be punished according to the provision of can. 1336 §§ 2-4, with the addition of other penalties according to the gravity of the offence.

Can. 1372 — The following are to be punished according to the provision of can. 1336 §§ 2-4:

1° those who hinder the freedom of the ministry or the exercise of ecclesiastical power, or the lawful use of sacred things or ecclesiastical goods, or who intimidate one who has exercised ecclesiastical power or ministry;

2° those who hinder the freedom of an election or intimidate an elector or one who is elected.

Can. 1373 — A person who publicly incites hatred or animosity against the Apostolic See or the Ordinary because of some act of ecclesiastical office or duty, or who provokes disobedience against them, is to be punished by interdict or other just penalties.

Can. 1374 — A person who joins an association which plots against the Church is to be punished with a just penalty; one who promotes or takes office in such an association is to be punished with an interdict.

Can. 1375 — § 1. Anyone who usurps an ecclesiastical office is to be punished with a just penalty.

§ 2. The unlawful retention of an office after being deprived of it, or ceasing from it, is equivalent to usurpation.

Can. 1376 — § 1. The following are to be punished with the penalties mentioned in can. 1336 §§ 2-4, without prejudice to the obligation of repairing the harm:

1° a person who steals ecclesiastical goods or prevents their proceeds from being received;

2° a person who without the prescribed consultation, consent, or permission, or without another requirement imposed by law for validity or for lawfulness, alienates ecclesiastical goods or carries out an act of administration over them.

§ 2. The following are to be punished, not excluding by deprivation of office, without prejudice to the obligation of repairing the harm:

1° a person who through grave personal culpability commits the offence mentioned in § 1, n. 2;

2° a person who is found to have been otherwise gravely negligent in administering ecclesiastical goods.

Can. 1377 — § 1. A person who gives or promises something so that someone who exercises an office or function in the Church would unlawfully act or fail to act is to be punished according to the provision of can. 1336 §§ 2-4; likewise, the person who accepts such gifts or promises is to be punished according to the gravity of the offence, not excluding by deprivation of office, without prejudice to the obligation of repairing the harm.

§ 2. A person who in the exercise of an office or function requests an offering beyond that which has been established, or additional sums, or something for his or her own benefit, is to be punished with an appropriate monetary fine or with other penalties, not excluding deprivation of office, without prejudice to the obligation of repairing the harm.

Can. 1378 — § 1. A person who, apart from the cases already foreseen by the law, abuses ecclesiastical power, office, or function, is to be punished according to the gravity of the act or the omission, not excluding by deprivation of the power or office, without prejudice to the obligation of repairing the harm.

§ 2. A person who, through culpable negligence, unlawfully and with harm to another or scandal, performs or omits an act of ecclesiastical power or office or function, is to be punished according to the provision of can. 1336 §§ 2-4, without prejudice to the obligation of repairing the harm.

TITLE III

OFFENCES AGAINST THE SACRAMENTS

Can. 1379 — § 1. The following incur a *latae sententiae* interdict or, if a cleric, also a *latae sententiae* suspension:

1° a person who, not being an ordained priest, attempts the liturgical celebration of the Eucharistic Sacrifice;

2° a person who, apart from the case mentioned in can. 1384, though unable to give valid sacramental absolution, attempts to do so, or hears a sacramental confession.

§ 2. In the cases mentioned in § 1, other penalties, not excluding excommunication, can be added, according to the gravity of the offence.

§ 3. Both a person who attempts to confer a sacred order on a woman, and the woman who attempts to receive the sacred order, incur a *latae sententiae* excommunication reserved to the Apostolic See; a cleric, moreover, may be punished by dismissal from the clerical state.

§ 4. A person who deliberately administers a sacrament to those who are prohibited from receiving it is to be punished with suspension, to which other penalties mentioned in can. 1336 §§ 2-4 may be added.

§ 5. A person who, apart from the cases mentioned in §§ 1-4 and in can. 1384, pretends to administer a sacrament is to be punished with a just penalty.

Can. 1380 — A person who through simony celebrates or receives a sacrament is to be punished with an interdict or suspension or the penalties mentioned in can. 1336 §§ 2-4.

Can. 1381 — One who is guilty of prohibited participation in religious rites is to be punished with a just penalty.

Can. 1382 — § 1. One who throws away the consecrated species or, for a sacrilegious purpose, takes them away or keeps them, incurs a *latae sententiae* excommunication reserved to the Apostolic See; a cleric, moreover, may be punished with some other penalty, not excluding dismissal from the clerical state.

§ 2. A person guilty of consecrating for a sacrilegious purpose one element only or both elements within the Eucharistic celebration or outside it is to be punished according to the gravity of the offence, not excluding by dismissal from the clerical state.

Can. 1383 — A person who unlawfully traffics in Mass offerings is to be punished with a censure or with the penalties mentioned in can. 1336 §§ 2-4.

Can. 1384 — A priest who acts against the prescription of can. 977 incurs a *latae sententiae* excommunication reserved to the Apostolic See.

Can. 1385 — A priest who in confession, or on the occasion or under the pretext of confession, solicits a penitent to commit a sin against the sixth commandment

of the Decalogue, is to be punished, according to the gravity of the offence, with suspension, prohibitions and deprivations; in the more serious cases he is to be dismissed from the clerical state.

Can. 1386 — § 1. A confessor who directly violates the sacramental seal incurs a *latae sententiae* excommunication reserved to the Apostolic See; he who does so only indirectly is to be punished according to the gravity of the offence.

§ 2. Interpreters, and the others mentioned in can. 983 § 2, who violate the secret are to be punished with a just penalty, not excluding excommunication.

§ 3. Without prejudice to the provisions of §§ 1 and 2, any person who by means of any technical device makes a recording of what is said by the priest or by the penitent in a sacramental confession, either real or simulated, or who divulges it through the means of social communication, is to be punished according to the gravity of the offence, not excluding, in the case of a cleric, by dismissal from the clerical state.

Can. 1387 — Both the Bishop who, without a pontifical mandate, consecrates a person a Bishop, and the one who receives the consecration from him, incur a *latae sententiae* excommunication reserved to the Apostolic See.

Can. 1388 — § 1. A Bishop who, contrary to the provision of can. 1015, ordained someone else's subject without the lawful dimissorial letters, is prohibited from conferring orders for one year. The person who received the order is *ipso facto* suspended from the order received.

§ 2. A person who comes forward for sacred orders bound by some censure or irregularity which he voluntarily conceals is *ipso facto* suspended from the order received, apart from what is established in canon 1044, § 2, n. 1.

Can. 1389 — A person who, apart from the cases mentioned in cann. 1379-1388, unlawfully exercises the office of a priest or another sacred ministry, is to be punished with a just penalty, not excluding a censure.

TITLE IV

OFFENCES AGAINST REPUTATION AND THE OFFENCE OF FALSEHOOD

Can. 1390 — § 1. A person who falsely denounces a confessor of the offence mentioned in can. 1385 to an ecclesiastical Superior incurs a *latae sententiae* interdict and, if a cleric, he incurs also a suspension.

§ 2. A person who calumniously denounces some other offence to an ecclesiastical Superior, or otherwise unlawfully injures the good name of

another, is to be punished according to the provision of can. 1336 §§ 2-4, to which moreover a censure may be added.

§3. The calumniator must also be compelled to make appropriate amends.

Can. 1391 — The following are to be punished with the penalties mentioned in can. 1336 §§ 2-4, according to the gravity of the offence:

1° a person who composes a false public ecclesiastical document, or who changes, destroys, or conceals a genuine one, or who uses a false or altered one;

2° a person who in an ecclesiastical matter uses some other false or altered document;

3° a person who, in a public ecclesiastical document, asserts something false.

TITLE V

OFFENCES AGAINST SPECIAL OBLIGATIONS

Can. 1392 — A cleric who voluntarily and unlawfully abandons the sacred ministry, for six months continuously, with the intention of withdrawing himself from the competent Church authority, is to be punished, according to the gravity of the offence, with suspension or additionally with the penalties established in can. 1336 §§ 2-4, and in the more serious cases may be dismissed from the clerical state.

Can. 1393 — § 1. A cleric or religious who engages in trading or business contrary to the provisions of the canons is to be punished with the penalties mentioned in can. 1336 §§ 2-4, according to the gravity of the offence.

§ 2. A cleric or religious who, apart from the cases already foreseen by the law, commits an offence in a financial matter, or gravely violates the stipulations contained in can. 285 § 4, is to be punished with the penalties mentioned in can. 1336 §§ 2-4, without prejudice to the obligation of repairing the harm.

Can. 1394 — § 1. A cleric who attempts marriage, even if only civilly, incurs a *latae sententiae* suspension, without prejudice to the provisions of can. 194 § 1 n. 3, and 694 § 1 n. 2. If, after warning, he has not reformed or continues to give scandal, he must be progressively punished by deprivations, or even by dismissal from the clerical state.

§ 2. Without prejudice to the provisions of can. 694 § 1 n. 2, a religious in perpetual vows who is not a cleric but who attempts marriage, even if only civilly, incurs a *latae sententiae* interdict.

Can. 1395 — § 1. A cleric living in concubinage, other than in the case mentioned in can. 1394, and a cleric who continues in some other external sin against the sixth commandment of the Decalogue which causes scandal, is to be punished with suspension. To this, other penalties can progressively be added if after a warning he persists in the offence, until eventually he can be dismissed from the clerical state.

§ 2. A cleric who has offended in other ways against the sixth commandment of the Decalogue, if the offence was committed in public, is to be punished with just penalties, not excluding dismissal from the clerical state if the case so warrants.

§ 3. A cleric who by force, threats or abuse of his authority commits an offence against the sixth commandment of the Decalogue or forces someone to perform or submit to sexual acts is to be punished with the same penalty as in § 2.

Can. 1396 — A person who gravely violates the obligation of residence to which he is bound by reason of an ecclesiastical office is to be punished with a just penalty, not excluding, after a warning, deprivation of the office.

TITLE VI

OFFENCES AGAINST HUMAN LIFE, DIGNITY AND LIBERTY

Can. 1397 — § 1. One who commits homicide, or who by force or by fraud abducts, imprisons, mutilates or gravely wounds a person, is to be punished, according to the gravity of the offence, with the penalties mentioned in can. 1336. In the case of the homicide of one of those persons mentioned in can. 1370, the offender is punished with the penalties prescribed there and also in § 3 of this canon.

§ 2. A person who actually procures an abortion incurs a *latae sententiae* excommunication.

§ 3. If offences dealt with in this canon are involved, in more serious cases the guilty cleric is to be dismissed from the clerical state.

Can. 1398 — § 1. A cleric is to be punished with deprivation of office and with other just penalties, not excluding, where the case calls for it, dismissal from the clerical state, if he:

1° commits an offence against the sixth commandment of the Decalogue with a minor or with a person who habitually has an imperfect use of reason or with one to whom the law recognises equal protection;

2° grooms or induces a minor or a person who habitually has an imperfect use of reason or one to whom the law recognises equal protection to expose himself or herself pornographically or to take part in pornographic exhibitions, whether real or simulated;

3° immorally acquires, retains, exhibits or distributes, in whatever manner and by whatever technology, pornographic images of minors or of persons who habitually have an imperfect use of reason.

§ 2. A member of an institute of consecrated life or of a society of apostolic life, or any one of the faithful who enjoys a dignity or performs an office or function in the Church, who commits an offence mentioned in § 1 or in can. 1395 § 3 is to be punished according to the provision of can. 1336 §§ 2-4, with the addition of other penalties according to the gravity of the offence.

Rev J Poland JCD
1st November 2023