
STATUTORY INSTRUMENTS

2005 No. 2022

The Clergy Discipline Rules 2005

PART VIII

The tribunal

Appointment of members of the tribunal

37.—(1) Within 14 days of being notified under section 22(2) of the Measure of their identity, the respondent may make written representations to the President about the suitability of any of the proposed members of the tribunal which will hear the complaint, and the President shall not appoint any of the members until such representations, if any, have been received and considered.

(2) If the President is not satisfied that a proposed appointee is impartial, the President shall propose an alternative person, and shall afford an opportunity to the respondent to make representations about that person within 14 days of being notified of that person's identity.

Fixing the date and place of the hearing of the complaint

38.—(1) The Registrar of Tribunals may direct the parties to provide time estimates of the likely length of the hearing of the complaint.

(2) Thereafter, as soon as may be expedient, in consultation with the Chair and with due regard being paid to the convenience of the complainant, the respondent, the Designated Officer and the witnesses, the Registrar of Tribunals shall fix the date, time and place for the hearing of the complaint, and shall give not less than 14 days written notice of the same to the complainant, the respondent and the Designated Officer.

(3) The Registrar of Tribunals or the Chair may vary the date, time and place of any hearing, and written notice of the variation shall be given by the Registrar of Tribunals to the complainant, the respondent and the Designated Officer.

The tribunal and the overriding objective

39. The tribunal shall in accordance with the overriding objective in rule 1—

- (a) conduct the hearing in the manner it considers most appropriate to the issues before it and to the just handling of the complaint generally,
- (b) set a suitable timetable for the hearing.

Tribunal hearing normally to be in private

40. The hearing shall be in private except where—

- (a) the tribunal is satisfied that it is in the interests of justice to have a hearing in public, or
- (b) the respondent so requests,

in which case the tribunal shall direct that the hearing shall be in public, but during any part of the proceedings the tribunal may exclude such person or persons as it may determine.

Power to adjourn

41. The hearing may be adjourned from time to time if necessary.

Absence from a hearing

42. The Registrar of Tribunals or the Chair may proceed with a hearing notwithstanding the absence of the complainant or the respondent, provided the Registrar of Tribunals or the Chair is satisfied that the absent person has had notice of the hearing.

Admissions by the respondent

43. If, after referral of the complaint under rule 29, the respondent makes an admission before or at the hearing, the tribunal may make a finding of misconduct on the basis of that admission without considering any or any further evidence, and the tribunal may then proceed under section 19 of the Measure.

Entitlement to call evidence

44. At the hearing, subject to rules 35, 36 and 39, the complainant and the respondent are entitled to give evidence, and the Designated Officer and the respondent are entitled to call witnesses, to question any witnesses who give oral evidence, and to address the tribunal on evidence, the law and on the issues generally.

Oral evidence

45. Oral evidence shall be given on oath or solemn affirmation, and shall be recorded.

Tribunal may require personal attendance of witness

46. The tribunal may at any stage of the proceedings require the personal attendance at the hearing of the author of a witness statement or an expert who has produced a report.

Attendance at a hearing in private

47. Where the hearing is held in private, in addition to members and staff of the tribunal, the following may attend—

- (a) the complainant and the respondent,
- (b) the legal representatives of the respondent,
- (c) the Designated Officer, any supporting staff, and any person authorised by the Designated Officer to conduct the case for the complainant,
- (d) the bishop,
- (e) the relevant archdeacon,
- (f) any other person with the tribunal's permission.

Power to exclude from hearing

48. The tribunal may exclude from the hearing any person who threatens to disrupt or has disrupted the hearing or has otherwise interfered with the administration of justice.

Tribunal may order identity not to be published

49. The tribunal may order that the name and any other identifying details of any person involved or referred to in the proceedings must not be published or otherwise made public, if satisfied that such an order—

- (a) is desirable to protect the private life of any person, or
- (b) is desirable to protect the interests of any child, or
- (c) is otherwise in the interests of the administration of justice.

Pronouncement of the tribunal's determination of the complaint

50.—(1) The determination of the complaint shall be according to the opinion of the majority of the members of the tribunal.

(2) The Chair shall pronounce the tribunal's determination of the complaint in public—

- (a) at the end of the hearing, or
- (b) at a later date when the Chair may sit alone for that purpose.

(3) The tribunal's determination shall be recorded in writing with reasons, and shall set out the opinion of the majority of its members together with the minority opinions if any, and shall be signed by each member.

(4) The tribunal may omit from the written determination the name and any other identifying details of any person, if satisfied that such an order—

- (a) is desirable to protect the private life of that person, or
- (b) is desirable to protect the interests of any child, or
- (c) is otherwise in the interests of the administration of justice.

(5) A copy of the tribunal's written determination shall be sent to the complainant, the respondent, the Designated Officer, the bishop, the registrar, and the provincial registrar.

Tribunal may invite the bishop to give views about the penalty

51. Before imposing a penalty the tribunal may invite the bishop of the diocese concerned to express in writing the bishop's views as to the appropriate penalty, save where the bishop has given evidence to the tribunal. If the tribunal decides to do so—

- (a) the bishop shall be invited to express any views in writing to the tribunal within 14 days of being requested to do so, and
- (b) a copy of the bishop's views shall be provided by the tribunal to the respondent and to the Designated Officer.

Pronouncement of penalty

52.—(1) The Chair shall pronounce in public the penalty or penalties imposed by the tribunal and may sit alone for that purpose.

(2) The pronouncement of the penalty or penalties may be on the same occasion as the pronouncement of the determination under rule 50, or at a later date.

(3) The decision to impose a penalty or penalties shall be recorded in writing, and a copy of the written decision shall be sent to the respondent, the Designated Officer, the bishop, the registrar and the provincial registrar.

Record of conditional discharges

53.—(1) The provincial registrar shall maintain a record of conditional discharges.

(2) The record shall not be open to public inspection but shall be made available to diocesan bishops and registrars.

(3) A conditional discharge shall be removed from the record at the end of the period specified in the order of the tribunal which imposed it.