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STATUTORY INSTRUMENTS

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**2005 No. 2022**

**The Clergy Discipline Rules 2005**

**PART VII**

Evidence

**Witness statements for use at a hearing before a tribunal**

**35.**—(1) A witness statement is a written statement signed by a person and containing evidence which that person would be allowed to give orally.

(2) A witness statement must indicate—

- (a) which matters in it come from the witness's own knowledge, and which are matters of information or belief, and
- (b) the source of any matters of information or belief.

(3) A witness statement intended for use before a tribunal must contain at the end a declaration of truth in the following form—

“I believe that the contents of this witness statement are true”,

and shall be dated and signed by the witness.

(4) A party wishing to rely on a witness statement at the hearing of the complaint shall call the witness to give oral evidence unless—

- (a) the parties agree that the witness statement may be put in evidence, or
- (b) the witness has died, is too ill to attend or is overseas, or
- (c) the Registrar of Tribunals or the Chair directs otherwise.

(5) Where a witness is called to give oral evidence the witness statement of the witness shall stand as the witness's evidence in chief unless the Chair directs otherwise.

(6) A witness giving oral evidence at a hearing may with the permission of the Chair—

- (a) amplify the witness statement, and
- (b) give evidence in relation to new matters which have arisen since the witness statement was made.

(7) Any witness who gives oral evidence may be cross-examined.

(8) If a party exchanges a witness statement with another party but does not—

- (a) call the witness to give evidence at the hearing, or
- (b) put the statement in evidence without calling the witness,

the other party may put the witness statement in evidence without calling the witness to give oral evidence.

## Expert evidence

**36.—(1)** No party may rely upon expert evidence without the permission of the Registrar of Tribunals or the Chair.

(2) If permission is given for expert evidence to be relied upon,

- (a) the permission must be in respect of a named expert or a specific subject, and
- (b) the evidence must be reasonably required for the purposes of the proceedings.

(3) An expert witness must be independent from the complainant and respondent, and at all times is under an overriding duty to help the tribunal on the matters within that person's expertise.

(4) Expert evidence is to be set out in a written report, and the report shall contain—

- (a) details of the expert's qualifications and experience,
- (b) details of the information provided and the questions asked of the expert for the preparation of the report,
- (c) where there is a range of opinion on the matter dealt with in the report,
  - (i) a summary of the range of opinion,
  - (ii) reasons for the expert's own opinion,
- (d) a statement that the expert understands his or her duty to the tribunal, and has complied with that duty.

(5) Expert evidence cannot be relied upon without permission from the Chair, unless a copy of the report has been sent or delivered to the other party in accordance with directions given under rule 33.

(6) Where both parties wish to submit expert evidence on a particular issue, the Registrar of Tribunals or the Chair shall, save in exceptional circumstances, direct that the evidence on that issue is to be given by a single joint expert only.

(7) If the parties cannot agree who should be the single joint expert, the Registrar of Tribunals or the Chair may—

- (a) nominate the expert from a list presented by the parties, or
- (b) direct that the expert be nominated in another specified manner.

(8) Where a single joint expert is to be used, the parties should try to agree joint instructions, failing which each party may give instructions to the expert provided that at the same time a copy of those instructions is sent to the other party.

(9) A party may put written questions to any expert for the purpose of clarifying the expert's report.

An expert's answers to written questions are to be treated as part of the expert's report.

Where an expert does not answer a written question the Registrar of Tribunals or the Chair may direct that part or all of the expert's evidence may not be relied upon.

**36.—(10)** An expert may not give oral evidence at a hearing unless permission has previously been given by the Registrar of Tribunals or the Chair.