
STATUTORY INSTRUMENTS

2005 No. 2022

The Clergy Discipline Rules 2005

PART III

Preliminary scrutiny

Receipt of complaint

9.—(1) On receipt of a complaint the bishop, or a person authorised by the bishop, shall send the complainant an acknowledgment of the complaint, which states—

- (a) the date when proceedings were instituted, which is the date the complaint was received, and
- (b) subject to paragraph (c), that the complaint together with the written evidence in support of the complaint, if any, will be referred to the registrar for a written report to be prepared setting out the registrar's views on—
 - (i) whether at the date when proceedings were instituted the complainant was entitled under section 10 of the Measure to make the complaint, and
 - (ii) whether there is sufficient substance in the complaint to justify proceeding with it in accordance with the provisions of the Measure.

Where a complaint alleges misconduct which might constitute a criminal offence, the acknowledgment shall state that resolution of the complaint under the Measure may be postponed to await the outcome of police or other investigations.

(2) The bishop, or a person authorised by the bishop, shall refer the complaint and written evidence in support of the complaint to the registrar within 7 days of receipt.

Notifying the respondent about the complaint

10.—(1) Subject to sub-rule (2), within 7 days of receiving the complaint from the bishop, the registrar shall notify the respondent in writing—

- (a) that a complaint has been made,
- (b) that the registrar's function is limited to scrutinising the complaint in order to produce a written report for the bishop setting out the registrar's views on—
 - (i) whether, at the date when proceedings were instituted, the complainant was entitled under section 10 of the Measure to make the complaint, and
 - (ii) whether there is sufficient substance in the complaint to justify proceeding with it,
- (c) that no formal response or detailed evidence is required from the respondent at this preliminary stage as the registrar's function is limited to the matters in paragraph (b) above,
- (d) that the respondent will be requested by the bishop to respond to the complaint in detail with evidence in support if it proceeds beyond preliminary scrutiny,
- (e) of the date when the registrar expects to submit the written report to the bishop.

(2) For the protection of the interests of a child, the registrar may in exceptional circumstances delay notifying the respondent that a complaint has been made until no later than 42 days after receipt of the complaint.

(3) When notifying the respondent under sub-rule (1), the registrar shall send the respondent a copy or, where sub-rule (4) applies, an edited transcript of the complaint and the written evidence in support.

(4) The registrar may delete from the respondent's copy of the complaint form and written evidence in support any details which would or may reveal the identity of the complainant, a child or a witness, provided that—

- (a) the registrar is satisfied there are exceptional circumstances and that to do so would be in the interests of justice, and
- (b) the bishop is immediately notified in writing with an explanation of the registrar's reasons.

Thereafter, details which would or may reveal the identity of the complainant, a child or a witness as the case may be, shall be withheld from the respondent and shall be erased from any papers sent to the respondent unless and until the bishop has decided not to dismiss the complaint under section 11(3) of the Measure or the President has reversed such a dismissal under section 11(4).

Consulting the complainant for clarification

11. During the course of the preliminary scrutiny of the complaint the registrar shall consult the complainant only for the purpose of clarification of any matter directly related to the complaint. Such consultation should be conducted in writing, but if oral, it shall be recorded by the registrar in written memoranda, and a copy of any correspondence and memoranda shall be sent by the registrar to the respondent and the complainant.

Registrar's written report

12.—(1) Subject to rule 19(1), having scrutinised the complaint, within 28 days of receiving it or within any extended period under rule 13, the registrar shall send a written report to the bishop setting out the registrar's views as to—

- (a) whether at the date the proceedings were instituted, the complainant had a proper interest to make the complaint, and
- (b) whether there is sufficient substance in the complaint to justify proceeding with it under the Measure.

(2) When the report is sent to the bishop, the registrar shall attach to it the complaint and the evidence in support.

Registrar extends time for sending the written report

13.—(1) Where the registrar proposes under section 11(2) of the Measure to extend the period of 28 days for the submission of the written report to the bishop, the registrar shall, not later than 21 days after receipt of the complaint, notify the complainant and the respondent of the reasons why an extension is required and the period of extension proposed, and shall invite their views about whether there should be an extension.

(2) Any comments by the complainant and the respondent shall be made within 7 days of notification by the registrar.

(3) If, having consulted the complainant and the respondent, the registrar decides to extend the period of 28 days, they and the bishop must be notified of the new date by which the written report is to be submitted to the bishop.

Multiple complaints and the written report

14.—(1) Where the complainant makes more than one complaint against the same respondent, the registrar may prepare one written report dealing with all the complaints referred to the registrar by the bishop.

(2) Where the complainant makes a complaint against two or more respondents, the registrar shall prepare separate written reports in respect of each respondent.

(3) Where two or more complainants make separate complaints against the same respondent in respect of the same alleged misconduct, the registrar may prepare one written report dealing with all the complaints.

Dismissal of the complaint by the bishop under section 11(3) of the Measure

15.—(1) If the bishop, after considering the registrar's report, dismisses a complaint under section 11(3) of the Measure, the bishop shall within 28 days of receiving the registrar's written report send to the complainant and the respondent written notice of dismissal together with reasons for the dismissal and a copy of the registrar's report.

(2) The written notice shall explain the complainant's right to request the President to review the dismissal.

President's review of a dismissal

16.—(1) A request by the complainant to the President for a review of the dismissal shall be made within 14 days of receipt of the notice of dismissal, and shall—

- (a) be in writing in form 4 in the Schedule, or in a document which is substantially to the like effect,
- (b) set out the reasons for seeking a review of the bishop's decision, and
- (c) be accompanied by a copy of the complaint and the written evidence in support, the registrar's report, and the bishop's notice of dismissal.

(2) No new or further evidence may be submitted by the complainant with the request for a review.

(3) The President shall notify the bishop and the respondent that the review has been requested.

(4) Within 28 days of receiving the complainant's request the President shall notify the complainant, the respondent and the bishop in writing as to whether the President is upholding the dismissal or reversing it, and directing the bishop to deal with the complaint in accordance with section 12 of the Measure.