
STATUTORY INSTRUMENTS

2005 No. 2022

The Clergy Discipline Rules 2005

PART VI

Directions preparatory to a hearing before the tribunal

General

- 30.**—(1) Where a complaint is referred to a tribunal for adjudication, the Registrar of Tribunals—
- (a) may hold one or more preliminary hearings to identify the issues and give directions, and shall give notice to the parties of such hearings, and
 - (b) shall give directions for the just disposal of the proceedings in accordance with the overriding objective.
- (2) The Registrar of Tribunals may at any stage refer any matter of difficulty or dispute to the Chair.
- (3) Directions may be given or varied at any stage—
- (a) at a hearing,
 - (b) where sub-rule (6) below applies, during a telephone hearing, or
 - (c) in writing.
- (4) At any hearing or telephone hearing the respondent may be legally represented, and the complainant's case shall be conducted by the Designated Officer or someone duly authorised by the Designated Officer.
- (5) Directions may be given or varied—
- (a) on the application of the Designated Officer or the respondent, or
 - (b) on the initiative of the Registrar of Tribunals or the Chair without a hearing.
- (6) Where a hearing for directions is likely to last no longer than 30 minutes the Registrar of Tribunals or the Chair, as the case may be, may direct that—
- (a) it be conducted by telephone, and
 - (b) that the Designated Officer and the respondent send in advance of the hearing for directions a written summary of their respective submissions, and send or deliver copies of their submissions to each other.
- (7) Any direction given by the Registrar of Tribunals or the Chair under this rule shall be given or confirmed in writing, and a copy sent or delivered to the Designated Officer and the respondent.

Form of application

- 31.**—(1) Applications by the respondent for directions on any matter shall be made in writing—
- (a) to the Registrar of Tribunals using form 8 in the Schedule, and

(b) a copy shall be sent or delivered to the Designated Officer at the same time as it is sent or delivered to the Registrar of Tribunals.

(2) The respondent shall respond in writing using form 9 in the Schedule to any application made by the Designated Officer, and shall send such response to the Registrar of Tribunals and a copy of it to the Designated Officer.

(3) The Designated Officer shall adapt forms 8 and 9 as appropriate, and shall send or deliver a copy to the respondent at the same as the application or response, as the case may be, is sent or delivered to the Registrar of Tribunals.

Setting aside or varying directions given without a hearing

32. Where an order has been made without a hearing giving or varying directions under rule 30(5) on the initiative of the Registrar of Tribunals or the Chair, a party may apply within 14 days to the Registrar of Tribunals or the Chair, as the case may be, to have it set aside or varied, and the order shall notify the parties that they may make such an application.

Matters which may be covered in directions

33.—(1) Directions may be given in respect of all procedural matters and in particular—

- (a) for the exchange of witness statements (notwithstanding that the complainant and the respondent may already have respectively supplied statements in support of the complaint form and the respondent's answer),
- (b) for the exchange of copies of documents intended to be relied upon at the final hearing,
- (c) to direct the complainant and the respondent to disclose and produce at or before the hearing of the complaint any specified documents in their possession or control which may reasonably be required by another party,
- (d) to permit written questions to be put by one party to the other, and to require those questions to be answered by the other party,
- (e) in relation to any expert evidence, including the number of expert witnesses,
- (f) to exclude evidence that would be irrelevant or unnecessary, or which should otherwise be excluded in the interests of justice in accordance with the overriding objective,
- (g) to direct any party to prepare a written outline argument and to send or deliver a copy of it to the Registrar of Tribunals, the Chair, and to the other party, together with photocopies of any authorities relied upon,
- (h) to provide for the preparation of bundles of documents for a hearing, and for them to be sent or delivered to the tribunal and each party,
- (i) to require the attendance of any person at the hearing of the complaint for the purpose of—
 - (i) giving evidence, or
 - (ii) producing documents for inspection,
- (j) to order two or more complaints against the same respondent to be heard on the same occasion,
- (k) to order complaints against more than one respondent to be heard on the same occasion,
- (l) to order any part of any proceedings to be dealt with separately.

(2) A direction may be given that if a document has not been disclosed to the other party, that document may not be relied upon at the hearing of the complaint unless the Chair gives permission.

Production appointment

34.—(1) The Registrar of Tribunals or the Chair may give notice to a person to attend a production appointment to provide reasons as to why that person should not be ordered to produce any documents specified or described.

(2) Any notice under sub-rule (1) shall be in form 10 in the Schedule or in a form which is substantially to the like effect, and—

(a) shall be given only where—

(i) the production of the documents specified or described in the notice appears to the Registrar of Tribunals or the Chair to be relevant and necessary for dealing fairly with the complaint, and

(ii) the person to whom the notice is given has been sent in writing a request by a party to produce the documents and has failed to do so within a reasonable time, and

(b) shall state that the person to whom the notice is directed need not attend the appointment if that person does not object to producing the documents specified or described or if that person sends any objections in writing to the Registrar of Tribunals or Chair no later than a stated time before the appointment.

(3) A person attending a production appointment pursuant to a notice under sub-rule (1) shall be permitted to be represented at the appointment, and to make representations objecting to the production of any documents in question.

(4) A person who received notice under sub-rule (1) may be ordered at the production appointment to produce for inspection by a party within a stated time any documents specified or described.

(5) Any order under sub-rule (4) shall be in form 11 in the Schedule or in a form which is substantially to the like effect, and—

(a) shall be made only where the production of the documents specified or described in the order appears to the Registrar of Tribunals or the Chair to be necessary for dealing fairly with the complaint, and where it appears just in all the circumstances to make such an order,

(b) shall state—

(i) that the person to whom the order is directed must obey the order, and

(ii) failure to do so may be a contempt of the tribunal, and

(iii) that the person to whom the order is directed may be sent to prison or fined, or both, if the order is not obeyed.