

Women Bishops: Resolving Disputes

Are we now simply relying on trust where before we relied on law?

No.

The Act of Synod was not part of the law of the land, so for episcopal ministry we have already been relying on trust not law (and Resolution C was in practice complied with).

The new Resolutions (not 'letters of request' – that was the old, defeated legislation) will not be enforceable in the courts as Resolutions A and B were (though legal action was in fact never taken). But we are not simply relying on trust. There is a Resolution of Disputes Procedure for challenging non-compliance with the House of Bishops' Declaration.

What is the legal basis for the new Procedure?

Canon C 29 requires the House of Bishops to make 'regulations prescribing a procedure for the resolution of disputes arising from the arrangements for which the House of Bishops' declaration... makes provision'. Because the Regulations have been under canon law, refusing to take part in the process will be a disciplinary offence.

Who decides what the Procedure is?

The regulations have been made by the House of Bishops. They did not need the Synod's approval, nor can the Synod amend them.

Can the Regulations be changed?

The House of Bishops can only amend the Regulations if two-thirds majorities in each House of the Synod approve the amendment.

Who will be resolving any disputes?

The Regulations provide for the appointment of an Independent Reviewer and Deputy Independent Reviewers. Sir Philip Mawer has been appointed as the Independent Reviewer. He has administrative support from a senior staff member in the Central Secretariat at Church House.

Who chooses the Independent Reviewer?

The Reviewer is chosen by the Archbishops, with the concurrence of the Chairmen of the Houses of Clergy and Laity of the General Synod.

What sort of person should the Independent Reviewer be?

As the name suggests, the Reviewer will need to be, and be seen to be, independent. The Steering Committee comments:

'He or she would not necessarily have judicial experience but would need to be judicious. A knowledge of, and commitment to, the Church of England would be important but the Reviewer should not be someone with other current national or diocesan

responsibilities... the choice of a person of quality, integrity and fairness will be absolutely crucial.’¹

Who can bring a grievance against whom?

A Parochial Church Council can bring a grievance against any archbishop, bishop, dean, archdeacon, rural dean or priest with the cure of souls.

Will the process drag on?

No. Normally the grievance must be brought within three months of the act or omission complained of. The review must be completed within two months.

What will the Reviewer do?

The Reviewer can require the parties to provide information and documents and answer questions. He or she can hold a hearing and require people to attend. It is important to remember that this is a Resolution of Disputes Procedure: its purpose is to resolve disputes. The Reviewer may seek to achieve a settlement of the grievance, for example by mediation. Otherwise the outcome is a written report. If the grievance is found to be justified, the Reviewer may make recommendations for addressing it.

What about matters other than parish Resolutions?

Although grievances can only be brought by PCCs, anyone can raise concerns with the Independent Reviewer about ‘any aspect of the operation of the House of Bishops’ Declaration’, and the Reviewer may inquire into them, requiring office holders to provide information and documents and answer questions as necessary. Such an inquiry will usually be about issues in general (selection, training, ordination, appointments), though the Reviewer may conduct an inquiry into a single act or omission.

Forward in Faith is monitoring implementation of the Declaration in general, and will send regular reports to the Reviewer.

Will the process be transparent?

The Reviewer must publish an annual report, including information about the grievances, decisions taken and recommendations made, the extent to which recommendations have been carried out, other concerns received, and inquiries undertaken in response to those concerns.

Is this sort of procedure used elsewhere?

The procedure is based on similar procedures that operate with regard to the civil service, the health service and universities.

¹ Steering Committee Report (GS 1924), paras 68-69.

Will the Reviewer's recommendations be followed?

The hope is that the existence of the Procedure and the Reviewer will mean that the Resolutions are complied with – as Resolutions A, B and C were. If they are, parishes will not need to bring grievances and there will be no recommendations.

The Steering Committee comments:

‘The objectives of the procedure and its mandatory nature are... to make it more likely that all concerned will act consistently with the House of Bishops’ Declaration without the need for anyone to make formal grievances under the procedure. And the reference to mediation is designed to underline that any difficulties that arise would better be solved relationally, and by discussion, rather than through legal processes.’²

and again:

‘The success measure of such a scheme is not ultimately the number of cases it handles but the impact it has in acting as an incentive to all concerned to resolve disagreements by discussion between themselves. Where cases do need to go through the review process it is important that the outcome secures closure.’³

Experience in other walks of life suggests that office-holders and professional people will do their best to avoid being criticized in a public report by an ombudsman.

² GS 1924, para. 7.

³ GS 1924, para. 67.