

## **Independent Reviewer**

### **Notes on the Operation of the Resolution of Disputes Procedure**

#### **Response to the Consultation**

- 1) In June of this year, I published a Consultation Paper covering a draft set of Notes on how the procedure for resolving disputes relating to the operation of the House of Bishops' Declaration on the Ministry of Bishop and Priests might work in practice. The purpose of the consultation was two-fold:
  - a) To help all concerned, including myself, to think through the issues involved; and
  - b) To help build trust in the new arrangements.My aim was to end up with a set of Notes which would help anyone who might wish to know more about how the disputes procedure operates.
  
- 2) In publishing the draft Notes I was careful to say that they were:
  - a) Intended to supplement the Declaration on the Ministry of Bishops and Priests (Resolution of Disputes Procedure) Regulations 2014 [the Regulations], not to supplant those Regulations;
  - b) A Guide, not a rigid set of rules; and
  - c) Bound to evolve over time, as the Church gained experience of how the procedure for resolving disputes could best be used to advance rather than hinder its mission and unity.Crucially, how the disputes procedure worked in an individual case was bound to depend a good deal on the circumstances of that case.
  
- 3) In all, I received eight written submissions in response to the consultation paper, which was also the subject of a well-attended meeting of General Synod members in the margins of the July 2015 meeting of the Synod in York. The names of those individuals and organisations who made comments are appended to this note [Appendix 1]. In addition I am publishing a short, anonymised note of the points made at the York meeting and of the response I made at the time to them [Appendix 2].
  
- 4) Publication of the draft Notes, and my decision to consult about them, has been welcomed. In the following paragraphs I briefly describe the main thrust of the comments I received.
  
- 5) Some of the comments raised issues which had previously been aired in the course of the debates and discussions leading up to the introduction of the present arrangements. For example, a number stressed the need to be clear about the distinction between a Parochial Church Council (PCC) and a parish, reflecting concerns that a PCC might not be wholly representative of the views of its parish (either of the worshipping congregation or of the wider community). It is not for me to re-visit such matters. However, I have sought to be

careful to make clear to what I am intending to refer when mentioning either the PCC or the parish in the revised version of the Notes which I am now publishing.

- 6) Other comments raised issues which fall outside my role. It is, for example, for the Archbishops of Canterbury and York to decide, with the concurrence of the Chairs of the Houses of Clergy and Laity of the General Synod, who they appoint as Independent Reviewer, including the gender of the person to be appointed. Similarly it is for them to decide whether to appoint any Deputy Independent Reviewer(s). I have however sought to be alert to the concerns expressed to me about the need for gender sensitivity, for example in ensuring that, when referring to the Reviewer, the revised Notes are inclusive of both genders, so that they will not require future amendment if and when the gender of the person appointed as Reviewer should alter.
- 7) Some of the submissions I received focussed much more specifically on the detailed wording of the draft Notes than others. For example, the submission from Forward in Faith made a number of specific suggestions for amendment of the text. The equally weighty submission from WATCH focussed not so much on the Notes themselves as on the approach the Reviewer takes to his or her task, emphasising among other things the need to guard against unintended bias, to use language carefully and to have regard, when forming judgements, to fostering relationships based on trust. I understand the importance of both types of submission I received, and will have the points made in them in mind as I undertake my role.
- 8) As regards the wording of the Notes, most attention focussed on paragraphs 13 and 14, and 24 – 28 of the original draft. I have looked carefully at these again in the light of the wording of the Regulations, so as to ensure that they are entirely consistent, the one with the other.
- 9) I received a number of questions about specific aspects of the operation of the procedure, many of them in the course of the General Synod ‘fringe’ meeting. I was able to respond to these at that time and my responses are recorded in the note of that meeting.
- 10) Finally, I would like to thank everyone who commented on the consultation paper, either in writing or at the Synod meeting. I intend to look again at the revised notes in the course of 2017, after the Church has gained more experience of the operation of the disputes procedure. I will consult again at that point on any revision of the notes.

Sir Philip Mawer

December 2015

## Appendix 1

### List of Those who made Written Submissions on the Consultation Paper

The following individuals and organisations commented in writing on the Consultation Paper:

April Alexander

Revd Paul Benfield

Anne Foreman

Forward in Faith

Revd Hugh Lee

Rt. Revd Rachel Treweek

WATCH

Prof. Linda Woodhead

**INDEPENDENT REVIEWER**

**CONSULTATION PAPER**

**NOTE OF A FRINGE MEETING AT THE YORK SYNOD ON 13 JULY 2015**

**PHILIP MAWER** said that the Consultation Paper had emerged from meetings with representatives of different groups involved in this area. It was intended to be a helpful resource setting out how the Independent Reviewer arrangements would function. The closing date for comments was 4 September after which he would revisit the draft issued in June. This meeting was one means of making an input: anyone could also write in.

Key to an understanding of the arrangements was that they were not legalistic but rather based on the House of Bishops' Declaration and the 5 Guiding Principles. These Principles needed to be worked out with *simplicity, reciprocity and mutuality*. Much would revolve around the pastoral context and personal working relationships. The procedures were intended to help in situations of difficulty, by enabling concerns to be brought to an impartial 3<sup>rd</sup> party.

The consultation paper set out ways of working which were not a rigid set of rules: they would be applied flexibly over time and developed in the light of experience.

The following points were raised:

- (1) The Regulations were very much based on PCCs; what about individuals?
- (2) How would the IR assess the theological convictions of parishes?
- (3) The Regulations allow for a deputy IR to be appointed: would a female deputy be appointed?
- (4) Is it possible to weed out vexatious litigants?
- (5) How high a bar will it be for general concerns to be considered under Regulation 27? What can be done to encourage people to come forward without fear?
- (6) How would the process at para 13 work given that the bishop will already have been given a theological rationale?
- (7) Will the 3 month time limit on making a complaint be applied flexibly given that it may take longer for a PCC to be able to express a grievance, e.g. because of the time it may take to meet the diocesan bishop?
- (8) The HoB *guidelines* don't carry the same weight as the HoB Declaration and Regulations, but they embody best practice and should be taken into account.
- (9) How will these processes relate to the CDM?
- (10) In para 16(c) reference is made to a brief description of the parish: how would this be dealt with?
- (11) Reference is made to using mediation in certain cases: who might help with this?
- (12) Where will IR casework be logged?
- (13) Will the IR annual report be made public?
- (14) Will papers be published anonymously, or would this be covered by the Freedom of Information Act?
- (15) What were the financial implications of all this for dioceses and parishes?

In responding to some of these points, **PHILIP MAWER** emphasised that his comments could not be taken as binding in relation to any particular case. Nor could he remedy issues that related to the

content of the HoB Guidelines or Declaration; or legislate for any perceived deficiencies. He had to work with the position as it was. He commented as follows:

- a) While the emphasis of the Regulations was on parish grievances, he could also look at expressions of concern. He could interpret this fairly broadly but the threshold needed to be reasonably high as it could not be a means of getting round other provisions of the Regulations.
- b) Key to this whole area was what it meant to live in a state of the highest possible degree of communion; and what 'mutual flourishing' meant – it was about relationships not just *individual* flourishing.
- c) On the issue of the theological convictions of a PCC, the Reviewer was not likely to be seeking to pass judgement on the PCC, but the IR did need to understand the context of the presenting issue. He would look at the wording of paras 13 & 14 again.
- d) The IR had discretion to accept grievances outside the 3 month period, but he would need to receive clear evidence that attempts had been made to resolve the issue within the three month period.
- e) People needed to find the right language in which to articulate their concerns, but it would be problematic to seek to rule out certain people from raising issues. He hoped that no one would feel intimidated about raising concerns; and he encouraged people to contact JNS if they needed advice on how to go about doing so.
- f) Mediation was available if it was needed. He believed that providing this would prove to be an important issue in the future.
- g) He had access to advice about theological convictions.
- h) Other than in exceptional cases, his reports would be published on the CofE website (there was a link from the House of Bishops' pages). Normally, relevant correspondence would be published with his report. He was also required to make an annual report to the Archbishops: this would be published in such manner as they determined. He would, however, make himself available to speak to the House of Bishops and General Synod, as required.
- i) The annual report would be a means of commenting on general issues, not commenting additionally on individual cases.
- j) The IR had discretion not to publish material if there were particular reasons not to do so, but his inclination was to publish and let the material speak for itself.
- k) The cost of the process was largely his time (unpaid) and that of JNS. It was not, so far, onerous. Thus far, 2 expressions of concern had been raised.

Jonathan Neil-Smith  
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28/7/15

