

## STANDING ORDERS COMMITTEE

### FIFTY-FIFTH REPORT OF THE COMMITTEE

1. The Standing Orders Committee ('the Committee') presents its 55<sup>th</sup> Report to the Synod.
2. Our membership for the current quinquennium is as follows:

#### Appointed members:

Mr Geoffrey Tattersall QC (Manchester) (Chair)  
 The Revd Prebendary Simon Cawdell (Hereford)  
 Mr David Coulston (Europe) (from May 2018)  
 Mrs Mary Durlacher (Chelmsford)  
 Mr David Robilliard (Channel Islands)  
 Mr Clive Scowen (London).

#### Ex-officio members:

The Revd Canon Simon Butler (Prolocutor of the Lower House of the Convocation of Canterbury)  
 The Ven. Cherry Vann, Archdeacon of Rochdale (Prolocutor of the Lower House of the Convocation of York)  
 Dr Jamie Harrison (Chair of the House of Laity)  
 Canon Elizabeth Paver (Vice-Chair of the House of Laity).

#### **Item 32: Standing Order 40 (Standing orders: motions for amendment)**

3. Following the February group of sessions, the Committee received correspondence which raised questions about some of the amendments to the Standing Orders that were for deemed approval at that group of sessions. Some of those amendments were consequential or dependent on other proposed amendments which were moved but not carried. As those consequential or dependent amendments remained subject to the procedure for deemed approval, they were deemed to have been approved even though the proposed amendment on which they were consequential or dependent was not made. As a result, text was inserted in the Standing Orders which does not make sense.
4. The Committee proposes the insertion of new provision in Standing Order 40 to prevent a repetition of this situation. Where there are proposed amendments that are for deemed approval, and due notice is given of a request to debate, or of an amendment to, any of them, the Chair should determine whether there are any other deemed amendments that are consequential or otherwise dependent on the proposed amendment in respect of which notice has been given. If the Chair determines that there are such amendments, those amendments will also cease to be subject to deemed approval.
5. **Item 32** in the First Notice Paper will give effect to that proposal.

### **Item 33: Standing Order 113 (content)**

6. **Item 33** removes the text referred to in paragraph 2 above that was inserted under the deemed procedure but which does not make sense because amendment 23 on the First Notice Paper was lost and there is thus no SO 113 (3A).

### **Items 34 to 36: Standing Orders 132 and 135 (elections: nominations and appeals)**

7. In its Fifty-Third Report the Committee noted the outcome of an appeal under SO 135 in relation to the election of three members of the House of Laity to the Crown Nominations Commission, and in particular what was said by the appeal tribunal about the inadequacy of the existing provision in the SOs relating to appeals.
8. Since that report was published in July 2018 the Committee has undertaken further work on Standing Orders 132 (nominations) and 135 (appeals), both of which are concerned with elections in which the Synod or its Houses constitute the electorate, and elections to bodies whose constitutions provide for the SOs to apply.
9. The Committee considered whether to propose an amendment to the SOs so that failure by a candidate to disclose a relevant interest would be grounds for bringing an appeal against the result of an election. The Committee has concluded that in the absence of a legal requirement for members to make public their interests (for example by registering them in a publicly available register), it is not possible, legally or practically, to provide for non-disclosure of interests to be grounds for an appeal. A requirement to make public a member's interests could only be imposed by primary legislation (i.e. a Measure or an Act of Parliament); there is no power to include such a requirement in the SOs.
10. The Committee nevertheless considered that there were other matters which could and should be addressed in the light of the observations made by the election appeal tribunal. In the light of the recent work on the Church Representation Rules, the Committee also considered that some adjustments to the provision concerned with nominations should be made.
11. **Item 34** provides for the question of whether a person nominated is qualified to be a candidate to be an express condition for the validity of a nomination.
12. **Item 35** makes provision equivalent to that in rule 40(8) to (10) of the new Church Representation Rules for the scrutiny of nominations and related matters.
13. **Item 36** replaces the existing SO 135 (appeals) with a new set of provisions dealing with election appeals.
14. The new SO 135 (right of appeal) sets out the matters which can be the subject of an appeal. They are: a ruling by the Clerk that a nomination is not valid; the allowance or disallowance of a vote; and the result of an election. It also sets out who may appeal. In the case of an appeal against a decision that a nomination is not valid, an appeal may be brought by the person to whom the nomination relates. In other cases, an appeal may be brought by a candidate in the election or by a member entitled to vote in the election.

15. New SO 135A sets out the grounds on which an appeal may be brought. Where the appeal is against a ruling by the Clerk that a nomination is not valid, the grounds of appeal are that the nomination was valid and that the person should have been included as a candidate in the election. Where the appeal is against the allowance or disallowance of a vote, the grounds are that the vote should have been disallowed or allowed, as the case may be. Where the appeal is against the result of an election, the grounds of appeal are that a person was not duly elected, or before the election was not qualified to be a candidate, or misrepresented a material fact in connection with the election (for example by making false statements about another candidate).
16. New SO 135B makes procedural provision for the giving of notice of an appeal and for the referring of the notice of appeal to “the relevant office holders”. Who the relevant office holders are depends on which body forms the electorate for the election in question. Provision is included so that where a relevant office holder is directly concerned in an appeal, a deputy is appointed to exercise his or her functions.
17. New SO 135C provides for the appointment by the relevant office holders of a panel, comprising a chair and two other persons, to hear an appeal. Only members of the General Synod may be appointed to a panel and the relevant office holders must be satisfied that the persons appointed, taken together, have suitable legal or other experience or expertise.
18. New SO 135D requires the panel to conduct a preliminary assessment of the appeal. That is an assessment, based only on the notice of appeal and accompanying written submissions, as to whether there are arguable grounds of appeal. The appeal can only proceed further if the panel considers that there are arguable grounds of appeal; otherwise the appeal is dismissed at the preliminary assessment stage. The panel must notify the parties of its decision on the preliminary assessment and must give reasons. The decision and reasons must be published.
19. New SO 135E deals with out of time appeals. Under SO 135B(2) notice of appeal must normally be given no later than 14 days after the declaration of the result of the election. If a notice is given out of time it must nevertheless be referred to the relevant office holders under SO 135B(4) and a panel appointed under SO 135C(2). The panel may decide to hear an out of time appeal only if satisfied that there was a good reason for not giving notice of appeal within the period allowed. If the panel decides to hear an out of time appeal, it may immediately proceed to conduct a preliminary assessment of the appeal under SO 135D.
20. New SO 135F provides for the consideration of the matters at issue in an appeal. The panel must consider all the circumstances and may inspect documents and other papers and are entitled to be provided with information relating to the appeal. The panel must give the parties to the appeal an opportunity to appear before it, either in person or by a representative; and any hearing must be in public unless the panel is satisfied that it would be in the interests of justice for the appeal to be heard in private.
21. New SO 135G requires the panel to decide whether the grounds of appeal are established to the panel’s satisfaction. It goes on to provide for decisions that must be taken by the panel, and for directions that must be given by the panel to give effect to the outcome of the appeal.

**Items 37 to 41: Standing Orders 136 and 141 (Crown Nominations Commission: functions; business and procedure)**

22. **Items 37 to 41** will make amendments to the Standing Orders relating to the Crown Nominations Commission. They are being brought forward not by the Committee but on behalf of the Commission. The policy reasons for these amendments are set out in Proposed changes to the Standing Orders relating to the Crown Nominations Commission (GS 2144).
23. The Committee is content with the drafting but has no other comment to make on these amendments.

**Procedure**

24. The Business Committee has determined under Standing Order 40(5) that the proposed amendments to the Standing Orders set out at items 32 to 35 in the First Notice Paper do not need to be debated.
25. If amendments set out in the First Notice Paper are approved, they will take effect on 10<sup>th</sup> July 2019 (i.e. after the end of the July group of sessions).

On behalf of the Committee:

**Geoffrey Tattersall QC**

Chair

June 2019