

41. Committee on Methodist Law and Polity (2)

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SECTION D DIGITAL ARCHIVES

The committee has considered whether, and if so how, Standing Order 015 should be amended to deal with the increasing practice of keeping minutes and other records in digital (electronic) form.

Enquiry into the practice of local authority archivists suggested that, although they normally accept archives in digital format, they take no responsibility for ensuring that they remain accessible, in the sense of being recoverable in legible form. Instead they recommend that depositors back them up regularly and, for anything more than a few years old, open them from time to time to update the version and check that they are still working.

In consultation with the liaison officer for Methodist Archives the committee therefore recommends that the best thing to do at the moment is to add to SO 015 a requirement that if records are deposited in digital format the depositing body must make, or satisfy itself that the public authority accepting them has made, satisfactory arrangements to ensure that they permanently continue to remain accessible. The committee considers that if that requirement cannot be met the obligation should be to deposit a printed version.

The opportunity has been taken to combine clauses (2) and (2A) and to update them by recognising that many Circuits and churches have archivists.

015 Archives. (1)(a) All minute books, account books, and baptismal, burial and marriage registers, and any other records relating to district, circuit and local church affairs which are deemed worthy of permanent preservation by the district archivist and recipient archivists, when no longer needed for current reference in the conduct of business, shall be deposited on permanent loan with a public authority having appropriate repository facilities.

(b) If any such records are kept in digital (electronic) format they shall not be so deposited in that format unless the depositing body has made, or has satisfied itself that the public authority accepting them has made, satisfactory arrangements to ensure that they permanently continue to remain accessible, that is to say recoverable in legible form. If that requirement cannot be met a printed version shall be deposited.

(1A) Subject to Standing Order 125, connexional records no longer needed for current use and worthy of permanent preservation shall be deposited on similar terms in the connexional archives. In the process of deciding what records should be so deposited the managing trustees or other persons responsible for them shall obtain and take into account the advice of the liaison officer for Methodist archives.

(2) The responsibility for supervising and arranging the deposit of church records ***under this Standing Order*** shall rest with the responsible supervisor ***who shall be:***

- (i) in relation to local church and circuit records, the church or circuit archivist, if appointed, failing whom the Superintendent;***
- (ii) in relation to district records, the Chair; and***
- (iii) in relation to connexional records, the relevant secretary or convener.***

(2A) ***[deleted]***

***RESOLUTIONS

41/1. The Conference received the Report.

41/2. The Conference amended Standing Order 015 as above.

SECTION E

COMPLAINTS AND DISCIPLINE

In March this year, the Council approved Guidelines produced by the Connexional Complaints Officer, Professor Diane Rowland, on Confidentiality in the context of the Church's Complaints and Discipline Proceedings for Complainants, Respondents, Local Complaints Officers and Connexional Complaints Team Members.

As mentioned in the committee's report in Volume 1, the committee will be anticipating offering its input into the Review of Part 11 of Standing Orders which has been initiated. But in the normal way, the committee's Complaints and Discipline Sub-Committee has met and reported upon a number of matters where Standing Order changes would at this stage facilitate and clarify the Complaints and Discipline process. The committee considered these, and proposes the following amendments, whilst deferring some other issues for further exploration in the forthcoming year.

1. Standing Order 1144(8)(b)

The Standing Order currently provides that a respondent may appeal from the decision of an appeal committee to the Conference "within seven days from the date of the hearing". It is proposed that this be revised to "within seven days of receipt of written communication of the decision", to reflect the analogous provisions elsewhere in the process, so as to enable the respondent to give proper consideration to the question of whether to take further steps once the written decision has been received.

1144 Further Appeal to the Conference.

(8) (a) This clause applies if at the hearing a party informs the committee that he or she wishes to take time to consider whether to bring an appeal.

(b) The relevant party may then make a written application for permission to appeal to the chair of the committee within seven days ~~from the date of the hearing~~ **of receipt of written communication of the decision**, setting out in the application the matters relied on to support it.

2. Standing Order 1102 and related Standing Orders

The Committee is aware of situations where it has proved difficult to assemble the required number of people to serve on complaints teams or church courts because of the provisions of SO 1102(2)(a) as to previous involvement in the process or with a connected complaint and as to previous relationship with a party, where that party is well-known to many people on the relevant panels. The committee proposes a method of appointing people to serve in such exceptional circumstances, in the amendments to SO 1102(2)(b)(ii) and (iii) below.

1102 General Matters.

(2) (a) **Subject to sub-clause (b)(ii) and (iii) below, but** notwithstanding anything contained elsewhere in these Standing Orders no person may form part of a complaints team or sit as a member of any church court deciding a discipline charge or appeal if that person:

- (i) is or has been a complainant or respondent in relation to that complaint or any connected complaint;
- (ii) has formed part of a complaints team or been a member of any other inquiry which has considered that complaint or any connected complaint;
- (iii) has sat on any church court at an earlier hearing of any other charge arising from that complaint or any connected complaint;

- (iv) has any personal interest in the outcome;
- (v) has received in confidence information relevant to the complaint;
- (vi) has sat on a Pastoral Committee under Standing Order 013 concerning the complainant or respondent; or
- (vii) because of a close friendship or relationship with the complainant or respondent or otherwise might or might reasonably be supposed to be open to partiality or embarrassment in carrying out the responsibilities of a member of the complaints team or sitting on the church court.

(b)(i) If, because of the operation of sub-clause (a) above or otherwise, any church court would have fewer than three members for the hearing of a case, the President or the Vice-President on his or her behalf must appoint additional members for the purpose of the hearing to bring the court to a membership of at least three.

(ii) If but for this provision full compliance with Standing Order 1131(3) to (5) and sub-clause (a) above would make it impossible to convene a court of at least three members the President or Vice-President shall nevertheless exercise his or her powers under head (i) of this sub-clause, fulfilling the requirement of clause (1)(iii) above by the appointment of a person or persons not on the connexional Panel or by such other means as, in his or her absolute discretion, he or she judges necessary and sufficient and having regard as far as possible to the requirements of Standing Order 1131(3) to (5) and sub-clause (a) above.

(iii) If but for this provision full compliance with sub-clause (a) above would make it impossible to appoint a complaints team of three members the President or the Vice-President on his or her behalf must make such appointments as may be necessary to establish a team of three members, fulfilling the requirement of clause (1)(iii) above by the appointment of a person or persons not on the connexional Complaints Panel.

(c) - (e) [Unchanged]

1122 Reference to the Connexional Complaints Panel. (1) On receiving a complaint referred under the provisions of this Section, the relevant connexional Team member must, as soon as reasonably possible:

- (i) ***except where Standing Order 1102(b)(iii) applies***, appoint a complaints team consisting of three members selected from the connexional Complaints Panel to consider the complaint
- (ii) to (iv) [unchanged]*

1131 Preparation for Hearing by a Connexional Discipline Committee

(3) The discipline committee is to consist of five members. Except where Standing Order **1102(b)(ii) or 1110(6)** applies, the members of the committee are to be chosen from the connexional Panel. Where Standing Order 1110(6) applies, three members are to be chosen from that Panel and two are to be chosen by the Secretary of the Conference. Account must be taken of any known disqualifications under Standing Order 1102(2).

3. Standing Order 1120(5)(ii)

An amendment is proposed to clarify that where, under SO 1120(5)(ii), the relevant Connexional Team member treats a matter as having been referred directly to a Complaints Panel in accordance with 1121(5), the local Complaints Officer has no further role to play in relation to that case.

1120 Initiation of Complaints

(5) Unless clause (6) below applies, in a case falling within clause (4) above, the relevant connexional team member must consult the complainant and may then:

- (i) nominate a person other than the person who would otherwise be the local complaints officer to carry out the functions of the local complaints officer in the particular case; or
- (ii) treat the matter as having been referred directly to the connexional Complaints Panel in accordance with Standing Order 1121(5), ***in which event also the local complaints officer shall cease to perform his or her functions as such in connection with that case.***

The relevant connexional Team member must inform the recipient and the complainant of his or her decision and if he or she does not exercise the power given by paragraph (ii) above, clause (2) above will apply, whether or not an alternative local complaints officer has been nominated. Before exercising his or her power under paragraph (ii), the relevant connexional Team member must usually seek a reply from the respondent.

4. Standing Order 1121(7)(c)

SO 1121(7)(c) provides that a local complaints officer must destroy their record of a complaint if they decide to refer a complaint to a Connexional Complaints Panel. An amendment is proposed to clarify that the required copy of the record must be deposited with the Secretary of the Conference before the record retained locally is destroyed.

1121 First Formal Complaint Stage

(7)(c) If the local complaints officer decides to refer the complaint to the panel ***then within 90 days of the date of referral under Standing Order 1121(5)(i):***

- (i) the record must be sent to the relevant connexional team member for transmission to the relevant complaints team;
- (ii) ***a copy of the record must be deposited with the Secretary of the Conference, to be retained in accordance with Standing Order 1104(1);*** and
- (iii) the local complaints officer must ***then*** destroy any record or documentation retained. ~~within 90 days of the date of referral under Standing Order 1121(5)(i). A copy of the record must then be deposited with and retained by the Secretary of the Conference in accordance with Standing Order 1104(1).~~

5. Standing Order 1124(2) and (3)

It is proposed that a clause be added to SO 1124 to clarify that meetings under clauses (2) and (3) held over the telephone, or by any other means which enable greater participation where necessary, are permissible. The sub-committee had noted that a standard interpretation of the phrase “face to face,” might be thought to exclude such meetings.

1124 Full Consideration by Complaints Team. (1) As soon as possible after it becomes clear that the complaint is to be fully considered, the complaints team must agree what further steps are to be taken to investigate the complaint. They may subsequently agree that additional steps must be taken or that certain steps are no longer required.

(2) (a) The steps to be taken must include at least one separate ~~face-to-face~~ meeting with both the complainant and the respondent, attended by at least two members of the complaints team, unless it is not reasonably practicable to hold such a meeting. If the respondent remains unaware of the complaint, the process must be halted until he or she can be informed.

(b) The complainant and the respondent have the right to be accompanied by a friend at any meeting with members of the complaints team and to be represented.

(3) The steps to be taken may include a ~~face-to-face~~ meeting with any other person whom the complaints team believes it relevant to meet. The complaints team may also request any person to provide documents which the team believes it relevant to see.

(3A) The meetings referred to in clauses (2)(a) and (3) above may, if not physically face-to-face, be by any telephonic, video or other means which in the circumstances enables everyone involved to participate orally or, where necessary, in sign language, and the words ‘attended’, ‘accompanied’ and ‘represented’ shall be construed accordingly.

6. Standing Order 1124(10)(i)

SO 1124(10)(i) provides that a connexional complaints team may decide to dismiss a complaint, after full consideration of it, on any of the possible grounds which are earlier provided for summary dismissal in SO 1123(7). Whilst it is generally possible to 'read across' from the summary dismissal grounds to those which obtain later when there has been full consideration, in some instances the identical wording is not apt to cover the later situation but it is intended that something closely analogous should apply. The insertion of the phrase proposed below would ensure that that was possible.

(10) If in the opinion of the complaints team the situation could not be helped by a form of reconciliation or no suitable form of reconciliation is agreed, the complaints team may decide to dismiss the complaint on either of the following grounds:

- (i) that after full consideration of the complaint the complaints team has decided that any of the possible grounds for summary dismissal set out in clause (7) of Standing Order 1123, ***with any necessary modifications***, applies;
- (ii) that there is no reasonable prospect of establishing that the conduct forming the substance of the complaint took place.

7. Standing Order 1126(2)

SO 1126 deals with appeals from dismissal of complaints by the connexional complaints team, and clause (2) provides that no appeal is to be brought where the reference to the Connexional Complaints Panel was made by the complainant, as opposed to a reference made by the local complaints officer. The amendments below recognise the other situation in which a complaint, whilst not actually referred to the Connexional Complaints Panel by the local complaints officer, is to be treated as having been so referred because it comes within the provisions in SO 1120 for dealing with a potential criminal offence.

1126 Appeals and Reconsiderations.

(2) No appeal may be brought against a decision that a complaint should be dismissed if the complaint was referred to the connexional Complaints Panel by the complainant rather than ***having been referred by*** the local complaints officer ***or being treated under Standing Order 1120(6) as having been referred directly to that panel.***

8. Standing Order 1132(7)

An amendment is proposed to clarify that complainants' and respondents' right to object to the membership of a committee under SO 1132(7)(i) is exercisable at a later stage of a discipline case than the preliminary hearing. This is to address the practical problem of difficulty in approaching potential members to ascertain their availability to sit, where the length of a hearing and number of witnesses is unclear until these matters have been explored at the preliminary hearing.

1132 Case Management and Preliminary Hearing

(7) The purpose of the preliminary hearing is:

- (i) to deal with any objections to the membership of the committee ***which either party is at that stage in a position to make;***
- (ii) to deal with any objections to the chair's preliminary case management directions;
- (iii) to determine any outstanding procedural matters; and
- (iv) generally, to ensure that the matter is ready to be heard by the full committee.

No discussion of the merits of the charge is to take place at the preliminary hearing.

*****RESOLUTIONS**

41/3. The Conference received the Report.

41/4. The Conference amended Standing Orders as above.