

## 43. Committee on Methodist Law and Polity (2)

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### SECTION G SAFEGUARDING

#### Report

The 2014 Conference directed the Safeguarding Advisory Panel (now known as the Safeguarding Committee) to review its terms of reference with specific attention to, inter alia, its decision-making powers and the process for appeals. The Conference in 2015 adopted amendments to Standing Order 232 to clarify the Committee's decision-making powers. The Law and Polity Committee has continued to work with the Safeguarding Committee over the course of this year to bring proposed amendments to Standing Orders which would establish, for decisions taken by the Safeguarding Committee, a fuller and more comprehensive appeals process similar in general structure to the processes to be found elsewhere in Standing Orders. The proposed Standing Order amendments are set out below.

The Law and Polity Committee has noted during discussions with the Safeguarding Committee that questions continue to arise about the Standing Orders relating to safeguarding generally and in particular the circumstances in which a risk assessment should be undertaken. It is evident that the Standing Orders governing safeguarding processes and polity have developed in an ad hoc manner over the years, with the result that Standing Orders relevant to safeguarding can be found in Standing Orders 010, 013, 013C and 232. It is proposed that a review is undertaken of those Standing Orders with the intention of bringing safeguarding Standing Orders into one cohesive body and also of ensuring that safeguarding policies are clarified and set out in Standing Orders when appropriate. The Conference is therefore invited to direct the Committee, after consultation with the Safeguarding Committee, to bring proposed Standing Orders to the 2017 Conference.

A particular difficulty arises in relation to the Rehabilitation of Offenders Act 1974 and the effect it has on the circumstances in which it is lawful to seek a risk assessment. The Law and Polity Committee has obtained external legal advice on this issue over the last two years following changes to the relevant legislation, and is continuing its discussions with the Safeguarding Committee in order to ensure that the practice of the Safeguarding Committee reflects the changed legal position. It is intended that the review of the safeguarding Standing Orders should include the drafting of amendments to ensure that no breach of the Rehabilitation of Offenders Act 1974 can occur under the terms of the Standing Orders.

The Conference will recall the recommendation in the Past Cases Review that the definition of "safeguarding concern" as utilised for the purposes of the Past Cases Review should be used by the connexional complaints panel, local complaints officers and discipline committees acting under the provisions of Part 11. Guidance has been provided to all members of the panel and the discipline committees to ensure members apply that definition when considering a complaint or discipline matter under Part 11. Consideration was also given by the Law and Polity Committee to the inclusion of a definition of "safeguarding concern" in Standing Orders. However, the language of Standing Orders is not uniform in this respect; it contains references not only to "safeguarding concern" but also to "safeguarding risk" and "safeguarding issue". The Committee therefore concluded that at this stage it would be prudent to leave the potential inclusion of a definition of

“safeguarding concern” to be incorporated into the review of safeguarding Standing Orders more generally.

### \*\*\*RESOLUTIONS

**43/1.** The Conference adopted the Report.

**43/2.** The Conference directed the Law and Polity Committee, in consultation with the Safeguarding Committee, to undertake a review of Standing Orders relevant to safeguarding processes.

**43/3.** The Conference amended Standing Orders as follows:

#### **232 Safeguarding Committee**

(1A) For the purposes of this Standing Order:

(i) *[unaltered]*

(ii) *[unaltered]*

**(iii) a ‘relevant party’ means any person who is the subject of a decision, determination or recommendation made by the committee in the exercise of its functions under clause (2) below or in relation to whom a risk assessment has been carried for purposes connected with the exercise of those functions and references to “the Superintendent” and “the district Chair” or “the district safeguarding officer” in relation to a relevant party are references to the Superintendent of the Circuit in which the relevant party is stationed or is a member and to the Chair or safeguarding officer of the District of which that Circuit forms part.**

(2) The functions of the committee shall be:

(i) *[unaltered]*

~~(iA) to determine any appeal brought by a person dissatisfied with a direction made in respect of any disclosure or other matter as mentioned in sub-clause (i) above;~~

*(ii) [remaining sub-clauses unaltered]*

(3) The chair of the committee shall nominate such members of the committee [...] For the purpose of giving directions or ~~advice~~ **guidance** under clause (2)(i) above, the safeguarding officer shall convene a panel of not fewer than three members of the committee having regard to the expertise required in the particular case.

(3A) (a) When discharging the functions specified under clause (2)(i) to (iv) above, [remaining clause unaltered].

~~—(b) When discharging the functions specified under clause 2(iA) above the panel nominated shall contain one person referred to in clause (1)(i) and two persons referred to in clause (1)(ii) one of whom shall be a former President or Vice-President, who shall chair the panel. No member of the panel shall have been involved in making the direction which is the subject of the appeal.~~

(c) Requests for consultation by members of the Connexional Team under clause (2)(v) above shall be made to the chair in the first instance.

(4) [...]

**(4A) A panel appointed in accordance with clause (4)(a) above shall send a written notice to the relevant party, informing him or her of the direction, recommendation or determination given or made by the panel and providing a copy of any risk assessment. A copy of the notice and a summary of the assessment shall be sent to the district Chair and Superintendent.**

(5) The committee shall report to the next ensuing Conference each direction, determination or recommendation made under clause (2)(Aii) to (iv) above and each appeal against a direction or determination. [remaining clauses unaltered]

### **233 Grounds of Appeal**

**(1) A relevant party, that party's district Chair or Superintendent or the safeguarding officer may appeal against a direction or determination under Standing Order 232(2)(i) or (iii) and the effect of the direction or determination shall be suspended pending the hearing of the appeal. The person appealing is hereafter referred to as the appellant.**

**(2) The grounds of appeal for the purpose of this Standing Order are:**

**(i) that there was a material irregularity in how the matter was dealt with by the safeguarding panel or the risk assessor appointed under Standing Order 232(4)(b).**

**(ii) that the panel or the risk assessor failed to take into account all relevant matters or took into account irrelevant ones;**

**(iii) that in the light of events occurring since the direction was given or the determination was made (as the case may be), or of evidence of which the appellant could not reasonably be expected to have been aware at the time, substantial doubt has been cast upon the correctness of the direction or determination.**

**(3) The appellant shall within fourteen days of receiving written notice of the direction or determination give notice of the appeal in writing to the chair of the Safeguarding Committee.**

**(4) The notice of appeal shall be accompanied by a written statement indicating on which of the grounds in clause (2) the appeal is brought and the specific nature of any error, omission or other matter relied on. The chair of the Safeguarding Committee shall pass it to a safeguarding officer, as defined in Standing Order 232(1A)(ii), who has not been involved in the direction or determination against which the appeal is brought. The safeguarding officer shall act as the convener of the panel hearing the appeal.**

### **234 Appeal Process**

**(1) The convener shall arrange for the appeal to be heard by an appeal panel which shall include one person referred to in Standing Order 232(1)(i) and two persons referred to in Standing Order 232(1)(ii) one of whom shall be a former President or Vice-President, who shall chair the appeal panel. No member of the appeal panel shall have been involved in giving or making the direction or determination which is the subject of the appeal.**

**(2) The appeal will be by way of report and there will be no rehearing or further evidence, except evidence admitted under Standing Order 233(2)(iii) above. Any such evidence not already supplied with the notice of appeal shall be provided by the appellant to the convener no later than 14 days before the date of the meeting and copies shall be provided by the convener and the members of the appeal panel no later than seven days before the date of the meeting.**

**(3) At the meeting of the appeal panel a member of the safeguarding panel which gave the direction or made the determination appealed against shall first present that panel's report.**

**(4) The appellant shall have the right to attend and put forward his or her case on the basis of the grounds of appeal specified, and to be accompanied by a friend or the relevant party (if not the appellant), who shall also have the right to speak.**

**(5) Members of the appeal panel who wish to raise any matter not referred to in the report given under clause (7) above shall do so before the appellant leaves the meeting and both the presenting member of the panel and the appellant shall be given an opportunity to deal with it (for which purpose the meeting shall be adjourned if necessary); no fresh matter shall be raised after the appellant has left.**

***(6) The convener shall make the appellant aware of the importance of attending the meeting. If he or she then refuses or fails to attend, the panel must consider the reason for his or her absence and may adjourn for that purpose. The panel may then, if it thinks fit, hear the appeal and reach a decision in the absence of the appellant.***

### **235 Appeal Decision**

***(1) The panel shall decide whether to uphold or dismiss the appeal or refer the matter back to the Safeguarding Committee for further consideration or a further risk assessment. The decision of the appeal panel shall be reached solely on the basis of the documents relied upon by the original safeguarding panel or supplied in accordance with Standing Order 234(2), the submissions presented at the meeting and any other documents which both the person representing the original panel and the appellant agree the appeal panel may consider. The appeal panel shall give reasons for its decision and shall embody them in the document announcing the decision.***

***(2) The decision of the panel shall be communicated to the appellant (and the relevant party if not the appellant) in writing. If the appellant is the relevant party, a copy of the decision shall also be sent to the district Chair, district safeguarding officer and the Superintendent.***

## **SECTION H ARTEFACTS**

### **Report**

The Methodist Council in April 2014 approved a new policy for the Methodist Church Historic Artefact Collections Management and directed that amended Standing Orders be drafted to implement the policy.

The clear policy decisions taken by the Council were that the Heritage Committee should be able to approve acquisitions and disposals of Methodist artefacts and that there should be no need for loans of such property to require approval of the Methodist Council or Heritage Committee. The Law and Polity Committee concluded that completely unfettered loans could not have been what the Council intended and has therefore, with the agreement of the Heritage Committee, specified in the new SO 936(1)(b) the circumstances in which loans will be permitted without the need for consent, and the conditions to be met.

Drafting the amendments to Standing Orders has brought to light a number of further points in them which the Heritage Committee would seek to clarify and matters of policy which they would seek to have adopted and which might be appropriate for inclusion in Standing Orders. The Law and Polity Committee therefore proposes to liaise with the Heritage Committee with a view to identifying what policies of the Heritage Committee need the approval of the Methodist Council and then what further amendments, if any, in Standing Orders should be brought to a future Conference.

### **\*\*\*RESOLUTION**

**43/4. The Conference adopted the Report.**

**43/5. The Conference amended Standing Orders as follows:**

**212 Particular Functions.** (11) The council is empowered to give directions that artefacts, publications and records which are model trust property and which the council judges to be of historic significance to the Church and specifies for this purpose individually or by category shall not

be sold, leased, lent or otherwise disposed of or parted with except by permission of the council and on terms approved by it. A list of property so specified shall be established and maintained in accordance with Standing Order 337(1)(ii). The council may make provision in the budget of the Methodist Church Fund for grants to the managing trustees of property on the list **of artefacts, publications and records of historic significance established under Standing Order 337(1)(ii)** to ensure its proper care and safety.

**337 Methodist Heritage** (1) The Methodist Council shall annually appoint a Methodist Heritage Committee, to discharge the following responsibilities:

(ii) ~~to advise the council on the exercise of its powers under Standing Orders 212(11) and 936~~ **to give directions that artefacts, publications and records which are model trust property and which the committee judges to be of historic significance to the Church and specifies for this purpose individually or by category shall not be sold, leased or otherwise disposed of or parted with except as provided by Standing Order 936**, to establish and maintain ~~the a list provided for in the former,~~ **of the property so specified**, and to monitor and report to the council on compliance with ~~these Standing Orders~~ **any such directions and with Standing Order 936**;

(2) (a) The committee shall consist of:

(i)-(ii) [unchanged]

(iii) the **two** liaison officers **for Methodist archives and collections** appointed under clause (4) below;

[....]

(3) [....]

(4) (a) ~~The Methodist Heritage Committee~~ **committee** shall appoint a liaison officer for Methodist archives, who shall oversee, ~~and seek to enable,~~ advise, support and connect, the various bodies responsible for the production, supervision, deposit and safekeeping of Methodist archives, other historical material and modern records across the whole Connexion, and in particular the Connexional Team and District Archivists.

**(b) The committee shall appoint a liaison officer for Methodist collections, who shall oversee, advise and support the various bodies responsible for the acquisition, disposal, interpretation and safekeeping of Methodist historical collections across the whole Connexion, and in particular the Connexional Team, the curators of the sites identified in Standing Order 337(1)(vi) and District Archivists.**

**936 Historic Artefacts.** (1) (a) **Subject to sub-clause (b) below,** ~~the~~ consent of the Methodist Council **Heritage Committee** shall be obtained before managing trustees sell, lease, ~~lend~~ **give** or otherwise dispose of or part with any artefact, publication or record specified by the ~~council~~ **committee** under Standing Order ~~212(11)~~ **337(1)(ii)** and any **such** dealing with such property shall be on such terms only as may be approved by the ~~council~~ **committee**.

**(b) No consent shall be required under sub-clause (a) above for a loan within the area of the Connexion to a recipient not excluded by any direction of the committee currently in force for a fixed term not exceeding one year or for a period terminable on not more than six months' notice under an agreement in writing on standard terms published by the committee.**

(2) Applications for consent under this Standing Order shall be made through the Methodist Heritage Committee. Grants for the care and safety of such property shall be applied for from the Connexional Grants Committee in accordance with Standing Order 213B.

## SECTION I AMENDMENTS TO PART 11

### Report

The Law and Polity Committee continues to keep under review Part 11, in consultation with a small complaints and discipline liaison group which meets annually to discuss Part 11 and issues that have arisen. One matter that has caused concern for the Connexional Complaints Panel is the inability on occasion to dismiss a complaint summarily under SO 1123(7) where the matter complained of is that something that cannot reasonably be contended to require further formal investigation in the interests of the Church. SO 1123(7)(v) provides that a complaint can be summarily dismissed but only if both sub-clauses are met: ie, that “(a) there has been a breakdown in a relationship between the respondent and complainant which existed primarily outside the context of the Church and the complaint appears to be making the complaint as a result of hurt or anger connected with that breakdown” and “(b) the circumstances are such that it cannot reasonably be contended that the interests of the Church (including in particular the risk of damage to the Church’s mission and witness if no action is taken) require further formal investigation of the complaint. “

The committee has considered whether (a) and (b) should be independent grounds. It accepts that when a test such as the very stringent “cannot reasonably be contended” test in (b) is satisfied, that should be a sufficient ground for summary dismissal, even if the complaint has not come as a result of hurt or anger within (a). It does not believe, however, that (a) should be a sufficient ground in itself; some attention should be given to whether the interests of the Church require the complaint to proceed, but the test need not be as stringent as in the present (v)(b). It brings amendments giving effect to those judgments, together with a reformulation of the test formerly in (v)(b)(now in (vi)) to clarify the circumstances in which further investigation might be required.

### 1123 Initial Steps by Complaints Team

(7) (i)-(iv) [unchanged]

(v) that:

- (a) there has been a breakdown in a relationship between the respondent and complainant which existed primarily outside the context of the Church and the complaint appears to be making the complaint as a result of hurt or anger connected with that breakdown, and
- (b) ~~the circumstances are such that it cannot reasonably be contended that~~ the interests of the Church (including **taking into account** in particular the risk of damage to the Church’s mission and witness if no action is taken) **do not appear to** require further formal investigation of the complaint.

***(vi) that it cannot reasonably be contended that the reasons for which the Church has established its complaints and discipline process as set out in Standing Order 1100(1) and (2) mean that further formal investigation of the complaint is required (taking into account in particular the risk of damage to the Church’s mission and witness if no action is taken).***

### \*\*\*RESOLUTION

**43/6. The Conference adopted the Report.**

**43/7. The Conference amended Standing Order 1123 as set out in the Report.**

**SECTION J**  
**SECTION 03**

**Report**

It has been noted by members of the Committee who sit on initial review committees under Standing Order 031 that the secretary of such committees is also a member. The secretary can on occasions be aware of information that other members of the committee are not, which is clearly inappropriate. It is therefore proposed that Standing Order 031(1) is amended so that the secretary is not a member of the committee.

**031 Initial Committee.** (1) When this Standing Order applies a connexional Review Committee, consisting of five persons, shall be appointed by the Secretary of the Conference, who shall **also appoint an additional person** ~~appoint one member of the committee~~ to be its secretary, and that committee shall be convened by its secretary to consider and make a decision upon the question of discontinuance.

**\*\*\*RESOLUTIONS**

**43/8. The Conference adopted the Report.**

**43/9. The Conference amended Standing Order 031 as set out in the Report.**

**SECTION K**  
**CONDITION OF MANSES**

**Report**

The Council has recommended in part 1 of its report to the Conference the revised Charter for Incoming and Outgoing Ministers. The report from the Council in Volume 1 at section B also includes at paragraph 9, two provisions that the Council thought might be enacted by Standing Order amendments. The first provision is for there to be a visit two or three months before the outgoing minister moves to assess what additional help may be required to ensure that the garden, hedges etc are left tidy and to ensure that there is a smooth removal of all property including anything in the loft. The second provision was that in the event of failure to leave the manse in a reasonable condition, the outgoing minister will be charged for remedial work caused by misuse or damage, professional cleaning, removal of unwanted belongings or garden rubbish.

The Law and Polity Committee has drafted the following Standing Order to enact the first provision for a visit, assessment and report. The Committee is considering the correct legal basis on which a minister could be obliged to pay for remedial work. This is a matter that requires further thought in terms of amendments to Standing Orders and therefore the Committee has not proposed Standing Orders to enact the second provision this year.

**\*\*\*RESOLUTIONS**

**43/10. The Conference adopted the Report.**

**43/11. The Conference directed the Law and Polity Committee to make recommendations to the 2017 Conference on amendments to Standing Orders that enable Circuit Meetings to charge a minister who leaves a manse in an unreasonable condition.**

**43/12. The Conference amended Standing Order 965 as follows:**

**965 Manses**

- (5) *A visit shall be undertaken up to three months before a minister or probationer is due to move under Standing Order 785(5)(b). It may be a regular visit under clause (1) above which occurs at that time or an additional visit made in order to comply with this clause. The visitors shall assess and report what additional help or further work is needed in order to ensure that the manse, its grounds and boundaries are left in a reasonable condition and in accordance with the guidance from the Ministries Committee.***