



Uniting Church in Australia
ASSEMBLY
Assembly Standing Committee

10 – 12 March 2023

DOCUMENT 13

Title	Regulations Review Task Group Report
Type of Paper (Information/Decision)	For noting
Assembly or ASC Minute	Assembly Minute of 7 May 2022
Consultation	Regulations Review Task Group
Purpose	To provide an update to Assembly Standing Committee on the work of the Regulations Review Task Group to date.
Rationale & Findings Summary	See the report
Attachments	Attachment 1: ASC Working Groups' Comments and Task Group's Responses. Attachment 2: Status Report No.4 (without draft Part 5). Attachment 3: Flow Charts Attachment 4: Discipline Scenarios
Proposal/s	That the Assembly Standing Committee: 1. resolve to note the current status of the review of Part 5 – Church discipline – of the Regulations.
Submitted by	Heather den Houting Chair, Regulations Review Task Group heather.denhouting@ucaqld.com.au

REGULATIONS REVIEW TASK GROUP REPORT

General Background

On the 7th May 2022, at the reconvened 16th Assembly meeting, Assembly considered a submission from the Assembly Standing Committee (**ASC**) concerning the review of the Regulations and, in particular, Part 5 dealing with Church Discipline.

The Assembly resolved:

- “1. to defer any review of the Regulations that are associated with, or ancillary to, the broad strategic work done as part of the Act2 process, other than Part 5 – Church Discipline – in order to ensure that any proposals as part of the review are aligned to the strategic direction of the Assembly.
2. to delegate, pursuant to Regulation 3.10.2(a)(ii), to the Assembly Standing Committee the authority to make Regulations under Part 5 of the Regulations (Church Discipline), subject to:
 - a. those Regulations being generally in accordance with the amended Framework of Principles and subject to appropriate consultation on the draft regulations; and
 - b. the approval of those Regulations by the Assembly Standing Committee on the advice of the Assembly Legal Reference Committee.”

Previous Report to the ASC

A report on the progress of this project was considered by the ASC at its meeting on 12th November 2022 and three (3) Working Groups provided commentary and suggestions concerning the content of Part 5 and the progress of the review.

The Assembly Regulations Review Task Group (**RRTG**) has considered that commentary and suggestions and set out its responses (in blue) in **Attachment 1** for the information of the ASC's information.

Further Action Taken since ASC Meeting on 12 November 2022

Since the ASC meeting on 12th November 2022, the RRTG has undertaken the further following actions as part of seeking feedback on the content of a revised Part 5 of the Regulations.

On 15th December 2022, the project officer sent the 4th Status Report to the Regulations Review Consultation Group (**RRCG**). Feedback was sought by 28th February 2023. Accompanying that Report were:

- (i) a revised draft of Part 5 of the Regulations;
- (ii) Flow Charts (setting out a number of processes in chart form); and
- (iii) Discipline scenarios which worked through examples of complaints and how they could be dealt with under the new, draft Part 5.

A copy of that Report, excluding the revised draft of Part 5, forms **Attachment 2**. The Flow Charts form **Attachment 3** and the Disciplinary Scenarios form **Attachment 4**. A further draft of Part 5 will be circulated to the RRCG on 1st March 2023, again seeking feedback, and a copy of that version of Part 5 will be provided to the ASC for its information.

A number of interested stakeholders have sought an extension within which to consider this material and provide feedback. The project officer is of the view such an extension can be accommodated within the existing project timeframe with the only impact being a one (1) week delay on the submission of a final version of Part 5 to the Assembly's Legal Reference Committee by 7th April 2023, instead of 1st April 2023.

To assist stakeholders in actively engaging in the review of Part 5, it is also planned to hold a further Information Session on or about the 23rd March 2023 with the RRCG to unpack any issues of concern. Feedback will be sought by 31st March 2023. It is anticipated this session, together with all feedback received, will contribute to the further development of a revised Part 5 that will, in the fullness of time, be submitted to the Assembly Standing Committee (after being considered by the Assembly Legal reference Committee).

The project remains on track, with the exception of the one-week slippage addressed above, in accordance with the original timeframes.

Recommendation

It is recommended the Assembly Standing Committee note the current status of the work of the Regulations Review Task Group in the review of Part 5 of the Regulations.

ATTACHMENT 1

Notes from ASC Working Group No 1

Make sure the definition of office bearer is tight.

The definition of “Office Holder” has been slightly modified and is as tight as it can be having regard to the various Church entities referred to throughout the Regulations (e.g. committees or task groups formed by a Church Council (Reg. 3.7.1) or Presbytery (Reg. 3.7.2); a Presbytery Standing Committee (Reg. 3.7.2(a)(i)); a Pastoral Relations Committee (Reg. 3.7.2(a)(ii)); a Presbytery Property Committee (Regs. 3.7.2(a)(iii)); the Synod Standing Committee (reg. 3.7.4.1) etc.).

However, if it is believed there is still some ambiguity or the definition can be tightened, an invitation is extended to discuss this issue directly with the Project Officer (Malcolm Hinton) who may be contacted via email at Malcolm.Hinton@ucaql.com.au or via mobile: 0407 740 278.

Definition of ministry agent also.

This definition has now been amended to read: “Minister means a Minister as referred to in the Code of Ethics and Ministry Practice and also includes a Synod Secretary, Moderator, Assembly General Secretary, President, and Presbytery Minister.”

This will ensure consistency with the Code of Ethics and Ministry Practice, whilst capturing those not mentioned in the Code.

How do we manage false or vicious complaints?

The issue of how to deal with vexatious complaints is now dealt with explicitly in Reg.5.11 and these provisions align with the legislative schemes that address the issue of dealing with vexatious litigants.

How is this to be resourced? (You spoke of Synod responsibility)

Whilst resourcing is a live issue and a matter that needs to be considered when determining the content of any redrafted Part 5, such resourcing impacts have been considered in the current redrafting of Part 5. For example, a new Regulation 5.1.6 (dealing with Support Persons) provides:

5.1.6 SUPPORT

The entity responsible for dealing with any particular complaint should make such arrangements, as it considers reasonably necessary and that are within its available resources, for the pastoral, spiritual and financial support of those directly involved with the complaint. The making of such arrangements can include referring the affected party to another service provider which may be able to provide the said support.

For the avoidance of doubt, this provision does not impose or create any duty on the said entity to make

such arrangements.

Example 1: A Church Council receives a complaint against a member of its Congregation. The Congregation lacks the financial resources to financially assist a party directly involved in the complaint. That Church Council may determine to refer the affected party to the Synod's employee assistance program for relevant professional assistance or an external agency which may be able to provide such support, whilst the Minister provides pastoral and spiritual support.

Example 2: A Church Council receives a report from a complainant that they have been the subject of conduct they consider to be a reprisal for making the original complaint. The Church Council should make such arrangements as is reasonably necessary to protect the complainant from further reprisals and to deal with the original alleged reprisal.

A comms strategy to Presbyteries and PRCs.

It is recommended a comms strategy be developed for 2023 to facilitate greater awareness of, and participation in, this initiative.

Clarity of authority and where it begins and ends at each stage of the process.

It is believed that the current redraft of Part 5 provides such clarity and that such clarity is enhanced by the inclusion of examples to show how the Regulations should be applied in practice.

Much of the feedback received to date has identified these existing gaps in the current provisions of Part 5 which have been addressed in the next redraft.

Testing of scenarios through the process.

This will be developed by the Project Officer and made available to stakeholders.

Notes from ASC Working Group No 2

The 63 page report is difficult to understand for ASC members who are not working within part 5 of the regs all the time.

It is acknowledged that those who do not work with Part 5 would find the redraft quite overwhelming. I think the same could be said about any other Part of the Regulations.

However, the feedback received to date from those who do work with Part 5 is that the redraft provides greater clarity about roles, responsibilities and options to deal with complaints. It is this greater clarity and prescription that has attracted quite a few to the alternate framework, as the process set out in Part 5.6 dealing with complaints about sexual misconduct is more detailed and comprehensive than Part 5.4 dealing with complaints against Ministers. It is this greater prescription that removes ambiguity about the process and its possible outcomes and sets out, step by step, how such a complaint is to be dealt with. This is what the redrafted Part 5 will achieve.

The impression gained from the Information Sessions is that, for those who work with Part 5, they are happy with the current approach of providing greater detail in the existing framework of Part 5. They would leave Part 5.6 to deal with complaints concerning sexual misconduct.

Some members were not able to engage with whether the intent of the assembly resolution is being achieved and the appropriate consultation undertaken and technical work done.

It is not clear what the precise concern is here. It is thought Assembly's intent was to make Part 5 'fit for purpose' for the Church moving forward. It is believed this objective is being achieved.

All General Secretaries were asked to share information about this project with all stakeholders within their bounds and it is understood they did so, with the invitation that anyone interested in actively participating in the review throughout the life of the project could do so by sending their contact details to the Project Officer who, in turn, adds them to the Regulations Review Consultation Group (RRCG).

The RRCG receives Status Reports about the progress of the review and can actively engage with the development of a new Part 5. Indeed, the Project Officer has received a considerable amount of feedback, comments and suggestions about how to improve Part 5 and a significant amount of that feedback has resulted in amendments to Part 5.

To date, the RRCG has received 3 Status Reports, invited to attend 2 Information Sessions and received the first redraft of Part 5. Members of the RRCG have provided further feedback about the first redraft and, again, a significant amount of that feedback has resulted in further improvement to Part 5.

It is planned to release a second redraft of Part 5 before Christmas. This redraft will be circulated to all General Secretaries, Moderators, and the RRCG (which currently has around 70 members from throughout Australia). Again, feedback will be sought.

Please include in the next report who has been consulted, what their comments were and how they have been included to assist ASC in oversight of the process.

Whilst it is possible to provide a list of names of persons consulted, a copy of their comments and an explanation of how such feedback has been dealt with, it is considered this would require further resources to be allocated to the project as the Project Officer does not have the capacity to undertake this volume of work. Regardless, such material would probably take up to close to 100 pages and would require the ASC to spend considerable time in digesting same.

The current report should really be an appendix - it's the technical detail, we need to ensure the process and outcomes are right rather than being stuck in the technical detail.

The timetable for the ongoing review of Part 5 is set out in the following table.

12.11.22 to 1.12.22	Project Officer to develop 2 nd redraft of Part 5 in accordance with ASC's direction and submit to the TG for settling.
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15.12.22 to 28.2.23	2 nd redraft of Part 5 to be circulated to the President, Moderators, General Secretaries and RRCG for the purpose of consultation. Project Officer to collate feedback received and develop final redraft of Part 5 for submission to the TG.
1.3.23	TG to provide status report to ASC meeting (date to be determined) on progress of the consultation on the 2 nd redraft of Part 5, with copy of same to General Secretaries.
2.3.23 to 31.3.23	Project Officer to finalise development of, and TG to settle, final redraft of Part 5.
1.4.23 to 31.5.23	Submission to Assembly Legal Reference Committee of final redraft of Part 5, with copy to General Secretaries.
1.7.23	Submission to ASC meeting (date to be determined) providing final redraft of Part 5 for ASC's consideration.
1.7.23 to 31.7.23	ASC to consider and approve amendments to disciplinary regulations or determine further actions necessary to progress review of Part 5.
1.8.23 to 30.9.23	Assuming the ASC approves the new Part 5, implementation and training to be conducted by each Synod.
1.10.23	Proposed commencement of new disciplinary regulations.

It is also proposed to hold further Information Sessions that all interested parties can attend, though the exact dates are yet to be determined.

Concern about no timelines so the process could go forever - has the review addressed this?

Please see the above time table.

The role of chair - the power given to the presbytery chairperson seems significantly more and this possibly undermines the role of the PRC. The chair should not be named at all - PRC could delegate to the chairperson but the regs shouldn't do it as it creates conflict (chair could act like a bishop)

This has been addressed in the 2nd redraft of Part 5 and this power will vest in the Presbytery. As identified in this suggestion, Presbytery will be able to delegate this power to another person or committee, at its discretion.

An objective 3rd party voice should be included in the complaints panel (the one that can defrock a minister)

This suggestion has been taken up and the 2nd redraft of Part 5 will include a requirement to have an independent member on the Committee for Discipline who is not a member of the Church.

5.10.1: need to specify what "another body" actually means

The term "body" is defined in cl.3 of the UCA's Constitution and this definition is incorporated into the

Regulations pursuant to the Definitions (Part 1) of the Regulations.

Notes from ASC Working Group No 3

Definition of spiritual abuse is missing

The majority of feedback received from stakeholders was to remove this from the redraft of Part 5. In essence, the majority of stakeholders expressed the view that it was not necessary to single out “spiritual abuse” above and beyond any other form of misconduct and attempting to define “spiritual abuse” would prove problematic.

Resourcing implications such as chairperson how will that be resourced when they often take.

This has now been changed back to Presbytery in the 2nd redraft of Part 5. Presbytery will be able to delegate this power to another person or committee, at its discretion.

Training support people to walk through a complaint process.

It is acknowledged that support people, and others involved in the complaint and disciplinary process, should receive training and that this has resource implications for the Church. It will be a matter that will need to be managed at a Synod level, though the opportunity exists for a number of Synods to capitalize on any training developed by one or more other Synods.

Longer description of what a support person is - so they don't overstep

The definition of support person has been tightened up to make it clear that such a person is only to provide emotional support for a Complainant, Respondent or other party involved in the process and is not entitled to represent a party.

Investigator as language is not great, trained? Etc?

The use of the term “investigator” is a common feature in many complaint and disciplinary processes across many organisations and is generally used to denote a person skilled in undertaking investigations that meet certain criteria.

Persons being removed and going to another congregation - membership question/issues - restoration of membership - avoiding a loop

This issue is addressed in draft Regulation 5.2.4 which provides, in part:

- “(b) A person whose name has been removed from a membership or adherent’s roll of a Congregation pursuant to Part 5.2 must not be enrolled as a member or adherent of any other Congregation without the prior knowledge of and advice from the council which is responsible for the maintenance of the roll from which the person’s name was removed.
- (c) The advice referred to in (b) may disclose such information as that council considers relevant to the other council’s determination of whether to admit that person to its membership or adherent’s roll.”

We are being asked to do work but we don't have a lot of legal expertise perhaps we need to engage from a framework of theological ideas on discipline

Noted. The current framework in the redraft of Part 5 has not materially altered. Regulation 5.1.2 continues to provide that discipline in the Church is the exercise of spiritual authority with a view to honouring Christ the Head of the Church, expressing God's gracious love for all people while achieving justice and ensuring the spiritual well-being of its members and Ministers.

Case studies to help people understand the cost - financial and personal and faith cost To help ground our interrogation of the process

A number of case studies will be developed by the Project Officer to help achieve this objective.

Mediation - need to be clearer about that process, needs to be done by professionals as one of the options

This has been addressed in an amendment to the definition of "alternative dispute resolution" to include the requirement that the mediation, conciliation, collaborative resolution or other restorative justice processes must be conducted by an external, independent, professional facilitator.

Theology of reconciliation- not sure when we try to get lawyers if we have a good understanding and if we need to change formation of ministers.

Generally, lawyers should not be involved in the complaints and disciplinary process as it is not meant to be conducted in an adversarial manner, rather in a restorative manner. This is why the right to legal representation is reserved to proceedings before the Committee for Discipline.

What support of writing complaints - does that need to be clear?

Whilst it is proposed that a complaint be in writing, the task of those who are responsible for dealing with complaints is to identify the conduct complained about. To this end, those responsible for dealing with complaints are empowered to enquire into the matter, so as to clearly identify conduct that is of concern to the Church and that should enliven the complaints and disciplinary processes under Part 5.

Vital ministries consults happen, nothing is followed up in different places for better oversight

Throughout the redraft of Part 5, reporting obligations are set out to address this actual problem as feedback was received from a number of parties raising this same issue. As a result, greater clarity has been added into the redraft to ensure those that need to know the outcomes of complaints are advised in a timely manner.

ATTACHMENT 2

REGULATIONS REVIEW – PART 5 **STATUS REPORT No. 4 – 15.12.22**

Introduction

The Assembly's Regulations Review Task Group (**TG**) is undertaking a review of Part 5 - Church Discipline – of the Regulations.

The purpose of this report is to advise of current progress against the project timetable.

Stakeholders will recall that the 3rd Status Report was distributed on 31.8.22 and included the first redraft of Part 5, an alternate framework to deal with complaints against Ministers and a Feedback Form concerning a number of discreet issues raised in relation to the content of the first redraft of Part 5.

Feedback and commentary was sought, and provided, by 1 November 2022.

Action Taken since 3rd Status Report

1. Information sessions were held on the 18 October 2022 and 7 November 2022 and were well attended. The recording of the information session on 7 November 2022 was distributed to members of the Regulations Review Consultation Group (**RRCG**) with an invitation to pass that recording on to any other interested party.
2. The Assembly Standing Committee (**ASC**), at its meeting on 12 November 2022, was provided with the 2nd and 3rd Status Reports, including the first redraft of Part 5, and three (3) working groups of the ASC provided feedback concerning the project and the first redraft of Part 5.
3. As a result of the feedback received, a
 - a. 2nd redraft of Part 5 has been undertaken;
 - b. number of flow charts have been produced (setting out the process of dealing with complaints against members, office holders and Ministers); and
 - c. 'Discipline Scenarios' document developed to date (to work through a number of scenarios setting out how to deal with different types of complaints),and each of those documents is **attached** for the review of the **RRCG**.
4. All comments and feedback are encouraged and welcomed.

Next Steps

5. Stakeholders are encouraged to provide feedback and commentary by 28 February 2023 to Malcolm.Hinton@ucaqlld.com.au.

6. Stakeholders are also encouraged to share this information with other persons who may be interested in being included in the **RRCG**. Such interested parties can request to be included in the RRCG by emailing their interest to Malcolm.Hinton@ucaqld.com.au.