



Uniting Church in Australia
ASSEMBLY
Assembly Standing Committee

15 – 17 March 2024

DOCUMENT 7

Title	Discipline Regulations Review
Type of Paper (Information/Decision)	Decision
Assembly or ASC Minute	ASC March 2018 (18.19.03), ASC March 2019 (19.08), ASC November 2021 (21.71.05), ASC March 2022 (22.15), 16 th Assembly Reconvened (22.07), ASC November 2022 (22.64, 22.65), ASC March 2023 (23.16)
Consultation	Regulations Review Task Group, Assembly Legal Reference Committee (ALRC)
Purpose	To receive the work of the Regulation Review Task Group, as amended by the ALRC
Rationale & Findings Summary	<p>The Regulations Review Task Group has completed its work on a set of revised Discipline Regulations. The ALRC, in discussion with the Task Group has brought an amended version of these revised regulations. Most of the changes suggested by the ALRC are stylistic, in pursuit of plain English, a few have been more substantial.</p> <p>In particular there is one point where the ALRC has felt a necessity to make a change which differs from the Framework of Principles, while suggesting an alternative way to address the issues which may be of concern. The ASC may consider this issue, outlined in the report attached before determining whether to approve the revised regulations submitted by the ALRC.</p> <p>In making its determination, the ASC will be resourced by the Chair of the Regulations review Task group and by the Acting Chair of the ALRC.</p>
Attachments	Revised Discipline Regulations Amended Framework of Principles
Proposal/s	That the Assembly Standing Committee: <ol style="list-style-type: none">1. Receives the report;2. Approves the revised Discipline Regulations as amended by the ALRC, for use from 1 Jan 2025;3. Requests the General Secretary to facilitate with Synod General Secretaries, a plan for appropriate training and implementation for the revised Regulations to be enacted prior to the 1st Jan 2025.
Submitted by	Lindsay Cullen, General Secretary (Interim), gensec@nat.uca.org.au , 0408 000 165

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Introduction

As can be seen from the Minutes listed above, this report stands at the end of a very long process!

In considering the revised Discipline Regulations as amended by the Assembly Legal Reference Committee, it may be worth particularly noting the Minute from the 16th Assembly Reconvened, which delegated authority to the ASC to deal with this issue:

22.07.22 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 (APPENDIX D) 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.

The ASC should note that this resolution was altered in the course of debate from the original proposal brought by the ASC, in two ways. Firstly, the original proposal suggested that the revised regulations should be “**complying with the framework of principles**”, but the Assembly ultimately determined that the revised regulations should be “**generally in accordance** with the amended Framework of Principles”. (For ASC’s benefit, the differences between the original framework of principles and the amended Framework of Principles were fairly minor and none touched on the major topic of conversation between the Task Group and the ALRC outlined below.)

The second change in the resolution of the Assembly compared with the original proposal was the addition of the clause about “appropriate consultation on the draft regulations”. The Task Group has consulted extensively in its work in producing the revised regulations.

A Key Topic for Consideration

As stated in the Findings above, there was one key issue in which the Task group brought revised regulations following the Framework of Principles, but with which the ALRC determined that they could not agree, and after detailed discussion with the Task Group, has brought a different approach in the regulations before ASC.

In particular, this concerned the regulations developed by the Task Group operationalising Framework Principle 9.1: “The jurisdiction of the SMCC [Synod Sexual Misconduct Complaints Committee] be broadened by expanding the definition of sexual misconduct to include ‘any other conduct involving a component of sexual misbehaviour in the complaint.’”

The ALRC was unable to approve the proposed addition for a number of reasons and has instead suggested that behaviours currently outside the definition of “sexual misconduct” in the regulations concerning the SSMCC but which may be in breach of the Code of Ethics may be dealt with, as they may be under the current regulations, by the Committee for Discipline, but that the Committee for Discipline may be assisted in dealing with such issues, as well as other potential breaches, by the addition of Alternative Dispute Resolution approaches in the range of actions authorized by the regulations for the Committee for Discipline.

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The resolution of the Assembly places the delegation of authority with the Standing Committee, who have the task of determining, based on the Task Group's work and the advice of the ALRC, whether the regulations before it are sufficiently 'in accordance' with the Framework of Principles.

Two other matters of note

The regulations developed by the Task Group, and the amended version supplied by the ALRC both follow the Framework of Principles 2.1: "Only members, adherents and Ministers are eligible to make a complaint." However the Task Group reported a number of those with whom it consulted who felt that there was a lack of equity in this and questioned whether those who were not members or adherents should have recourse. The Task Group felt that this was a question the ASC might consider.

The view of the ALRC was that despite the use of the word 'complaint' within these regulations, these are not regulations dealing with an externally facing complaints process, but rather a set of regulations concerning the discipline of the Church and that for this reason the Framework was correct, and that non-members continue to have recourse under civil and criminal legislation quite apart from internal disciplinary processes. The ALRC considered that an additional clause drawing attention to other means of recourse for non-members might be appropriate if the ASC believes that to be warranted.

Another issue raised in a final round of consultation carried out by the General Secretary with Synod General Secretaries was that of the definition of 'Presbytery' within the regulations. In particular the concern was that several of the discipline regulations nominate the Presbytery as the Council to deal with a matter, but that for reasons of pastoral care, confidentiality and timeliness, the Presbytery in Council is not the most appropriate body for this work and that perhaps the revised regulations should define 'Presbytery' in this section of the regulations as meaning "the Presbytery Standing Committee or the Presbytery Pastoral Relations Committee upon delegation from the Presbytery Standing Committee."

The ALRC has given some thought to the suggestion of a definition of "Presbytery" within the proposed Discipline Regulations but feels that a proper consideration of the full implications of this is probably not possible within the timeframe for this current redrafting. Further, the ALRC is of the initial opinion that delegation of these matters under the existing regulation 3.7.2 may be the preferable mode of dealing with these issues, allowing the Presbytery to make the decision regarding the particular committee to which matters would be delegated and any further conditions or timeframe for such delegation.

Lindsay Cullen, General Secretary (Interim)