

Summary briefing paper re Lambeth Working Group proposals at General Synod

Prepared by Sam Maginnis for the ELS Working Party July 2021

1. The Lambeth group appears to have lost its way in relation to the categories of conduct since producing its Progress Report last December. At that time they seemed to accept the need for a three-way distinction between "grievances", "misconduct" and "serious misconduct" - in line with the ELS Working Party proposals - but now they have moved to a two-way distinction between "complaints" and "misconduct". This is not only linguistically confusing but more significantly there is substantial risk that, unless "misconduct" is defined as "serious misconduct" (i.e. conduct which if admitted or proven would justify a penalty of prohibition or removal from office), there will be no difference from the current CDM system where all allegations of misconduct end up in a system designed to deal with serious misconduct.
2. There are real issues of concern about the proposed system of initial allocation to the "complaint" or "misconduct" track, decided by the diocesan bishop on the basis of the Complainant's allegations without any investigation and without an opportunity for the Respondent to answer the allegations until after allocation has taken place. The clearest risk here is that the allocation process will not enable the rapid identification and dismissal of vexatious/malicious complaints, or complaints that have amplified or overstated and which then end up in the tribunal process.
3. The Lambeth group's proposal that "misconduct" cases continue to undergo a further filtering process on the basis of a confidential report considered by the President of Tribunals must be resisted at all costs. The question of seriousness should have been properly considered at the initial allocation stage to ensure that only actually serious cases get caught in the formal legal process. Also, the confidential report and decision by the PoT is one of the most unsatisfactory features of the current system - there is no transparency about it and there have been real issues about disclosure generally which arise in these circumstances.
4. The partial adoption of the ELS Working Party's proposal for a system of regional assessors is to be welcomed. However, that limited acknowledgement leaves unsaid why the Lambeth group felt unable to accept the bulk of our proposals - among them the three-way distinction between grievances, less-than-serious misconduct and serious misconduct. The ELS proposals already contain a fully-detailed outline for a replacement Measure and if the Lambeth group were to be clear on how it disagrees with our approach then this could serve as a starting point and limit any further delay in a new Measure being considered by Synod.