

Sheldon Briefing paper re CDM

This was prepared for the Parliament Office course for academic researchers on 14th January, attended by Dr Carl Senior (Aston University – Principal Investigator on Sheldon’s CDM research project)

We at Sheldon started observing an unexpected emergence of harrowing personal stories through direct pastoral/counselling ministry and online forum.

Confidentiality, shame, isolation and both loyalty to and dependence on the institution appeared to be keeping the stories as isolated ‘anecdotes’ which could be disregarded individually. Some of the things that particularly concerned us, including in cases which were clearly vexatious and resulted in ‘no case to answer’ or ‘case dismissed’, are:

1. People getting into significant debt through legal costs
2. Cases taking a very long time to resolve. Timescales in the Measure being disregarded.
3. Significant mental health impacts up to and including suicide
4. Long term effects on employment prospects in the church (the ‘blemished blue file’)
5. Impacts on spouses and congregations – bringing the church into disrepute

Conversations we requested with key players such as Clergy Discipline Commission president/members, ecclesiastical lawyers, Dean of Arches, Bishops and Archdeacons led us to believe that no-one had a comprehensive overview.

In the course of our conversations and investigations we discovered

1. CDM legislation contains NO provision for scrutiny of PROCESS – if a bishop is mishandling a case the only possible redress is to appeal at tribunal against the DETERMINATION.
2. CDM operates largely in the dark. The ONLY statistics that are gathered are a once yearly snapshot of case numbers and determinations published as the CDC annual report. Nobody knows what happens to people during or after CDM because nobody has asked the question.
3. There is NO comprehensive professional indemnity/defence scheme for clergy that would compare with, say, belonging to Medical Defence Union. Even taken all together, the Faithworkers branch of Unite, the Ecclesiastical Legal Aid and Ecclesiastical’s insurance policy do not stack up to protect against the cost risks of being a CDM respondent.
4. The CDM is increasingly being used for purposes for which it was never intended and clergy are structurally exposed to high risk of vexatious and unfounded complaints.
5. There were people involved in the drafting of the 2003 Measure who had warned against exactly the problems we were seeing. They are a predictable consequence of badly framed legislation.

Our research was commissioned BOTH to gather a robust evidence base into the lived experience of CDM, AND for the process of running the research to itself raise awareness of the issue.

In the course of consulting, developing and publicising the research, concerns around the CDM continued to come to light. As a result of these, and preliminary sight of the survey responses there are already further areas of enquiry that would merit investigation

1. The prevalence of PTSD in the aftermath of CDM
2. The prevalence of Moral Injury

3. The operation by bishops of 'irregular discipline' which is even less accountable than CDM

We have also been aware of a degree of incredulity in our conversations. It can't really be possible that this has gone so badly wrong within the church – can it? Well, yes, and there are some specific reasons why this has arisen and needs to be remedied

1. Clergy are office holders so the protections of employment law do not apply
2. The bruising clerical sexual abuse scandals of the past decade take up the whole field of vision of the church hierarchy and promote a zero-risk defensive posture where a high degree of 'collateral damage' among clergy is tolerated as 'the price that has to be paid'
3. The vulnerability of living in tied housing in the heart of the communities clergy serve
4. Historical attachment to the primacy of the role of bishops in the discipline of clergy that is no longer tenable in a litigious culture and where episcopal training/resourcing is inadequate to the needs of safe implementation of the legislation
5. Significant levels of conflict of interest among those handling the cases – many of these hard-baked into the roles prescribed by the Measure
6. Clergy are more likely to fight for justice for other people than for themselves
7. Until people have direct personal or second hand knowledge of a case they generally believe 'it couldn't happen to me'.
8. Clergy are relatively non-unionised and professionally isolated which has mitigated against collective action
9. There are ZERO sanctions for those who bring vexatious or unfounded complaints, not even suspension from holding office in the local church

We started two years ago with the assumption that the likely outcome of our project should be better training for those tasked with implementation of the existing CDM, plus some repairs to the Measure. The process so far has convinced us that the Measure is so fundamentally flawed that starting over from first principles and completely replacing the Measure is essential.

Our views on what is required to deliver consistent, timely and impartial justice continue to develop, but our current thinking includes

1. Clear theological underpinning around safeguarding, punishment, pastoral care and restoration.
2. A mandatory and comprehensive insurance system for legal costs (at least part-funded centrally)
3. Separation into two completely separate complaint Tracks which are clearly demarcated.

Track A. Gross Misconduct. To handle allegations which, if proved, would warrant loss of home/livelihood. This would have a clear gateway process before being actioned, and would be professional, national, transparent, properly funded, evidence based and not episcopally led.

Track B. Grievances. To handle all the other complaints. This would be episcopally led, local, focused on restoration of relationship and community, using resources such as mediation and training. Bishops would be able to sanction both clergy and laity.

It would not be possible to escalate a Type B into a Type A just because the grievant was dissatisfied with the outcome. If additional concerns or evidence emerged during the course of a Type B process then the formal gateway into Type A would have to be actioned.

Track A would have an Ombudsman to oversee the process as well as a suitable appeals process against the judgement.

Such a revision would have the following benefits

1. Restore bishops to a role of conciliation and focus on constructive outcomes for all involved
2. Taking Type A cases out of the sphere of influence of bishops would enable bishops to support the clergy accused of gross misconduct instead of immediately isolating them at their time of greatest need
3. The most troubling cases would be dealt with by people trained and resourced to administer good justice.
4. Better deployment of resources – paradoxically bishops do not currently handle enough CDM cases to be proficient or merit the investment in good training.
5. Drastic reduction in stress levels for clergy in type B cases because their home and livelihood is not in play
6. Anticipate significant reduction in risk for PTSD and Moral Injury
7. It takes a potent and risky weapon out of the hands of those who are not equipped (eg inexperienced senior staff) and/or cannot be trusted (eg vexatious grievants) to use it safely
8. It encourages use of flexible thinking and common sense to resolve issues locally, and quite simply it would better reflect Christian Gospel values.

Please treat this as a working document rather than a formal publication. Interested/eligible parties are welcome to continue conversations around this and other aspects of CDM in the Sheldon Hub www.sheldonhub.org

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