

RABBINICAL COUNCIL OF VICTORIA COMPLAINTS PROCESS

December 2016

The committee of management of the Rabbinical Council of Victoria (the Executive) has resolved to implement the complaints process set out below.

INVESTIGATION PHASE

1. The Executive has appointed a sub-committee known as the Investigative Sub-Committee to investigate complaints.
2. The Investigative Sub-Committee comprises the President of the Executive and a lawyer appointed as a Special Counsel to assist the President in the investigation. In certain cases the Executive may appoint a Rabbi who is not a member of the RCV to the Investigative Sub-Committee.
3. Investigations are conducted in the complete discretion of the Investigative Sub-Committee and will be conducted in such a manner as will allow the Investigative Sub-Committee to be as fully informed as reasonably possible in a timely manner.
4. The purposes of the investigation will be:
 - 4.1. First to determine whether there are reasonable grounds for the complaint (e.g. is it vexatious, frivolous, not sustainable or without grounds); and
 - 4.2. Secondly, if there are reasonable grounds for the complaint: to make findings that the affirmative of a complaint is made out to the reasonable satisfaction of the Investigative Sub-Committee; and
 - 4.3. Thirdly, if the affirmative of a complaint is made out: to consider what steps should be taken (e.g. a fine for a disciplinary matter or a public statement for a matter engaging the constitutional purpose of the RCV) and why those steps are appropriate in the circumstances.
5. The Investigative Sub-Committee will be required to provide a report to the Executive within a reasonable time setting out its findings and its recommendations.
6. The Executive will meet and consider the Investigative Sub-Committee findings and recommendations within a reasonable time and then decide at that meeting whether the matter will either:
 - 6.1. end, in which case the Executive will notify the relevant parties of its opinion and the reason it decided to end the matter; or
 - 6.2. continue, in which case the matter will enter the hearings phase.

HEARINGS PHASE – MATTERS CONCERNING MEMBERS OF THE RCV

7. If the Executive resolves to continue the matter and the matter is a disciplinary matter regarding a member of the RCV–
 - 7.1. The Executive will draw up a resolution which it will notify to the affected member, setting out the resolution of the executive and the grounds on which it is

based and inviting the member, or the member's representative, to address the committee at a meeting to be held not earlier than 14 days and not later than 28 days after the notice has been given to that member.

- 7.2. In certain cases, in the discretion of the Executive having taken into account the Investigative Sub-Committee recommendations, a similar notice may be provided to the complainant and the complainant or the complainant's representative, may be invited to address the committee at a meeting to be held not earlier than 14 days and not later than 28 days after the notice has been given to that complainant.
- 7.3. In the event that the Executive confirms its resolution after the meeting with the member, the member is entitled to appeal to the RCV in general meeting to overturn the resolution.
- 7.4. The member must notify the Secretary within 48 hours after the Executive has confirmed its resolution that the member intends appealing to the RCV in general meeting.
- 7.5. That meeting will be held within 21 days after the date on which the Secretary received the notice of appeal.
- 7.6. Only the member or the member's representative may attend the meeting and address the RCV in general meeting in an appeal on a disciplinary matter.

HEARINGS PHASE – MATTERS CONCERNING THE PURPOSE OF THE RCV

8. If the Executive resolves to continue the matter and the matter is a complaint relevant to the purpose of the RCV–
 - 8.1. The Executive will draw up a resolution which it will notify to the affected parties, setting out the resolution of the Executive and the grounds on which it is based and inviting the parties, or the parties' representatives, to address the committee at a meeting to be held not earlier than 14 days and not later than 28 days after the notice has been given to that member.
 - 8.2. In the event that the Executive confirms its resolution, the respondent to the complaint is entitled to appeal to the RCV in general meeting to overturn the resolution.
 - 8.3. The respondent must notify the complainant and the Secretary within 48 hours after the Executive has confirmed its resolution that the respondent intends appealing to the RCV in general meeting.
 - 8.4. The meeting will be held within 21 days after the date on which the Secretary received the notice of appeal.
 - 8.5. The Complainant and the Respondent, or their respective representatives, may attend and address the RCV in general meeting in an appeal on a matter concerning the purpose of the RCV.

FINDINGS PHASE

9. Thereafter the Executive will notify the relevant parties of the outcome of the complaints process within 7 days after the finalisation of the complaints process.

GENERAL MATTERS

10. While not bound by formal legal rules of evidence, both the Executive and the Investigative Sub-Committee will use the civil standard of proof which requires 'reasonable satisfaction' as to the particular fact in question in accordance with the principles discussed by Dixon J in *Briginshaw v Briginshaw* (1938) 60 CLR 336:

"... it is enough that the affirmative of an allegation is made out to the reasonable satisfaction of the tribunal. But reasonable satisfaction is not a state of mind that is attained or established independently of the nature and consequence of the fact or facts to be proved. The seriousness of an allegation made, the inherent unlikelihood of an occurrence of a given description, or the gravity of the consequences flowing from a particular finding are considerations which must affect the answer to the question whether the issue has been proved to the reasonable satisfaction of the tribunal...the nature of the issue necessarily affects the process by which reasonable satisfaction is attained."

11. In other words, the more serious the allegation or complaint, the higher the degree of probability that is required before the investigator or decision-maker can be reasonably satisfied as to the truth of that allegation or the affirmation of the complaint.
12. The RCV GUIDELINES TO COMPLAINTS PROCESSES is to apply to the complaints process.

<<<>>>