

Paper P1

Changes to the Appeals Process

Law and Polity Advisory Group

Basic information

Contact name and email address	The Revd Michael Hopkins clerk@urc.org.uk
Action required	Decision.
Draft resolution(s)	Acting on behalf of General Assembly, Mission Council resolves: (a) to update the Appeals process in the Rules of procedure, as set out in paper P1 of Mission Council March 2021. (b) delegates to the Officers of Assembly to decide a date upon which this becomes effective, as soon as adjudicators have been recruited and trained.

Summary of content

Subject and aim(s)	Feedback has indicated that it would be helpful to add a 'triage' element to the Appeals process in order to build in more opportunity for mediation, and to allow for the option of dealing with simpler appeals without a hearing.
Main points	LPAG is proposing a number of amendments to the Appeals process. Most are minor changes to clarify the existing principles. The change of substance is the introduction of an Adjudicator selected from a panel appointed by General Assembly. Their role is to carry out an initial assessment of the merits of an Appeal, consider whether there should be mediation between the parties and if so to appoint a mediator, and to make a recommendation as to whether an appeal should proceed on the papers alone or with a hearing at which parties attend. The decisions of the Adjudicator can be reviewed.
Previous relevant documents	N/A
Consultation has taken place with...	Those who offered feedback on the Appeals process.

Summary of impact

Financial	Negligible.
External (e.g. ecumenical)	Lessens risk of reputational damage.

This is the current text of the Appeals Process – section 9 of the Rules of Procedure:

9. Appeal, Reference and Constitutional Review (structure, paragraph 5)

9.0 Limit of applicability.

In single congregational Local Ecumenical Partnerships and Union Churches, these rules shall only apply to business that clearly comes under the jurisdiction of the United Reformed Church, or when it has been agreed by the participating denominations that these rules be used. In such a case, ecumenical representatives may serve on a Commission, as agreed by all parties.

I – Appeals

9.1 The right to appeal from a decision of a Church Meeting belongs to

- (a) the Elders' Meeting of the local church concerned and
- (b) any dissentient.

9.2 The right to appeal from a decision of an ecumenical area meeting belongs: 9.2.1 In the case of a decision in appeal proceedings, to

- (a) the appellant in those proceedings,
- (b) the respondent council in those proceedings and
- (c) any dissentient;

9.2.2 In the case of any other decision, to

- (a) the Church Meeting of any local church of the URC subject to the oversight of the area meeting and
- (b) any dissentient.

9.3 The right to appeal from a decision of a synod belongs:

9.3.1 In the case of a decision in appeal proceedings, to

- (a) the appellant in those proceedings,
- (b) the respondent council in those proceedings and
- (c) any dissentient;

9.3.2 In the case of any other decision, to

- (a) the Church Meeting of any local church subject to the oversight of the synod, (b) any ecumenical area meeting subject to the oversight of the synod and
- (c) any dissentient.

9.4 The following time limits apply to appeals governed by rules 9.1 to 9.3:

9.4.1 The potential appellant must, within fourteen days of the decision, request the Clerk of the respondent council, in writing, to supply a copy of the minute of the decision.

9.4.2 This copy minute must be supplied within fourteen days of the request.

9.4.3 Within fourteen days of receiving such copy minute, the appellant must notify his or her desire to appeal, in writing, to the Clerk of the council with jurisdiction.

9.4.4 For the purpose of rule 9.4.1, the date of a decision shall be

- (i) in the case of decisions taken at a plenary meeting of the synod, the date of that meeting;
- (ii) in the case of decisions taken by officers or committees under powers delegated by the synod, the earliest of the following:
 - (a) the date on which the decision is communicated in writing to the appellant (or to Church Secretaries, if the appellant is a local church);
 - (b) the date of the next plenary meeting of the synod after the decision.

9.4.5 An appellant may appeal out of time, giving reasons for the delay, but such an appeal shall only be entertained if the Moderator and Clerk of the council with jurisdiction, after considering the reasons given for the delay and (if they think fit) inviting comments on behalf of the respondent council, so directs in the interests of the Church or of fairness.

9.5 On receiving due notice of a desire to appeal, the Clerk of the council with jurisdiction must forthwith notify the Clerk of the respondent council. The effect of this shall be to stay the action of the respondent council pending the decision in the appeal proceedings, unless the council with jurisdiction, on the application of the respondent council, lifts the stay.

II – References

- 9.6 A council of the church wishing to refer a dispute or difference for resolution by a wider council under paragraph 5.2 of the structure may do so either without taking any decision of its own on the subject matter, or by submitting a decision it has already taken to the wider council's judgment.
- 9.7 The effect of a resolution to refer shall be to stay any action or further decision of the referring council on the subject matter of the reference pending a decision on that reference, unless the council with jurisdiction, on the application of the referring council, lifts the stay.
- 9.8 In either case the Clerk of the referring council must, within fourteen days of the resolution to refer, transmit to the Clerk of the council with jurisdiction a copy minute of the resolution and the names of any members of the referring council who appear willing and able to present the issues to the council with jurisdiction.

III – Constitutional review

- 9.9 A decision of a synod or any more local council of the church which seems to be in contravention of the Basis of Union or the structure of the URC, the Rules of Procedure, or a binding resolution of the General Assembly, and which is not already the subject of an appeal or reference may be considered for constitutional review on the application of
- 9.9.1 In the case of a synod decision,
(a) any three members of the General Assembly or
(b) a majority decision of the Assembly Officers
(c) the resolution of any two Church Meetings within the synod taking the decision.
- 9.9.2 In the case of any other decision,
(a) any three members of the synod having oversight of the council taking the decision who are not also members of the council taking the decision or
- 9.9.3 in any case, of a council or person who would be entitled to appeal from the decision.
- 9.10 A council or person wishing to apply for constitutional review of a decision must request the Clerk of the respondent council, in writing, to supply a copy of the minute of the decision. This must be done within fourteen days after the applicant has become aware of the decision. The copy minute must be supplied within fourteen days of the request. Within fourteen days of receiving such copy minute, the applicant must notify his or her request for a review, in writing setting out their reasons, to the Clerk of the council with jurisdiction. In case of urgency the request may be notified in advance of receiving the copy minute.
- 9.11 The Clerk of the council with jurisdiction must forthwith notify the Clerk of the respondent council of the application, and the effect of this shall be to stay the action of the respondent council pending the decision on the review.

IV – Commissions, their procedure and their reports

- 9.12 As soon as the Clerk of the council with jurisdiction has received due notice of an appeal or reference the Officers of Assembly (in the case of the General Assembly), the executive committee or other body charged with the synod's business between sessions (in the case of a synod), or the corresponding organ of an ecumenical area meeting (in the case of such meeting) shall appoint a commission to hear the case and report to the full council. The commission shall consist of five members of the council with jurisdiction representing at least three different churches within that council, except that one person who is not such a member may be appointed in respect of some particular relevant expertise. That person must be a member of the United Reformed Church or, in the case of an ecumenical area meeting only, of one of the other denominations represented on the meeting. No individual personally concerned with the case may serve on the commission. The commission shall proceed as it sees fit subject to the following principles.

- 9.13 An appellant, or the applicants for constitutional review, shall have the right and may be required to appear at a meeting of the commission. A council referring a dispute or difference for resolution must also appear, unless the individuals named under rule 9.8 appear and the commission considers itself adequately informed regarding the issues in dispute. A respondent council must also appear in support of its decision.
- 9.14 Individual parties appear in person; a council of the church appears by two or more members authorised by the council to represent it.
- 9.15 Appeals, references and applications for constitutional review shall be accompanied by all relevant records and papers. Appellants and applicants shall be entitled to see such papers as they deem necessary in order to bring their case before the commission.
- 9.16 Commissions proceed in the matter in the following order:
- (a) call for and read minutes and papers relevant to the case
 - (b) hear and question the parties
 - (c) consider and decide upon their report in the absence of the parties
 - (d) the parties being recalled, intimate the decision to them
 - (e) report in writing to the council with jurisdiction through its Clerk, who supplies copies of the report to the parties.
- 9.17 The decision of the commission shall have effect as a decision of the full council that commissioned it. The commission's report shall be presented to the council with jurisdiction for information only, at the council's next meeting.
- 9.18 Decisions of the council in 9.17 may be appealed to the next wider council according to 9.1 above.
- 9.19 If a decision of any council of the church is reversed or declared a nullity on appeal or constitutional review, or the decision of a wider council substituted for it, the Clerk of the respondent council must annotate accordingly the record of the decision in that council's minute book, and enter in the minute book a copy of the wider council's decision.

V – Definitions

9.20 Throughout rule 9:

'appellant' means the person or council appealing to a wider council of the church

'Clerk', in relation to a Church Meeting, means the Church Secretary, and in relation to an ecumenical area meeting, means its secretary.

'constitutional review' has the meaning ascribed in paragraph 5.3 of the structure of the URC.

'council with jurisdiction' means the council competent to hear a particular appeal, reference or constitutional review.

'days' means days absolutely.

'decision' of a council of the church includes an express decision not to take any action, or the refusal by any council (or by the person presiding at its meeting) to consider a proposal for such action.

'decision in appeal proceedings' means the decision of a wider council of the church on appeal from a more local council.

'dissentient', in relation to any decision of a council of the church, means a member of that council, or a person directly affected by a decision of that council, who dissents from the decision.

'ecumenical area meeting' means an area of ecumenical cooperation as defined under paragraph 2(5) of the structure.

'general decision' means any decision of a council of the church except a decision in appeal proceedings.

'minute' of a decision includes, where no formal minute was made, a record of the decision made by the Clerk of the respondent council at the request of an appellant or a person applying for constitutional review

'Moderator', in relation to a council with jurisdiction, includes the presiding member, by whatever title, of an ecumenical area meeting. In relation to the General Assembly, the Moderators shall agree between themselves which one is to act in relation to a particular appeal as soon as it is notified, and the term 'Moderator' in this rule shall thereafter apply only to the Moderator so acting. A Moderator in the sense of this rule may however appoint a deputy to act under the rule throughout a particular appeal.

'respondent council' means the council of the church whose decision is currently under appeal to a wider council or has been referred for constitutional review.

This is the proposed new text of the Appeals Process – section 9 of the Rules of Procedure:

9. Appeal, Reference and Constitutional Review (structure, paragraph 5)

9.0 Limit of applicability. In single congregational Local Ecumenical Partnerships and Union Churches, these rules shall only apply to business that clearly comes under the jurisdiction of the United Reformed Church, or when it has been agreed by the participating denominations that these rules be used. In such a case, ecumenical representatives may serve on a Commission, as agreed by all parties.

I – Appeals

9.1 The right to appeal from a decision / action of a Church Meeting belongs to:

- (a) the elders 'meeting of the local church concerned and
- (b) any dissentient.

9.2 The right to appeal from a decision / action of an ecumenical area meeting belongs:

9.2.1 In the case of a decision in appeal proceedings, to:

- (a) the appellant in those proceedings,
- (b) the respondent council in those proceedings and
- (c) any dissentient;

9.2.2 In the case of any other decision, to:

- (a) the Church Meeting of any local church of the URC subject to the oversight of the area meeting and
- (b) any dissentient.

9.3 The right to appeal from a decision / action of a synod belongs:

9.3.1 In the case of a decision in appeal proceedings, to

- (a) the appellant in those proceedings,
- (b) the respondent council in those proceedings and

- (c) any dissident;
- 9.3.2 In the case of any other decision / action, to (a) the Church Meeting of any local church subject to the oversight of the synod,
 - (b) any ecumenical area meeting subject to the oversight of the synod and
 - (c) any dissident.
- 9.4 The following time limits apply to appeals governed by rules 9.1 to 9.3:
 - 9.4.1 The potential appellant must, within fourteen days of the decision / action, request the Clerk of the respondent council, in writing, to supply a copy of the minute of the decision or if there is no minute of the decision a statement which explains the nature of the decision which has led to the actions which support the appeal.
 - 9.4.2 This copy minute / statement must be supplied within fourteen days of the request.
 - 9.4.3 Within fourteen days of receiving such copy minute / statement, the appellant must notify his or her desire to appeal setting out the grounds of appeal in writing, to the Clerk of the council with jurisdiction together with confirmation of whether they are prepared to enter mediation.
 - 9.4.4 For the purpose of rule 9.4.1, the date of a decision shall be:
 - (i) in the case of decisions that have been taken at a plenary meeting of the synod, the date of that meeting;
 - (ii) in the case of decisions taken by officers or committees under powers delegated by the synod, the earliest of the following:
 - (a) the date on which the decision is communicated in writing to the appellant (or to Church Secretaries, if the appellant is a local church);
 - (b) the date of the next plenary meeting of the synod after the decision.
 - (iii) In the case of an action, the date upon which it reasonably became known that the action was as a result of a decision or apparent decision that has been made.
 - 9.4.5 An appellant may appeal out of time, giving reasons for the delay, but such an appeal shall only be entertained if, the Moderator and Clerk of the council with jurisdiction, after considering the reasons given for the delay and, (if they think fit) inviting comments on behalf of the respondent council, so directs it is in the interests of the Church or of fairness.
- 9.5 On receiving due notice of a desire to appeal, the Clerk of the council with jurisdiction must forthwith notify the Clerk of the respondent council. The effect of this shall be to stay the action of the respondent council pending the decision in the appeal proceedings, unless the council with jurisdiction, on the application of the respondent council, lifts the stay.

II – References

- 9.6 A council of the church wishing to refer a dispute or difference for resolution by a wider council under paragraph 5.2 of the structure, may do so, either without taking any decision of its own on the subject matter, or by submitting a decision it has already taken to the wider council's judgment.
- 9.7 The effect of a resolution to refer shall be to stay any action or further decision of the referring council on the subject matter of the reference pending a decision on that reference, unless the council with jurisdiction, on the application of the referring council, lifts the stay.
- 9.8 In either case the Clerk of the referring council must, within fourteen days of the resolution to refer, transmit to the Clerk of the council with jurisdiction a copy minute of the resolution and the names of any members of the referring council who appear willing and able to present the issues to the council with jurisdiction.

III – Constitutional review

- 9.9 A decision / action of a synod or any local council of the church which seems to be in

- contravention of the Basis of Union or the structure of the URC, the Rules of Procedure, or a binding resolution of the General Assembly, and which is not already the subject of an appeal or reference may be considered for constitutional review on the application of ;
- 9.9.1 in the case of a synod decision / action:
- (a) any three members of the General Assembly or
 - (b) a majority decision of the Assembly Officers
 - (c) the resolution of any two Church Meetings within the synod taking the decision
- 9.9.2 in the case of any other decision / action,
- (a) any three members of the synod having oversight of the council taking the decision who are not also members of the council taking the decision or
- 9.9.3 in any case, of a council or person who would be entitled to appeal from the decision.
- 9.10 A council or person wishing to apply for constitutional review of a decision / action must request the Clerk of the respondent council, in writing, to supply a copy of the minute of the decision. This must be done within fourteen days after the applicant has become aware of the decision. The copy minute must be supplied within fourteen days of the request. Within fourteen days of receiving such copy minute, the applicant must notify his or her request for a review in writing, setting out their reasons, to the Clerk of the council with jurisdiction. In case of urgency the request may be notified in advance of receiving the copy minute.
- 9.11 The Clerk of the council with jurisdiction must forthwith notify the Clerk of the respondent council of the application, the effect of which shall be to stay the action of the respondent council pending the decision on the review.

IV – Appeal Adjudication, commissions, their procedures and their decisions and reports

- 9.12 As soon as the Clerk of the council with jurisdiction has received due notice of an appeal or reference they shall within 14 days appoint a single adjudicator from the standing panel of Appeal Adjudicators to carry out a preliminary assessment of the appeal on the papers in order to adjudge its merits. Subject to 9.17 the review will normally be concluded within 14 days after the appointment of the Adjudicator.
- 9.13 The Appeal Adjudicators Standing Panel is appointed by General Assembly and consists of five people with appropriate skills.
- 9.14 When considering the merits of an appeal the Adjudicator will consider issues such as, but not limited to, whether the appeal is malicious, vexatious, amounts to harassment or is specious or otherwise shows no arguable case for interfering with the decision which is the subject of the appeal.
- 9.15 The Adjudicator shall within seven days of their appointment request the Respondent to the appeal to provide their response to the appeal within 14 days of the request and, to indicate their willingness or otherwise to enter into mediation.
- 9.16 The Adjudicator may issue such directions to the parties to the appeal, as considered necessary, if it is considered that an early resolution of the dispute may be achieved or, if additional material is required, to assist the adjudicator obtain a better understanding of the issues.
- 9.17 If both parties agree, the Adjudicator may, within 14 days of receipt of the respondent's response, refer the parties to a Mediator. Mediation shall be for an initial period of up to one month, with the facility to extend for a second period of one month. The Adjudicator may also conclude the mediation at any stage on acceptance of advice from the Mediator. If the parties reach agreement regarding the subject of the appeal within the mediation, the details shall be recorded in writing by the Mediator and signed by both parties and sent to the Adjudicator. On the receipt of the signed agreement by the

Adjudicator the appeal will be at an end. If agreement is not reached between the parties the appeal will proceed in accordance with 9.18.

- 9.18 If the appeal has not been concluded by mediation, the matter will proceed to be considered by a Commission unless the Adjudicator considers that it has no merit. The Adjudicator's decision with supporting reasons shall be sent to the parties and to the Clerk to the Council with Jurisdiction within 14 days of the decision being made. Within 14 days of receipt of the decision the Clerk to the Council with Jurisdiction will appoint a Commission to hear the appeal.
- 9.19 The decision of the Adjudicator may also include a recommendation to the Commission that the appeal is suitable to be heard on the consideration of the papers alone without the need for the attendance of the parties. It will be for the Commission to decide whether to proceed in this way. Should it decide to do so its reasons in support should be included as part of its decision on the appeal.
- 9.20 If the Adjudicator decides that the grounds advanced for the appeal are without merit, do not show an arguable case for interference with the decision that is the subject of the appeal and that the appeal should be dismissed their decision with written reasons in support shall be sent to the parties and to the Clerk of the council with jurisdiction within 14 days of the decision.
- 9.21 Should the appellant not accept the adjudicator's decision in 9.18 or 9.20 or one of the parties objects to the recommendation in 9.19, an application can be made for the decision or recommendation to be reviewed. To initiate a review the appellant or respondent must send a written request with accompanying reasons in support together with a copy of the decision or recommendation of the Adjudicator to the Clerk of the Council with Jurisdiction within 14 days of receiving the Adjudicator's decision.
- 9.22 On receipt of a written request for a review the Clerk to the Council with Jurisdiction or the corresponding officer of an ecumenical area meeting (in the case of such meeting) shall within 14 days of receipt of the request appoint two Adjudicators from the Appeal Adjudicators standing panel to act as the Appeal Review Panel to review the adjudicator's decision.
- 9.23 The Review shall be concluded within 14 days and will consider the papers available to the Adjudicator along with their decision, reasons and the request for the review from the Appellant or party. The Review decision shall be sent to the appellant and the Clerk to the Council with Jurisdiction within 14 days of it being reached.
- 9.24 On completion of the review the written decision of the Appeal Review Panel with accompanying reasons shall be that:
- The decision of the Adjudicator is overturned as the appeal shows an arguable case which should be remitted to a Commission for hearing or;
 - The decision of the Appeal Adjudicator is upheld, there being no arguable case for interfering with the decision of the Adjudicator, the appeal is dismissed.
 - The recommendation to the Appeal Commission that the appeal proceeds upon the papers remains or is removed.
- 9.25 A decision of the Appeal Review Panel to uphold the decision of the Adjudicator to dismiss the appeal must be unanimous and if not the appeal will be referred by the Clerk to the Council with Jurisdiction for consideration at a hearing by an Assembly Commission in accordance with 9.19.
- 9.26 The decision of the Appeal review Panel is final and not subject to appeal.

V - Commission hearings

- 9.27 As soon as the Clerk of the council with jurisdiction or the corresponding officer of an ecumenical area meeting (in the case of such meeting) receives a decision with supporting reasons from the Appeal Adjudicator or the Appeal Review Panel that the appeal should be referred to a Commission for a hearing they will appoint within 14 days of receipt of the decision a Commission to hear the appeal and to report to the wider council.
- 9.28 The Commission shall consist of three members of the council with jurisdiction representing at least two different churches within that council, except that one person who is not such a member may be appointed in respect of some particular relevant expertise. That person must be a member of the United Reformed Church or, in the case of an ecumenical area meeting only, of one of the other denominations represented on the meeting. No individual personally concerned with the case may serve on the commission. The commission shall proceed as it sees fit subject to the following principles.
- 9.29 An appellant, or the applicants for constitutional review, shall have the right and may be required to appear at a meeting of the commission. A council referring a dispute or difference for resolution must also appear, unless the individuals named under rule 9.8 appear and the commission considers itself adequately informed regarding the issues in dispute. A respondent council must also appear in support of its decision.
- 9.30 Individual parties appear in person; a council of the church appears by two or more members authorised by the council to represent it.
- 9.31 Appeals, references and applications for constitutional review shall be accompanied by all relevant records and papers. Appellants and applicants shall be entitled to see such papers as they deem necessary in order to bring their case before the commission.
- 9.32 Commissions proceed in the matter in the following order:
- (a) call for and read minutes, papers, and any additional material relevant to the appeal.
 - (b) hear submissions from and question the parties.
 - (c) consider and decide upon the appeal in the absence of the parties. Subject to the discretion of the Commission the parties may be recalled and receive its decision with reasons on the appeal.
 - (d) If the parties are not recalled in accordance with paragraph (c) above then within 14 days of the appeal hearing it shall send its written decision with reasons to the council with jurisdiction through its Clerk, who copies of the report to the parties.
- 9.33 The decision of the commission shall have effect as a decision of the full council that commissioned it. The commission's report shall be presented to the council with jurisdiction for information only, at the council's next meeting.
- 9.34 Decisions of the council in 9.33 may be appealed to the next wider council according to 9.1 ,9.2 and 9.3.
- 9.35 If a decision of any council of the church is reversed or declared a nullity on appeal or constitutional review, or the decision of a wider council substituted for it, the Clerk of the respondent council must annotate accordingly the record of the decision in that council's minute book, and enter in the minute book a copy of the wider council's decision.

VI – Service of documents

- 9.36
- 9.36.1 The parties must provide a postal address and/or an email address for the service of papers and correspondence, indicating their preferred method of service on the Notice of

Appeal and the Response to the Appeal. If this information is not provided by the appellant the appeal will not be accepted.

- 9.36.2 If service is indicated to be by post this shall be by first class post and takes place two clear days after the date of posting to the postal address given by the party. This period excludes the day of posting, Saturday, Sunday and public holidays.
- 9.36.3 Where service is indicated by e mail, service will be on the same day that the e mail is sent if it is sent before 4.00pm and after this time the next day.

Definitions

9.37 Throughout rule 9:

‘action’: means any action/inaction or consequence of a decision or apparent decision. .

‘appellant’: means the person or council appealing to a wider council of the church

‘Clerk’, in relation to a Church Meeting, means the Church Secretary, and in relation to an ecumenical area meeting, means its secretary.

‘Clerk of the council with jurisdiction’ : means the Clerk of the appropriate council or the officer of an ecumenical area or their appointed deputy.

‘constitutional review’ :has the meaning ascribed in paragraph 5.3 of the structure of the URC.

‘council with jurisdiction’: means the council competent to hear a particular appeal, reference or constitutional review.

‘days’ :means calendar days.

‘decision’ of a council of the church includes an express decision not to take any action, or the refusal by any council (or by the person presiding at its meeting) to consider a proposal for such action.

‘decision in appeal proceedings’ :means the decision of a wider council of the church on appeal from a more local council.

‘dissentient’: in relation to any decision of a council of the church, means a member of that council, or a person directly affected by a decision of that council, who dissents from the decision.

‘ecumenical area meeting’: means an area of ecumenical cooperation as defined under paragraph 2(5) of the structure.

‘general decision’: means any decision of a council of the church except a decision in appeal proceedings. ‘minute’ of a decision includes, where no formal minute was made, a record of the decision made by the Clerk of the respondent council at the request of an appellant or a person applying for constitutional review

‘Moderator’, in relation to a council with jurisdiction, includes the presiding member, by whatever title, of an ecumenical area meeting. In relation to the General Assembly, the Moderators shall agree between themselves which one is to act in relation to a particular appeal as soon as it is notified, and the term ‘Moderator’ in this rule shall thereafter apply only to the Moderator so acting. A Moderator in the sense of this rule may however appoint a deputy to act under the rule throughout a particular appeal.

‘respondent council’: means the council of the church whose decision is currently under appeal to a wider council or has been referred for constitutional review.