

The Ministerial Disciplinary Process (Section O)

GUIDELINES FOR A MINISTER OR CHURCH-RELATED COMMUNITY WORKER (CRCW) who is the subject of the Ministerial Disciplinary Process.

This is an advisory document, made available by the Mission Council's Ministerial Incapacity and Discipline (MIND) Advisory Group. It does not carry the authority of the General Assembly and, in every respect, it is subject to the Disciplinary Process. It is intended to provide general guidance to the minister. It takes into account all changes made to the Disciplinary Process up to and including May 2017.

The Disciplinary Process was approved by General Assembly in 1997 in order to provide the Church with a means of resolving issues affecting the conduct of ministers of the United Reformed Church which could not be resolved by any other means. Subsequently Church Related Community Workers have been brought within the scope of the Process.

The minister's/CRCW's conduct is to be judged applying the standard of proof of "balance of probabilities" against the promises made at ordination/commissioning.

A flowchart has been prepared which charts the progress of a disciplinary case from start to finish. This can be found at Appendix 1 of these Guidelines and also on the Church's website www.urc.org.uk. You must use the word "Manual" when accessing any document relating to the Disciplinary Process.

Note that the Disciplinary Process applies to Ministers of Word and Sacrament and to Church-Related Community Workers (CRCWs). For brevity these Guidelines refer, on the whole, to ministers. You should take it that all such references apply also to CRCWs.

1. You have been told, probably by your Synod Moderator, that you are the subject of a complaint or allegation concerning your conduct. Whether or not this news comes as a shock, you will need to understand the Disciplinary Process and the roles of all the people involved - and you will need support.
2. If you serve in an ecumenical situation or are not currently holding a Church appointment or are retired, you are still, as a minister or CRCW of the United Reformed Church, subject to the Disciplinary Process.
3. So that you are properly informed about the Disciplinary Process, please ask your Synod Moderator or Synod Office for an up to date copy of the Disciplinary Process. It is also available on the church's website: www.urc.org.uk
4. Forms have been specially prepared to help you at the various stages in the Process and they have recently been comprehensively updated. As and when you need to take some step in the Procedure you will be supplied with the particular form to complete which is appropriate at that point
5. Throughout the Disciplinary Process many words and phrases are used which have special meanings in the context of the Disciplinary Process. These are all set out in Paragraph A.5 of the Process and you must study that Paragraph and make sure that you understand those meanings.

6. The Disciplinary Process has been carefully set up to ensure your rights, to recognise the pastoral role of the Moderator and the Synod, as well as to establish separate bodies to reach a conclusion about your ministry or service in the light of the complaint or allegation.
7. Because you will need considerable support, you should think carefully about someone who might act as your friend, walking with you throughout the whole process, giving you support and practical guidance in helping you to prepare your case, and perhaps even speaking for you at any hearing. You may of course have someone who, you believe, will be able to help you in this way.

However, Mission Council has appointed **Reverend Ken Chippindale** (his contact details are in the Church's National Year Book) to give general guidance and help to ministers who find themselves in the Disciplinary Process. You should be aware that he will not be providing legal advice. You may wish to take legal advice which would be at your own expense. If so your adviser will need to be provided with a copy of the Disciplinary Process.

8. It is possible that, at the outset, you will be suspended from ministry or, in the case of CRCWs, service. This will be because the Synod Moderator considers that there may be issues involving Gross Misconduct or at least misconduct which the Moderator considers sufficiently serious as to justify your suspension. The most obvious examples would be any abusive conduct, conduct with a sexual connotation, fraud or any conduct which could amount to a criminal offence.
9. In May 2017 a more flexible suspension procedure was brought in. So now, even if you were not suspended at the outset, you can be suspended at any time throughout the progress of your case should circumstances warrant this. The reverse is also true, namely that an existing suspension can be reconsidered and removed if this would be appropriate. Your Synod Moderator is responsible for issues relating to suspension up to the time when an Assembly Commission is appointed and, from then, the responsibility passes to the Assembly Commission.
10. It might not seem like it to you but suspension carries with it no judgement about the rights and wrongs of the case. Its purpose is to remove you from the situation so that the case can be judged fairly and objectively. Suspension does not affect your rights under the Plan for Partnership. If the case is not proved, the suspension will be lifted.
11. Suspension means that you will remain on the Roll of Ministers or of CRCWs and continue to receive support due under the Plan for Partnership. However you will not be allowed to act or present yourself as a minister or CRCW. (See also the Basis of Union Schedule E paragraphs 3 & 4 and Schedule F Part II, paragraphs 3 and 4).
12. When you are suspended the local church, the Synod Moderator (if the Moderator did not impose the suspension) the Synod Clerk, the General Secretary, the URC's Press Officer, the Assembly Safeguarding Officer, the Secretary for Ministries and any relevant Outside Organisation(s) will be informed, but none of these will be told the reason(s) for your suspension.
13. You may be concerned about some of the people and groups who will be informed about your suspension. In this context "Outside Organisation" means: "any body or organisation outside the Church by which the Minister is employed or with which

the Minister holds any position or post or has any involvement, paid or unpaid, where such body or organisation would have a reasonable and proper expectation of being made aware of the particular step(s) being taken". This will be an organisation with which you have a relationship, perhaps directly through the work of your church or because you are, for example, chaplain to a hospital, school or prison or are involved with any of the uniformed organisations such as Scouts or Guides. The reason for informing the Press Officer at Church House is so that s/he is able to respond appropriately to any approaches from the media. S/he will not initiate contact with the press about your case.

14. One of the requirements designed to protect your rights is that the Process is undertaken in a confidential way. Because of the allegation your conduct is under scrutiny and it would be damaging to you if the details were made public, through whatever channel both during and after the case. You may of course wish to talk in confidence to people who you genuinely believe might be able to assist you in countering the allegations made against you, but you must stress to them that they in turn must preserve the confidentiality of the Process. Do not go further than that and talk to people generally about the case as this would breach the confidentiality in which the case has to be conducted and could be damaging both to you and to others who might be involved. Local churches, in particular, are anxious to know what is happening. The Synod Moderator may make a general statement to explain the procedure which will not contain any details of the substance of the case.
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16. In 2008 General Assembly introduced a procedure (known as the Incapacity Procedure and to be found at Section P of the Manual) to be used as a last resort in the handling of cases of incapacity involving ministers and CRCWs "who are regarded as being incapable of exercising, or of continuing to exercise, their respective ministries on account of; (i) medical and/or psychiatric illness and/or; (ii) psychological disorder and/or; (iii) addiction" (Paragraph LP.1 of the Incapacity Procedure to be found at Section P of the Church's Manual). That procedure is quite distinct from the Disciplinary Process in that it does not imply any blame on the part of the minister/CRCW.

You may need to be aware of the Incapacity Procedure for two reasons. First, it may be that a Review Commission or Appeals Review Commission has been considering your case under that Procedure and has recommended the Synod Moderator to begin the Disciplinary Process and that the Moderator has acted upon that recommendation. Secondly, if you are already involved as the minister in a disciplinary case and you feel that the incapacity criteria set out above might have any relevance to your situation, you may raise the matter with your Synod Moderator or the Mandated Group (before the issue of a Referral Notice) or with the Secretary of the Assembly Commission (if a Referral Notice has already been issued). As this is a complicated area, you may wish to refer to Revd David Skitt for help and guidance (see earlier bullet point).

17. It sometimes seems as if working through the Process takes too long. However, it is carried out as quickly as is possible, remembering that there are different stages to be worked through and time must be allowed for each of these. Also the parties must be allowed reasonable time to prepare their cases. Again, this is to protect

your rights. Of course, if you are subject to a criminal investigation the length of time required to work through the Process is out of the hands of the Church.

18. Although you are free to conduct your own case entirely as you think best, it will always be to your advantage to co-operate fully in the procedural aspects of the Process.

19. Your Synod Moderator and the Synod will wish to exercise continued pastoral care for you and your family. The Synod will also have the needs of the pastorate very much in mind. The Disciplinary Process has been very carefully drafted so as to ensure that nothing is allowed to interfere with these important pastoral concerns. This is why, once you have been referred into the Commission Stage, neither the Moderator nor the Synod is involved in the Disciplinary Process.

The Steps in the Process

References preceding each paragraph are to the relevant paragraphs of the Disciplinary Process.

A.1.1

1. The object of the Process is to reach a decision as to whether there has been a breach of discipline. Under the Process you have the opportunity of responding to the allegations made against you. However, if the decision is that there has in fact been a breach of discipline, a further decision has to be taken as to whether to delete your name from the Roll of Ministers or CRCWs or, alternatively, give you a written warning.

A.1.4

2. The standard by which you will be judged will be the ordination/commissioning promises set out in the Basis of Union, to which you gave your assent at your ordination or commissioning and any subsequent induction. Note that any conduct which occurred before your ordination or commissioning that you did not disclose when candidating and which, if known, might have prevented your ordination or commissioning will be taken into account.

3. Your Synod Moderator will usually be the first to hear of serious concerns about your ministry or of a complaint or allegation against you, although often s/he will have been working alongside the appropriate officers of the Synod. The Moderator will talk to you, informing you of the matter, listening to your response and deciding whether s/he should treat what has occurred as a disciplinary matter. However, even if s/he should so decide, the pastoral care and support which will be needed by you and your spouse and family, and the different, but necessary, support needed by your pastorate, will be maintained throughout by the Moderator and those responsible for pastoral care within the Synod.

4. If it appears that you may have committed a criminal offence, your Synod Moderator will warn you at an early stage in your conversation that s/he will not be able to maintain confidentiality. Furthermore, s/he will tell you to go to the police immediately and your Synod Moderator will most likely be ready to accompany you as a friend. If you are unwilling to do this, then it is the Synod Moderator's duty to report the matter.

A.5

5. If the Synod Moderator decides to invoke the Disciplinary Process, s/he must first consider whether there is any issue involving Gross Misconduct, alleged or admitted, (as described in Paragraph 8 on Page 2) or any other serious misconduct as stated in that paragraph. If so, s/he must call in the Mandated Group to carry out its Initial Enquiry. If there have been allegations of abuse involving a child or a vulnerable adult, the Moderator will consult the Synod Safeguarding Officer.

B.7, B.8

6. Information as to possible Gross Misconduct or other serious misconduct as mentioned earlier might reach the Synod Moderator either from a voluntary confession on your part or as a result of concerns expressed by the Church Elders or a complaint from a third party which the Moderator considers to be sufficiently reliable and serious to justify disciplinary investigations through the Disciplinary Process. In such a case, the Synod Moderator call in the Mandated Group thus moving straight to Section B of the Process.

A.5, AA.1.1/2, AA.2.1

7. Alternatively where there is no evidence of Gross Misconduct, those responsible for pastoral care within the Synod, working with the Synod Moderator, may nevertheless come to realise, possibly after a period of increasing concern and anxiety, that, either due to deliberate intent or a blatant lack of care and concern, you are failing to live up to your ordination promises and that this in turn is causing significant damage within your pastorate and/or other areas of your ministry. In such a case, the Synod Moderator would begin the Disciplinary Process by calling in two persons known as "Synod Appointees" to carry out an investigation under what is described as the "Caution Stage". So you must realise that, should you be referred into the Caution Stage, you have become the subject of disciplinary proceedings.

AA.4, AA.6, AA.7

8. During this investigation the Synod Appointees will be considering with you what have been perceived as shortcomings in your ministry. This is to be regarded as a constructive piece of work designed to identify the existing problems and find ways of resolving them. As this may be your last chance of saving your ministry, you should realise how important it is for you to give the Synod Appointees your fullest co-operation and to devote yourself to carrying out the suggestions and recommendations which they make. However, you must clearly understand that, although it is designed to help you but you must be aware that it is part of the Disciplinary Process and that the Synod Appointees have the authority to back up their proposals by a series of Cautions (Initial and Final). The purpose of these Cautions is to warn you that, unless the Cautions are heeded and the expected improvements are made, you are putting your ministerial status at risk as the Process will move inevitably forward to a final hearing before an Assembly Commission. It is therefore very much in your interest to co-operate with the Synod Appointees and to help to work out a satisfactory solution which will be to the benefit of everyone concerned.

AA.5.1, AA.6.4.1, AA.7.4.1

9 Thus it is to be hoped that at the end of the Caution Stage the Synod Appointees will recommend to the Synod Moderator that no further disciplinary action is required.

AA.5.3.1, AA.6.3.1, AA.6.4.3.1, AA.7.3.1, AA.7.4.2

10 If, however, they remain unsatisfied, they may decide to recommend that the Synod Moderator should call in the Mandated Group to carry out their own Initial Enquiry (as to which see paragraph 13). This moves the Disciplinary Process on to the next stage.

11. There are therefore two situations in which the Synod Moderator might call in a Mandated Group to commence its Initial Enquiry. The first is if s/he believes that there might be an issue of Gross Misconduct (as to which see paragraph 4 above) and the second arises as a result of a recommendation from the Synod Appointees at the end of the Caution Stage (as to which see the previous paragraph).

12. The Members of the Mandated Group have no pastoral role and their responsibilities lie entirely within the Disciplinary Process. In calling in the Mandated Group, the Synod Moderator is not making any judgment. S/he is simply setting the enquiries in motion, to enable the matter to be resolved through the Disciplinary Process.

B.8.1/2 and B.8.4

13. The first task of the Mandated Group is to carry out an Initial Inquiry during which you should expect to be interviewed. You may have a friend present with you at that interview. The purpose of the Enquiry is to decide if the matter merits fuller investigation under the Disciplinary Process and this part of the Process should proceed quickly. At the end of the Initial Enquiry the Mandated Group has three options:

- (i) the Mandated Group could decide to take no further action and would refer the matter back to the Synod Moderator so that it could be dealt with pastorally; or
- (ii) the Mandated Group could decide to take the matter further and refer it on to the next stage of the Process (see later paragraphs); or
- (iii) in a case which had not already passed through the Caution Stage, the Mandated Group could recommend to the Synod Moderator that the case be referred back into the Caution Stage.

The remaining paragraphs of these Guidelines deal with the procedures if the case is referred on to the next stage.

B.8.3, B.9.1/4,

14. If the matter is not ended with the Initial Enquiry and is referred into the next stage of the Disciplinary Process, it enters the Commission Stage. The complaints will be shown on the Referral Notice a copy of which you will receive. At the same time you will be sent a form on which you are invited to make your preliminary response. To ensure that the Process moves along in a timely manner, you should submit your preliminary response to the Secretary of the Assembly Commission within 21 days of receiving the form.

C.3, C.5

15. The Mandated Group will now make a fuller investigation. At the same time, preparations will be made to set up an Assembly Commission. This consists of five persons from a panel chosen by the General Assembly. These members will not have any personal connection with you or your Synod and you will be consulted in case you have any objections to any person chosen.

E.7

16. However, if you are subject to a criminal investigation, the Commission will delay hearing the case until the police and courts have completed their work.

E.3

17. While this investigation and preparation goes on, you should be preparing your case in readiness for the Hearing and, if you wish, arranging to bring witnesses. To ensure that you have the chance to prepare adequately, the Mandated Group's case will be disclosed to you. The same of course applies in reverse and your case will be disclosed to the Mandated Group. The Secretary for the Assembly Commission will be responsible for receiving, copying and sending out all papers. These procedures should be dealt with as expeditiously as possible and, should the Assembly Commission consider that there are unreasonable delays on your part or that of the Mandated Group, the Commission can issue directions setting out what is required so as to keep the progress of the case on track. This should not be necessary so long as you and the Mandated Group proceed in a timely manner.

E.5.3.1 - E.5.3.21

18. During the Commission Stage it might happen that the Assembly Commission or Appeals Commission decides to refer your case back to whoever called in the Mandated Group with a recommendation that the Incapacity Procedure should be commenced. If this happens you will have the opportunity to appeal against the reference back if you so wish.

E.10, E.12.1

19. The Hearing is private and confidential. You may contact the Secretary of the Assembly Commission for guidance on procedure. You may wish to bring a friend (see Paragraph 7 on page one of these Guidelines) who may not only support you but speak on your behalf at the Hearing. You should remember, however, that only one person can speak for you. If it is your friend, then you must remain silent (and vice versa). The friend could be your legal adviser.

E.12.1

20. There will be present at the Hearing the five members of the Commission, one of whom will act as Convener, the Secretary of the Commission, who makes all the arrangements, the church's legal adviser, the Mandated Group and their spokesperson, you and your friend. There may also be a technician who will record the proceedings. If there are witnesses, they will normally be present only for the time they give evidence. It is important that you check the procedure well in advance of the day. For a better understanding of the procedure which will be followed at the Hearing, please see Appendix II of these Guidelines.

F.7.2, G.1

21. If you or the Mandated Group decide to appeal, notice must be given within 21 days. There is no discretion to allow any extension of this time. Only when the 21 days is up without an Appeal, or when the decision of the Appeals Commission is made, is the matter finally resolved. There is no further appeal to the General Assembly. Where the decision is to allow your name to remain on the Roll of Ministers and no written warning

has been issued, if both you and the Mandated Group choose you can waive the right to appeal, which means that the matter can be resolved sooner.

G.9, G.11

22. The Appeals Commission is limited in what it may consider and, normally, new evidence is not admitted. Appeals are heard in another Hearing with a different Commission membership and with the General Secretary acting in place of the Commission Secretary. The range of decisions open to the Appeals Commission is fully set out.

J.3

23. The costs of your incidental expenses and those of your witnesses will be met but the Church will not be responsible for any professional costs which you incur.

J.1

24. A final report is made to the General Assembly. It is extremely brief and, unless the decision is to delete your name from the Roll, neither your name nor an identifying Synod will be mentioned.

APPENDIX 1 FLOWCHART THROUGH THE PROCESS

(see next page)

FLOWCHART THROUGH THE PROCESS

Schedule E, Para 2 and Schedule F, Part II, Paragraph 2 to the Basis of Union, set out the standards required of Ministers and Church Related Community Workers (CRCWs) respectively and refers to their Ordination/Commissioning Promises.

Paragraph A.1.4 of the Disciplinary Process incorporates these as the yardstick for judging their conduct. This is supremely important.

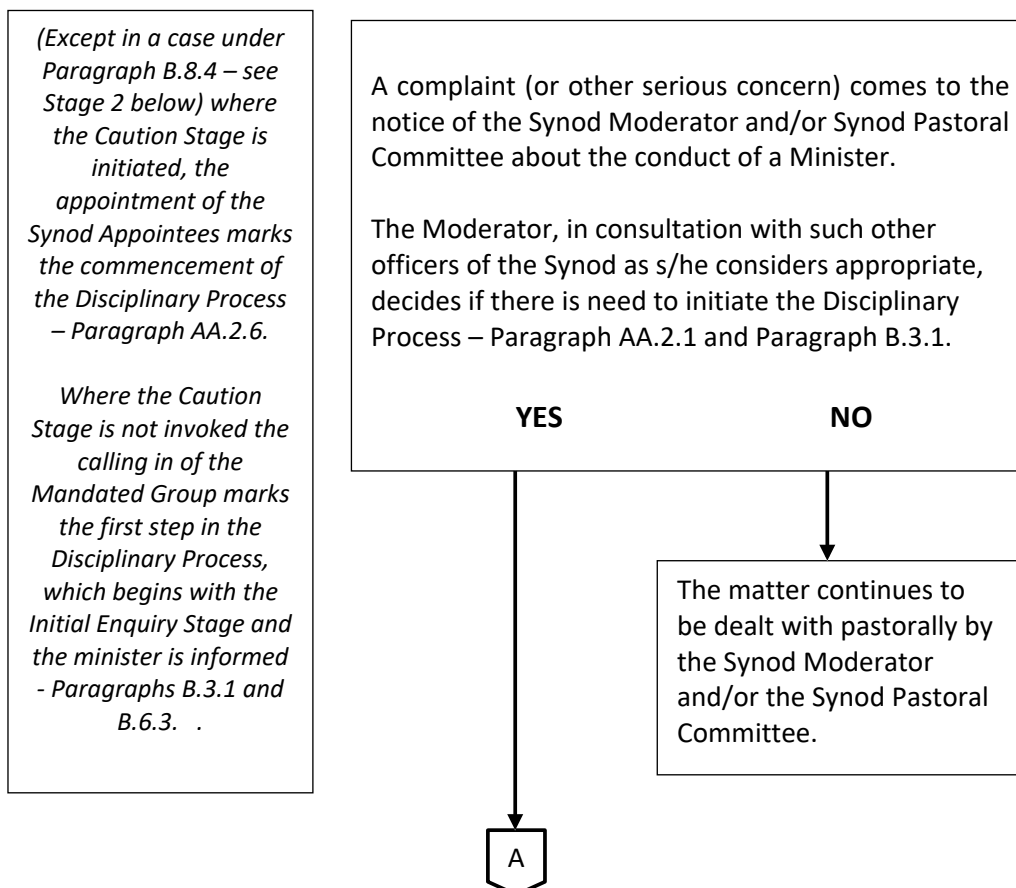
The term "Minister" used in this flowchart should be interpreted to include CRCWs.

It is usually the Synod Moderator acting on behalf of the Synod who takes the relevant steps, although a person known as the General Assembly Representative acting on behalf of Mission Council can also do so.

As regards suspension, please note the following:

- i. As to the meaning and effect of suspension, see Basis of Union, Schedule E, Paragraphs 3 and 4 or Schedule F, Part II, Paragraphs 3 and 4.
- ii. A minister may be suspended at any time during the Process, although not normally during the Caution Stage – Paragraph AA.2.9.
- iii. As to the considerations to be borne in mind, see Paragraph B.7.1.
- iv. Suspension remains under review throughout the Process – Paragraph B.7.2.
- v. The authority and discretion to impose/revoke a suspension lie with the Synod Moderator up to the appointment of an Assembly Commission – Paragraph E.1.3.1. Thereafter they lie with the Assembly Commission – Paragraph E.1.3.2/6.

The paragraphs referenced are those contained in Section O of the Manual, the Ministerial Disciplinary Process.



A

Stage 1 of the Disciplinary Process

If the Synod Moderator decides to initiate the Disciplinary Process, s/he must ask the question: Do the disciplinary issues identified involve Gross Misconduct or misconduct of a serious nature?

YES

NO

Under Paragraph AA.2.1.1 the Synod Moderator initiates the Caution Stage at Section AA by calling on the Synod to appoint persons known as Synod Appointees – defined at Paragraph A.5 – to consider the disciplinary issues with the Minister and, if they deem it appropriate, to issue one or more Caution(s) against the Minister, the outcome of which could be a recommendation by the Synod Appointees to the Synod Moderator to proceed to the next stage of the Disciplinary Process.

If the Moderator accedes to the recommendation

If there is no such recommendation or, if there is, the Moderator does not accede to it

The Disciplinary Process is concluded – see Paragraphs AA.10.1 and AA.10.2.4/5

Stage 2 - The Initial Enquiry

The Synod Moderator calls in the Mandated Group to conduct its Initial Enquiry. During this Stage the Mandated Group, in consultation with the Synod Moderator, must conduct an Initial Enquiry with all due expedition (not a detailed investigation at this stage) to decide the question: Is there sufficient prima facie evidence to refer the matter to the next stage of the Process – Paragraph B.8.1?

- The answer “yes” is the first option.
- The answer “no” is the second option.
- A third option is available in a case which has not already passed through the Caution Stage. If the Mandated Group considers that the case should have started in the Caution Stage, it can adopt the procedure set out in Paragraph B.8.4.

Option 1

The Mandated Group issues a Referral Notice which sets out the complaints/allegations against the Minister.

The Process thus moves from the "Initial Enquiry Stage" to the "Commission Stage" – Paragraphs B.9 and B.10.

The next stage of the Process is called the "Commission Stage".

Option 2

The Mandated Group issues a Notice of Non-Continuance to the Synod Moderator, who in turn notifies the Minister and the Synod Clerk - Paragraph B.8.2. This terminates the Disciplinary Process and the matter continues to be dealt with pastorally as before. The Mandated Group submits a report under Paragraphs H.4 and Paragraph B.8.2

Option 3

The Mandated Group adjourns its Initial Enquiry and recommends to the Synod Moderator that s/he initiates the Caution Stage - Paragraph B.8.4.

B

B

Reference into the Commission Stage means that the Assembly Commission will have to decide whether the name of the Minister should be removed from the Roll, leading to loss of status and job, income, right to occupy manse, future pension provision.

Stage 3 **The Commission Stage**

During the Commission Stage the Mandated Group:

1. Conducts a full investigation
2. Prepares the case against the Minister ready to present it at the formal hearing before the Assembly Commission.

The Minister also prepares his/her case.
Once a case has entered the Commission Stage the procedure cannot be stopped, except in extremely rare and exceptional circumstances - Paragraphs E.5.3 and E.9.2

If the Minister is the subject of a criminal investigation, or if criminal charges have already been brought against him/her, then apart from monitoring the criminal trial the Mandated Group must adjourn its investigation and await the outcome of the criminal process – Paragraphs D.4 and E.7.1.

If the Assembly Commission considers that the case should be heard within the Incapacity Procedure, it can refer the case back to the Synod Moderator with a recommendation that the Incapacity Procedure be initiated – Paragraph E.5.3.

The Minister may have a person with him/her at the Hearing either simply to provide support or actually to conduct the Minister's case on his/her behalf – Paragraph E.10

The Hearing

At the Hearing both the Mandated Group and the Minister present their cases and, if they wish, bring witnesses to give evidence.
For the rules which apply at the Hearing – see Paragraph E.11/18.

The Mandated Group appoints a spokesperson (who need not be a member of the Mandated Group) to present its case – Paragraph E.2.2.4. All members of the Mandated Group should be present at the Hearing, but in no circumstances should there be less than two.

The Decision

When both parties have presented their cases, the members of the Assembly Commission will meet in private to reach their decision - Paragraphs E.18 and F.1.

The Assembly Commission's decision must be one of the following:

- (i) to remove the Minister's name from the Roll,
- (ii) to retain the Minister's name on the Roll or
- (iii) to retain the Minister's name on the Roll but to issue a "Written Warning", with or without a "Direction". These two expressions are defined in Paragraph A.5.

Where the name is to be deleted, the Commission is particularly requested to issue guidance concerning restrictions to be placed upon the Minister's activities - Paragraph F.2.3. Following notification of the decision, the question arises as to whether either party will appeal.

For the procedure as to the recording of the decision, see Paragraph F.3 and for the procedure as to the notification of the decision to the parties, see Paragraphs F.5.1 and F.5.2 and to the other interested persons, see Paragraph F.6.1.

C



Stage 4 **Lodging an Appeal**

Either the Minister or the Mandated Group, but no-one else, can appeal against the decision of the Assembly Commission - Paragraph F.6.2.

BUT the party wishing to appeal **MUST** serve the Notice of Appeal on the Secretary of the Assembly Commission no later than 21 days from the date of service of the decision notice – Paragraphs A.3 and G.1.1.

The Appeal Itself

The procedure on the appeal is similar to that for the Assembly Commission - Paragraph G.1.3 - with one important difference that, save in exceptional circumstances, no rehearing of the evidence will be allowed at the appeal – Paragraph G.10.3.
As to the range of decisions which can be made by the Appeals Commission - see Paragraph G.11.
The decision of the Appeals Commission is **FINAL** – Paragraph G.12.

Reporting of decision to General Assembly

The General Secretary reports the decisions of the Assembly Commission and the Appeals Commission to General Assembly.
As to the manner in which the report shall be given - see Paragraph J.1

N.B. This chart simply takes you step by step through the Process. You are therefore also urged to study the Process itself and the particular set(s) of Guidelines most appropriate to your own involvement.

If the Secretary of the Assembly Commission does not receive a Notice of Appeal from either party within the 21 day period, the decision of the Assembly Commission is final and concludes the Disciplinary Process - Paragraph F.6.3 and F.7.

APPENDIX II – Procedure at the Hearing (see Paragraph 22)

Here follow several extracts from Section 4 of the **Guidelines for the Assembly Commission** which explain the procedure at the Hearing in detail:

[You will appreciate that the words “you” and “your” in the extracts quoted below refer to the members of the Assembly Commission for whom the Guidelines were written.]

- 4.2 The case proceeds in a set order. After introducing him/herself and you as the other members of the Assembly Commission and explaining the roles of the Secretary and the legal adviser, the Convener will invite the spokesperson for the Mandated Group to make the opening statement and the Hearing will continue as laid down in Paragraph E.13. The Convener will decide at what point any person attending the Hearing under Paragraph E.5.2.1 shall give evidence.
- 4.6 Here are some procedural issues which might arise. The Secretary and the Convener will in the main be responsible for handling them, but you too need to be aware of them:
 - 4.6.1 The minister may decline to give evidence. If so, s/he or his/her spokesperson may address you by way of argument and may comment on the Mandated Group’s evidence. However s/he loses the right to ‘prove’ any matters on which s/he wishes to rely. The reason for this is that s/he can bring facts to support his/her defence only if prepared to give evidence and thus to submit to questioning by the spokesperson for the Mandated Group.
 - 4.6.2 If the minister refuses to give evidence and tries to assert facts the Convener must intervene to exclude those assertions and to explain why. If the minister should then decide to give evidence s/he may assert those facts and then be open to questioning about them.
 - 4.6.3 What happens if the minister maintains his/her refusal to give evidence? S/he cannot be compelled to do so. However if s/he continues to assert facts after intervention by the Convener, not only will the Convener rule these out of order but may, after consultation with you as the other members of the Commission, refer the minister to Paragraph E.8.3 and warn him/her that the continued assertion of facts coupled with the refusal to give evidence will amount to an obstruction of the procedure, a factor which you can take into account in considering your decision later.
 - 4.6.4 Even when the minister chooses not to give evidence him/herself s/he may still call witnesses to challenge the Mandated Group’s case. Those witnesses would of course be subject to questioning by the spokesperson for the Mandated Group.
 - 4.6.5 If the minister fails to attend the Hearing without offering a satisfactory explanation, you may proceed with the Hearing. The minister’s non-attendance is a factor which you can take into account when considering your decision (see Paragraph E.8.2). If the Hearing proceeds without the minister you should weigh the allegations carefully against any documentary evidence submitted by him/her, bearing in mind of course that the Mandated Group were unable to question the minister about it.

- 4.6.6 Written statements, videos, transcripts etc can in exceptional circumstances be admitted as evidence at your discretion, but always with the important proviso that you would need to consider how much weight to attach to them if the person providing that evidence is not present to be questioned directly.
- 4.6.7 As well as oral evidence from individual witnesses the parties may produce documentary evidence such as certified copy minutes of meetings, letters, receipts, etc. These are acceptable so long as they have been disclosed to you and to the other party beforehand.
- 4.6.8 Sometimes new issues may be introduced during the Hearing. If these are irrelevant to the subject matter of the case the Convener should rule that they be disregarded, unless they tend to reveal an underlying serious situation previously undisclosed, such as some indication that a criminal offence might have been committed. In that case the Convener will immediately adjourn the Hearing and seek advice from the Secretary and the legal adviser.
- 4.6.9 If the new issues do have a bearing on the case, the Convener should adjourn the Hearing to give the other party the chance of considering them. S/he should consult you about this, so that you can decide whether the case can continue after a short break or whether, exceptionally, the Hearing should be adjourned to a later date.
- 4.6.10 You should not lightly interfere in the questioning of the minister or of any of the witnesses. However the Convener may sometimes disallow questions which are put to the minister or any of the witnesses. S/he should do so where the questions are irrelevant to the matters in issue or offensive in the way they are framed or unnecessarily repetitive. If the minister is present without an “accompanying person” (this expression is defined at Paragraph E.10.1 of the Disciplinary Process) and is clearly out of his/her depth, it would be in order for you, the Commission, to put the minister’s case, as best you understand it, to the witnesses for the Mandated Group.
- 4.6.11 There is often a temptation for the minister or his/her spokesperson or the spokesperson for the Mandated Group to ‘lead’ witnesses who are there to give evidence in support of their case. This arises when a question is framed in such a way as to give a broad hint to the person being questioned as to the reply which the questioner is anticipating and hoping to receive. The Convener should immediately disallow the question and insist that the questioner rephrases the question in a neutral way so as not to give any indication of the answer which s/he is hoping to receive. You must all be alert to this and be prepared to call the Convener’s attention to any question which you believe falls foul of this or the preceding Paragraph.
- 4.6.12 You must disregard any information based on allegations against the minister which were considered at an earlier Assembly Commission unless at the hearing of the previous case a written warning was issued relating to those issues (see Paragraph E.16.2). Otherwise the Convener should rule out of order any attempt to introduce any such matter at any stage of the proceedings.
- 4.6.13 Witnesses will doubtless wish to leave once their evidence has been given and any cross-examination completed. However, it is as well to ask them to remain on hand in case other points crop up, unless of course both parties are happy to release them.

- 4.7 It is understandable that the parties will wish to know the decision as quickly as possible but it is even more important that you as the members of the Assembly Commission *[or the Appeals Commission in the event of an appeal]* should have as much time as you need to weigh the evidence fully and meticulously and reach your decision. Too much is at stake for you to be hurried! So, immediately following the closing speeches, the Convener of the Assembly Commission *[or the Appeals Commission in the event of an appeal]* will announce to the parties that the decision will not be given that same day but that written notification will be issued to both parties within 10 days of the decision being reached. S/he will then ask the parties to leave. You as the members of the Assembly Commission *[or the Appeals Commission in the event of an appeal]* will then deliberate in private in order to reach your decision.
- 4.8 The Secretary and the legal adviser will also leave the room at this point to enable you to consider your decision in complete privacy. They will however remain on hand in the building to assist with any explanations as to procedure or as to the wording of the Disciplinary Process. However their function, if they are consulted in this way, is purely advisory and they do not play any part in the reaching of the decision.

The Assembly Commission Guidelines are on the Church's website at www.urc.org.uk should you wish to access them.

The above guidance is no substitute for the careful study of the Basis of Union, (Schedule E for ministers and Schedule F for CRCWs) and the Disciplinary Process.