

## P: Procedure for dealing with cases of incapacity involving ministers or Church-Related Community Workers

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### Introduction

(N.B. This introduction does not form part of the text of the Incapacity Procedure)

The procedure which follows allows the Church to deal with the cases of ministers of Word and Sacrament or Church Related Community Workers (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. It is not a

disciplinary process and will only be invoked in situations where the Assembly pastoral reference and welfare committee has been involved with the minister concerned and has reported that it has reached the point where it believes it can do no more for him/her. Whilst considered as a last resort, the Incapacity Procedure will nevertheless enable the Church to take decisive action in cases where the continued exercise of ministry would undermine the promises made by the minister at ordination or, in the case of a CRCW, at his/her commissioning.

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## The procedure

### Leading paragraphs

- LP.1 Under the provisions of this Incapacity Procedure (herein called 'the Incapacity Procedure') a review commission and, in the event of an appeal, an appeals review commission shall operate under the authority of the General Assembly for the purpose of considering and deciding upon cases properly referred to it in which ministers or Church Related Community Workers (CRCWs), whilst not perceived to have committed any breach of discipline, are nevertheless regarded as being incapable of exercising, or of continuing to exercise, ministry on account of (i) medical and/or psychiatric illness and/or (ii) psychological disorder and/or (iii) addiction.
- LP.2 The review commission, the standing panel, the special appeals body, the appeals review commission, and all aspects of the Incapacity Procedure shall at all times remain under the jurisdiction and control of the General Assembly which has the authority through the exercise of its functions as contained in paragraph 2(6) of the structure to amend, enlarge or revoke the whole or any part of this Incapacity Procedure, save only that, as long as that procedure remains in force, the decision reached in any particular case (whether or not on appeal) and any orders made in accordance with the Incapacity Procedure shall be made in the name of the General Assembly and shall be final and binding on the minister or CRCW and on all the councils of the Church.
- LP.3 Subject only to section H, when the case of any minister or CRCW is being dealt with under the Incapacity Procedure, it must be conducted and concluded entirely in accordance with that procedure and not through any other procedure or process of the Church.
- LP.4 Although the operation of the Incapacity Procedure is not based upon the conscious breach by the minister or CRCW of the promises made at ordination or commissioning, the review commission or, in the event of an appeal, the appeals review commission shall, in considering the matter and reaching its decision, in every case have full regard to the Basis of Union and in particular (in the case of ministers) paragraph two of schedule E thereto and (in the case of CRCWs) paragraph two of schedule F, part two thereto which state the responsibilities undertaken by those who become ministers and CRCWs of the Church and the respective criteria which they must apply in the exercise of their ministries.

LP.5 The Incapacity Procedure shall not be initiated in respect of any minister or CRCW if his/her case is currently being dealt with under the disciplinary process, save only where the Incapacity Procedure is initiated as a result of a recommendation from the disciplinary process, giving rise to a short transitional overlap between the commencement of the case within the Incapacity Procedure and the conclusion of the disciplinary process in relation to that minister or CRCW.

## **A. General**

A.1.1 In reference to any of the sections LP and A/N shall mean a reference to that section of this Incapacity Procedure and the following is a list of definitions of terms as used in the Incapacity Procedure:

- 'Appeals Commission' means the Commission constituted under the Disciplinary Process for the purpose of hearing and deciding each appeal dealt with under that process
- 'Appeals Review Commission' means the Commission consisting of three person constituted for the purpose of hearing and deciding upon each appeal under Section L
- 'Assembly Commission' means the Commission constituted under the Disciplinary Process for the purpose of hearing and deciding upon each case dealt with under that process
- 'Basis of Union' means the Basis of Union of the United Reformed Church
- 'Certificate of entry' means the Certificate duly completed and signed by the Convener of the PRWC in the format set out in the Appendix to this Incapacity Procedure
- 'Church' means the United Reformed Church
- 'Commencement Notice' means the Notice sent or delivered to the Secretary of the Review Commission in accordance with Paragraph B.3 in order to initiate the Incapacity Procedure
- 'Commission Officer' means the person appointed to act under the instructions of the Review Commission in carrying out an investigation and assembling the relevant information and documentation for the assistance of the Review Commission and whose role and functions are set out in Section G
- 'Consultation Group' means the group of persons required to be consulted in accordance with Paragraph B.1 in order to initiate the Incapacity Procedure
- 'CRCW' means a person whose name is on the Roll of Church Related Community Workers who is under consideration within the Incapacity Procedure (and see also Paragraph A.1.2)

- 'Decision Record' means the record of the Decision made by the Review Commission or the Appeals Review Commission as the case may be in the case of any minister or CRCW under consideration within the Incapacity Procedure
- 'Disciplinary Process' means the Process operated by the Church for the purpose of exercising discipline in respect of persons whose names are on either the Roll of ministers or the Roll of CRCWs, such process being contained in Section O of the Church's Manual
- 'Enquiry Stage' means the pre hearing stage during which the Review Commission conducts its enquiry in accordance with Section F assisted by the Commission Officer
- 'General Assembly Representative' shall mean the person appointed (whether individually or as the holder of a particular office) to act in the name of General Assembly (or Mission Council on its behalf) in carrying out the responsibilities assigned to that person within this Incapacity Procedure
- 'Hearing' means any Hearing conducted by the Review Commission or the Appeals Review Commission under Sections J or L
- 'Incapacity Procedure' means the whole Procedure set out herein dealing with cases of ministers or CRCWs falling within Paragraph LP.1
- 'Minister' means a person whose name is on the Roll of Ministers and who is under consideration within the Incapacity Procedure (and see also Paragraph A.1.2)
- 'Minister's Representative' means any person appointed to represent a minister in accordance with Paragraph A.7 (and see also Paragraph A.1.2)
- 'Notice of Appeal' means a Notice of Appeal lodged by or on behalf of a minister or a CRCW in accordance with Paragraph L.1.1
- 'Outside Organisation' means any body or organisation outside the Church by which the minister or CRCW is employed or with which the minister or CRCW 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 and/or the particular guidance being issued under the relevant paragraph of the Incapacity Procedure in which the reference to the expression 'Outside Organisation' appears
- 'Press Officer' means the person appointed to act for the Church and to be its spokesperson as regards its interaction with the Press and other media bodies

- 'PRWC' means the Pastoral Reference and Welfare Committee which operates under the General Assembly of the Church (and shall include any committee or body which may be set up in succession to the PRWC)
- 'Record of the Hearing' means the Secretary's Minute together with any verbatim record made and transcribed in accordance with Paragraph J.9
- 'Review Commission' means a Commission consisting of five persons selected as described in Section D for the purpose of hearing and deciding upon each case dealt with under the Incapacity Procedure
- 'Roll of CRCWs' means the Roll of Church Related Community Workers defined in the first paragraph of Schedule F to the Basis of Union (and see also Paragraph A.1.2)
- 'Roll of Ministers' has the meaning given to it in Paragraph 1 of Schedule E to the Basis of Union (and see also Paragraph A.1.2)
- 'Secretary of the Review Commission' means the person appointed to act as the Secretary of the Review Commission and the Standing Panel in accordance with Paragraph D.2
- 'Secretary's Minute' means the summary minute of the Hearing prepared by the Secretary of the Review Commission in accordance with Paragraph J.9
- 'Special Appeals Body' means the body appointed to hear appeals under Section H against a proposed reference back and recommendation to commence the Disciplinary Process
- 'Standing Panel' means the panel of four persons constituted in accordance with Section C who will form part of each Review Commission
- 'Statement of Reasons' means a statement appended to the Decision Record setting out the reasons for the Decision
- 'Structure' means the Structure of the United Reformed Church
- 'Suspension' and 'to Suspend' shall have the meanings given to them in Paragraphs 3 and 4 of Schedule E to the Basis of Union and the third and fourth paragraphs of Part II Schedule F to the Basis of Union
- 'Synod' means that Synod which in relation to any minister or CRCW exercises oversight of that minister or CRCW in accordance with its function under Paragraph 2(4)(A)(xv) of the Structure

- A.1.2 For the avoidance of repetition, whenever the word ‘minister’ or the expressions ‘the Roll of Ministers’ or ‘the minister’s representative’ or any word or expression relating to a minister or ministry appears in the Incapacity Procedure, it shall be taken as being equally referable to a CRCW or to the Roll of CRCWs or to the office of CRCW or to a CRCW’s representative as the case may be, unless such construction is precluded by the context.
- A.2 The Incapacity Procedure needs to move along in a timely manner so that feelings of frustration and unfairness do not arise as a result of unexplained delays and also so as to reduce the period of maximum stress for the minister and all those involved. Yet, of equal importance, the issues have to be explored sensitively to enable wise and thoughtful decisions to be taken. Thus the Review Commission must at all times be mindful of the need to balance proper expedition on the one hand with the need to achieve natural justice both for the minister and the whole Church and an outcome which is fair and properly considered.
- A.3 Subject to the exceptions contained in Paragraph A.4, all statements, whether written or oral, made during and in the context of the Incapacity Procedure shall be regarded as being made in pursuance of that object and for no other reason and shall be treated as confidential within the framework of the Incapacity Procedure. In this connection, the expression "the framework of the Incapacity Procedure" shall be regarded as covering not only the immediate confidentiality forum existing within the Incapacity Procedure during and beyond the continuance of the case, but shall extend to include any statements and information passed on to any person or body not directly involved in the case in the course of the implementation of any part of the decision of the Review Commission or the Appeals Review Commission or any guidance appended thereto, on the basis that the recipient thereof is made fully aware that he/she/it is bound by the confidentiality existing within the Incapacity Procedure in respect of such statements/information.
- A.4.1 The Review Commission may, with the consent of the person or group making it, pass on any statement falling within Paragraph A.3 to any person or group within the Church, provided that the Review Commission satisfies itself that any statement so passed on will remain within the confidential forum of the recipient(s).
- A.4.2 Should either (i) a formal request for information concerning any case dealt with under the Incapacity Procedure be received from the Independent Safeguarding Authority or any other public body with the requisite statutory authority to insist upon production thereof or (ii) circumstances arise which create a statutory requirement to supply such information, then in either case the supply to that body of such information shall not be deemed to be a breach of confidentiality under the Incapacity Procedure but shall be deemed to be made in pursuance of a public responsibility and not part of any decision made in accordance with the Incapacity Procedure. This

paragraph shall also apply to any case arising within Scottish jurisdiction, subject only to such changes as are necessary to comply with the comparable referral provisions of Scottish law.

- A.5 In any case where a person authorised or required to take some action regarding the appointment of persons to the Standing Panel or to any Review Commission, Appeals Review Commission or Special Appeals Body or in the initiation of the consultation specified in Paragraph B.1 or as a member of the Consultation Group or in the subsequent issue of a Commencement Notice or some other administrative or procedural matter under the Incapacity Procedure is unable for any reason to do so, then, unless the Incapacity Procedure already makes specific provision for such a situation, that person's duly appointed deputy shall take such action in his/her place. This paragraph does not permit any member of a Review Commission or an Appeals Review Commission or a Special Appeals Body to appoint his/her own deputy.
- A.6 In any case where the Secretary of the Review Commission is unable for any reason to carry out the duties of that office, his/her place shall be taken by a deputy duly authorised by or in the name of the General Assembly.
- A.7.1 Any minister coming within the Incapacity Procedure shall be entitled to appoint another person to act as the minister's representative in receiving and responding to any forms, letters or other documents, in dealing with any other procedural matters and in attending any meeting or Hearing, with or without the minister.
- A.7.2 In the case of any minister who, by reason of his/her incapacity, may be incapable of understanding the implications of his/her involvement in the Incapacity Procedure or the nature and substance of the Commencement Notice, or of dealing with any procedural issues or of taking any active part in any meetings or at any Hearings, the Review Commission, or the Appeals Review Commission, as the case may be, may, in response to an application made on the minister's behalf, agree to the appointment of an appropriate person to act as the minister's representative for the purposes set out in Paragraph A.7.1.
- A.7.3 In the case of a minister coming within Paragraph A.7.2 on whose behalf no such application is made under that Paragraph, the Review Commission or the Appeals Review Commission may invite the PRWC to advise whether such an appointment would be appropriate in the minister's best interests and, if so, to recommend a person for appointment and may thereupon appoint the person so recommended as the minister's representative for the purposes set out in Paragraph A.7.1.
- A.7.4 In the event that the PRWC for whatever reason does not respond to the invitation contained in Paragraph A.7.3, the Review Commission or the Appeals Review Commission may, following consultation with the Moderator of the Synod, itself appoint a person as the minister's representative for the purposes of Paragraph A.7.1.

- A.8 The Church recognises that, from time to time, cases falling within the Incapacity Procedure may attract the attention of the national or local press and other media organisations and authorises Synod Moderators, Assembly Officers and the Secretary of the Review Commission to supply to the Press Officer such information as s/he may reasonably require to deal with all press/media enquiries in a tactful and discreet manner so as to protect the interests of the Church, the minister and all others involved in the case. This paragraph is intended to take effect independently of and in addition to those paragraphs throughout this Procedure under which the Press Officer has been identified as one of the persons to whom specific information is given at various points in the Procedure.
- A.9 In the event of the minister having already been the subject of the Capability Procedure, the record of any decisions (including decisions on appeal) taken under that procedure, together with such papers, records, and statements and other data as formed the body of information relevant in that procedure (save only such as may be protected on the grounds of confidentiality) shall be made available to all those persons responsible at various stages and in various capacities for the conduct of the Incapacity Procedure.
- A.10 Whilst the Guidelines on Conduct and Behaviour are not intended to be rigorously applied in the same manner as precise rules they nevertheless have an important part to play in the process of considering whether, in any given case, the minister might be in breach of his/her ordination/commissioning promises and consequently it would be appropriate for reference to be made to these Guidelines as appropriate within the Incapacity Procedure.
- A.11 In any case in which the General Secretary or the General Assembly Representative or the Secretary of the Review Commission or the Commission Officer is prevented, whether at the outset or at any time during the continuance of the case, (i) by direct involvement as the minister in the case itself or (ii) by any conflict of interest actual or perceived or (iii) by absence or illness or any similar or related reason, from exercising any of the functions ascribed to him/her under the Incapacity Procedure, the officers of the General Assembly (excluding the General Secretary or the General Assembly Representative as the case may be) shall appoint a person to act in place of the person so prevented from acting in all respects as regards that particular case and the provisions of the Procedure shall be construed accordingly. Should alternative (i) above apply, the person so prevented from acting shall be debarred from exercising any of the aforesaid functions in any other case which may arise under the Incapacity Procedure during the continuance of the case in which s/he is directly involved.
- A.12 Mission Council acting in the name of General Assembly has authority by single resolution of that Council to make with immediate effect such changes to any part of the Incapacity Procedure as are recommended by the MIND Advisory Group (or such other Group or Committee as may in the future perform the functions of that Group), all such changes to be reported to the next meeting of the General Assembly.

- A.13 Where any issue or question of procedure arises whilst the matter is under the jurisdiction of the review commission or the appeals commission, that commission shall resolve each such issue or question and/or give such directions as shall appear just and appropriate in the circumstances.

## **B. Initiation of the Incapacity Procedure**

- B.1.1.1 If at any time the Moderator of the Synod or the General Assembly Representative believes that a particular minister may be incapable of exercising (or of continuing to exercise) his/her Ministry on any of the grounds specified in Paragraph LP.1, s/he shall enquire from the Convener of the PRWC (i) whether the PRWC has been involved with the minister and, if so, (ii) whether it has now reached the point where it believes it can do no more for him/her. If, and only if, the answer to both questions is in the affirmative, s/he shall, wherever possible, consult the other of them (i.e. the Moderator of the Synod or the General Assembly Representative as the case may be) and s/he shall also consult the Convener of the PRWC and those persons (“the Consultation Group”) shall decide whether the Incapacity Procedure should be initiated. For the avoidance of doubt, unless and until the questions posed at (i) and (ii) above can both be answered in the affirmative, the Incapacity Procedure cannot be initiated.
- B.1.1.2 Should the General Assembly Representative make the enquiry specified in Paragraph B.1.1.1, the officers of the General Assembly shall appoint a Synod Moderator or other member of Mission Council to be the third member of the Consultation Group along with the General Assembly Representative and the Convener of the PRWC.
- B.1.2 The Moderator of the Synod or the General Assembly Representative may, if s/he considers that there are strong and urgent reasons for so doing, and only so long as s/he forthwith invokes the consultation procedure set out in Paragraphs B.1.1 and B.2, suspend the minister with immediate effect, either orally or in writing. Suspension imposed orally shall be immediately confirmed in writing to the minister. As to the contents of the Notice of Suspension, see Paragraph E.6.
- B.1.3 The person issuing the suspension under Paragraph B.1.2 shall forthwith (i) give written notice of the minister’s suspension to the Moderator of the Synod (if s/he is not the person issuing the suspension), the Synod Clerk, the General Secretary, the Press Officer, the Secretary for Ministries and the Convener of the PRWC, and (ii) make a written disclosure of the minister’s suspension to the responsible officer of any relevant Outside Organisation (as defined in Paragraph A.1). The Notice shall stress to all the recipients the sensitive nature of the information imparted and the need to exercise care and discretion as to how it is used. In order to preserve confidentiality any notice or disclosure given under this Paragraph shall not disclose any reason for the imposition of the Suspension. However, any such notice or disclosure shall contain

a statement explaining the effect of Suspension as outlined in either Paragraph 4 of Schedule E to the Basis of Union or the fourth paragraph of Part II of Schedule F to the Basis of Union whichever is relevant and shall (if such be the case) state that the Police have been apprised of the matter giving rise to the Suspension.

- B.2. As part of the consultation referred to in Paragraph B.1.1, the Consultation Group must satisfy itself as to the following matters:-
- B.2.1 that all reasonable steps to rehabilitate the minister have been attempted; and
- B.2.2 That (i) the Church's procedures for ill health retirement do not apply and that there is no reasonable prospect of their implementation or (ii) the Church's procedures for ill health retirement do or may apply but the minister is unwilling to avail him/herself of them or (iii) the minister has failed or refused or is unable to co-operate in ascertaining whether or not such procedures might apply or is prevented by his/her incapacity from so doing and that, whichever of these situations is applicable, there is no reasonable prospect of the retirement or resignation of the minister.
- B.2.3 that the PRWC has been involved with the minister but has now stated that it can do no more for him/her; and
- B.2.4 that no case against the minister is already in progress under the Disciplinary Process unless paragraph B.6 applies.
- B.3.1.1 If, having so consulted, the Consultation Group is satisfied unanimously that all the conditions contained in Paragraphs B.1.1 and B.2 have been complied with, the Group shall send or deliver to the Moderator of the Synod or the General Assembly Representative as the case may be a Certificate of Entry completed in strict accordance with the format set out in the Appendix hereto this being an essential pre-condition to a case entering the Incapacity Procedure. When this step has been completed, the procedures set out in Paragraphs B.3.2 and B.3.3 shall come into operation.
- B.3.1.2 In the event that the convenor of the PRWC is prevented from exercising any of the functions allotted to him/her under this Procedure for any of the reasons specified in paragraph A.11, the other members of the PRWC shall appoint one of their number to act as deputy to the convenor to exercise those functions and to receive notices in his/her place and shall forthwith give notice to the secretary of the Review Commission of such appointment.
- B.3.2 The Moderator of the Synod or the General Assembly Representative shall forthwith send or deliver to the Secretary of the Review Commission the Certificate of Entry and a Commencement Notice (together with such accompanying papers as are germane to the case) in order to activate the Incapacity Procedure, setting out the reasons for the issue of such Notice and s/he shall at the same time inform the minister that this step has been taken. As to the procedures to be followed regarding suspension, see Section E.

- B.3.3 The Secretary of the Review Commission shall thereupon notify the following persons in writing of the issue of the Commencement Notice, namely the General Secretary, the Synod Moderator (if s/he did not issue the Commencement Notice), the Synod Clerk, the Press Officer, the Secretary for Ministries, the Convener of the PRWC and the responsible officer of any relevant Outside Organisation. The Notice shall stress to all the recipients the sensitive nature of the information imparted and the need to exercise care and discretion as to how it is used. If appropriate, the Notice may be combined with a Notice given under Paragraph E.4 regarding suspension.
- B.3.4 On receipt of the Commencement Notice, the Secretary of the Review Commission shall forthwith activate the procedure set out in Paragraph D.3.4 for the calling in of the Commission Officer to carry out his/her functions as described in Section G when instructed to do so by the Review Commission.
- B.3.5.1 If, following receipt of the Certificate of Entry but before the Review Commission has been constituted, the secretary receives written information that any of the conditions set out in Paragraph B.2 has not, or may not have been, satisfied, s/he shall consult with the members of the Consultation Group and may on their authority adjourn the proceedings within the incapacity procedure pending the resolution of the matter.
- B.3.5.2 If during any period of adjournment referred to in paragraph B.3.5.1 matters resolve themselves without the case needing to proceed within the incapacity procedure, the Moderator of the Synod or the General Assembly representative shall send or deliver to the secretary of the Review Commission a Notice of Satisfaction signed by the convener of the PRWC certifying that for the reasons stated therein no further steps need to be taken within the incapacity procedure, whereupon the secretary shall send or deliver to the minister and to the persons to whom s/he gave notice under paragraph B.3.3 a further notice to the effect that the incapacity proceedings have been withdrawn in accordance with this paragraph B.3.5.2.
- B.3.5.3 If during the said period of adjournment the PRWC is satisfied that the conditions set out in paragraph B.2 have been satisfied and that the case should therefore proceed within the incapacity procedure, the Moderator of the Synod or the General Assembly Representative shall send or deliver to the secretary of the Review Commission a notice signed by the convener of the PRWC re-affirming the contents of the Certificate of Entry and Commencement Notice, whereupon the secretary shall send or deliver to the minister and to the persons specified in paragraph B.3.5.2 a notice to the effect that the adjournment is at an end and that the incapacity procedure case is being re-activated. The secretary shall also proceed with the required steps as to the appointment of the Review Commission and the calling in of the Commission officer.
- B.3.5.4 An adjournment under this Paragraph B.3.5 shall not exceed eighteen months from the date of receipt by the secretary of the Review Commission of the Certificate of

Entry and Commencement Notice under paragraph B.3.2, If at the end of that time the Secretary has not received a Notice under either paragraph B.3.5.2 or paragraph B.3.5.3. the incapacity procedure case shall be deemed to be withdrawn and the secretary shall send or deliver a notice to that effect to the minister, the persons specified in Paragraph B.3.5.2 and the convenor of the PRWC.

- B.4 In the event that the Consultation Group decides that a Commencement Notice should not be issued, the suspension shall immediately be terminated and written confirmation thereof sent by the Moderator of the Synod or General Assembly Representative as the case may be to the recipients of the Notice of Suspension under Paragraph B.1.3(i) and to any Outside Organisation to whom a written disclosure was made under Paragraph B.1.3(ii).
- B.5 On the initiation of the Incapacity Procedure the Moderator of the Synod or the General Assembly Representative shall put in train appropriate procedures to ensure pastoral care for the minister, his/her family and the local church(es) involved.
- B.6 Should the Moderator of the Synod or the General Assembly Representative receive in accordance with the provisions applicable to the Disciplinary Process a recommendation falling within Paragraph LP5 s/he shall forthwith invoke the consultation procedure set out in Paragraphs B.1 and B.2 and, unless the Consultation Group considers, either unanimously or by a majority, that there are compelling reasons to the contrary and so long as the Consultation Group is satisfied that the conditions contained in Paragraphs B.1.1 and B.2 have been complied with, the Moderator of the Synod or the General Assembly Representative receiving the said recommendation shall forthwith initiate the Incapacity Procedure in accordance with Paragraph B.3 and shall attach to the Commencement Notice a copy of such recommendation. S/he shall also send a written Notice countersigned by the Secretary of the Review Commission to the Secretary of the Assembly Commission informing him/her of the initiation of the Incapacity Procedure so that a declaration can be issued as provided under the Disciplinary Process to the effect that that Process is thereby concluded. In the event that the Consultation Group decides that the Incapacity Procedure should not be initiated, the Synod Moderator or the General Assembly Representative as the case may be shall give written Notice of that decision to the Secretary of the Assembly Commission to enable the Disciplinary case to be resumed.

## **C. Standing Panel**

- C.1 Appointment to the Standing Panel shall be by resolution of General Assembly on the advice of the Nominations Committee, (or such other committee as may in the future perform the functions of the Nominations Committee) who shall in considering persons for appointment select one person from each of the following categories, namely (i) a former moderator of General Assembly (who shall also have the responsibility of consulting with the officers of the General Assembly for the purposes set out in Paragraph D.4.1, (ii) a Synod Moderator or a minister in local pastoral charge

or a CRCW serving in a local situation, (iii) a doctor with experience of general medical practice and (iv) a person with some legal, tribunal or professional experience or other similar background (see also Paragraph D.6.1).

- C.2 Members of the Standing Panel shall be appointed for a term not exceeding five years as the General Assembly shall in each case think fit with power to the General Assembly to determine any such appointment during its term or to renew any such appointment for successive terms not exceeding five years each.
- C.3.1 Mission Council shall, on behalf of General Assembly, appoint a person with some legal, tribunal or professional experience or other similar background to act as the Commission Officer in cases coming within the Incapacity Procedure and a second person with similar credentials to act as a reserve Commission Officer should the person firstly appointed be unable for any reason to participate in a particular case.
- C.3.2 In the event that neither of the persons referred to in Paragraph C.3.1 is able to act as Commission Officer in any particular case, the Secretary shall invite the Officers of General Assembly to appoint another person to act as Commission Officer in that case, making every effort to appoint someone with similar credentials.
- C.3.3 The principle enunciated in Paragraph D.1 must be taken into account in considering whether a person is eligible to act as Commission Officer in any given case.

## **D. Review Commission**

- D.1 No person shall sit as a member of the Review Commission or the Appeals Review Commission or the Special Appeals Body in the hearing of any case in which s/he has any involvement whether as a member of any local Church connected with the case or whether on account of some personal or pastoral involvement as a result of which it is considered by the officers of General Assembly or by the proposed person him/herself that it would not be appropriate for him/her to take part in the case. The restrictions contained in this paragraph apply equally to the Commission Officer and to any person appointed to assist him/her under Paragraph F.1.
- D.2 A Secretary shall be appointed by resolution of General Assembly, on the advice of the Nominations Committee, to be responsible for all secretarial and procedural matters laid upon him/her by the Incapacity Procedure, including the servicing of the Standing Panel and the Review Commission, and the period and terms of office shall be such as General Assembly shall decide and see Paragraph A.6.
- D.3 On receipt of a Commencement Notice, the Secretary shall forthwith take the following steps (marking every envelope containing papers dispatched in connection with the Incapacity Procedure with the words 'Private and Confidential'):
  - D.3.1 Acknowledge receipt of such Notice and

- D.3.2 Send to the minister copies of the Certificate of Entry, and the Commencement Notice, together with a Notice giving the minister the opportunity to submit any preliminary comments within a period of one month from the date of the Commencement Notice and
- D.3.3 Send to each member of the Standing Panel copies of the Certificate of Entry, the Commencement Notice and any supporting documentation, and any preliminary comments from the minister (as and when received), together with a Notice drawing attention to Paragraph D.4 and requesting confirmation that the addressee is unaware of any circumstances which in the present case might prevent him/her from serving on the Review Commission and
- D.3.4 Send to the Commission Officer copies of the Certificate of Entry, the Commencement Notice and any supporting documentation, and any preliminary comments from the minister (as and when received), together with a notice requesting confirmation that the addressee is unaware of any circumstances which in the present case might prevent him/her from serving as Commission Officer and, in the event that that person is unable to serve as the Commission Officer, the Secretary shall repeat the procedure with the second person referred to above.
- D.4.1 The member of the Standing Panel in the first category mentioned in Paragraph C.1 (or the member in the second, third or fourth categories (in that order) if the member(s) in the preceding category(ies) is/are unable to participate in the particular case) shall forthwith consult with the officers of General Assembly and jointly with them appoint as the fifth member of the Review Commission a person (not already a member of the Standing Panel) chosen on account of particular expertise or experience in the subject matter of the case, ascertaining through the procedures set out above that no conflict of interest or other reason would prevent such person from serving upon the Review Commission.
- D.4.2 In the event that any member of the Standing Panel shall be unable to take part in the particular case, the Secretary shall invite the officers of General Assembly to appoint another person as his/her replacement on the Review Commission, making every effort to appoint someone with similar experience/expertise.
- D.4.3 When the fifth member of the Review Commission has been identified under Paragraph D.4.1, the secretary shall, as regards that person, follow the same procedure as that set out in Paragraph D.3.3 regarding the four members of the Standing Panel.
- D.5 When the identity of all five members of the Review Commission has been provisionally ascertained, the Secretary shall notify the minister or the minister's representative in writing thereof and invite him/her to state within 14 days of receipt of the Notice whether s/he has any objection to any of the persons serving upon the Review Commission and, if so, the grounds for such objection. Any such objection shall

be considered by the officers of General Assembly, whose decision on whether to uphold or reject the objection shall be final.

- D.6.1 The Review Commission shall appoint from its own number its own convener who shall be a member of the Church and who shall normally be the person appointed to the Standing Panel by virtue of his/her legal, tribunal or professional experience or other similar background under Paragraph C.1(iv).
- D.6.2 The Convener of the Review Commission shall not have a casting vote, unless the Review Commission shall in circumstances arising under Paragraph D.7.1 consist of an even number of members.
- D.7.1 In the event that any member of the Review Commission shall be unable to carry out his/her duties on that Commission, the remaining members shall continue to act as the Review Commission, subject to there being a minimum of three members.
- D.7.2 Once a Review Commission has been duly constituted and has taken any steps to investigate the case, no person shall subsequently be appointed to serve on that Review Commission.
- D.7.3 In the event that the Review Commission shall be reduced to fewer than three members at any time after it has taken any steps to investigate the case under the Incapacity Procedure, that Review Commission shall stand down and be discharged and a new Review Commission shall be appointed under this Section D which shall have access to all information (including documentation available to the former Review Commission).
- D.7.4 If the Convener of the Review Commission is unable to continue to serve for the reason stated in Paragraph D.1, the remaining members shall appoint one of their number to be the Convener in his/her place.

## **E. Suspension**

- E.1 If the minister has already been suspended before the case has come into the Procedure, the Review Commission must, as soon as it has been constituted, decide whether the suspension should be continued or lifted, and inform all those concerned.
- E.2 If the minister has not already been suspended, the Review Commission may, either immediately upon its appointment or at any time during the continuance of the case, resolve that the minister be suspended.
- E.3 Any suspension, whenever imposed, may be lifted by the Review Commission at any time during the continuance of the case.

- E.4 The Secretary of the Review Commission shall forthwith (i) give written notice of any decision regarding Suspension made by the Review Commission under Paragraph E.1, E.2 or E.3 to the minister, the General Secretary, the Synod Moderator, the Synod Clerk, the Press Officer, the Secretary for Ministries, the Convener of the PRWC (and the General Assembly Representative if s/he issued the Commencement Notice under Paragraph B.3) and (ii) make a written disclosure of the minister's suspension to the responsible officer of any relevant Outside Organisation, unless notice thereof has already been given to that Outside Organisation under Paragraph B.1.3. The Notice shall stress to all the recipients the sensitive nature of the information imparted and the need to exercise care and discretion as to how it is used. In order to preserve confidentiality any notice or disclosure given under this Paragraph shall not disclose any reason for the imposition of the Suspension. However, any such notice or disclosure shall contain a statement explaining the effect of Suspension as outlined in either Paragraph 4 of Schedule E to the Basis of Union or the fourth paragraph of Part II of Schedule F to the Basis of Union whichever is relevant and shall (if such be the case) state that the Police have been apprised of the matter giving rise to the Suspension.
- E.5 An existing suspension continued under Paragraph E.1 or a new suspension under Paragraph E.2 shall remain in force until either:-
- E.5.1 the Review Commission makes a subsequent decision relative to that suspension or
- E.5.2 the Review Commission reaches a decision under Paragraph K.4.2 that the name of the minister be retained on the Roll of Ministers, in which case the suspension automatically ceases on the date upon which that decision is formally notified to the minister or
- E.5.3 the Review Commission reaches a decision under Paragraph K.4.3 that the name of the minister be deleted from the Roll of Ministers, there being no appeal within the period allowed, in which case the suspension shall continue up to the date of deletion (i.e. the date of expiry of such period under Paragraph K.4.3) or
- E.5.4 there is an appeal against the decision of the Review Commission, in which case the suspension shall continue throughout the appeal proceedings and automatically cease on the date of the formal notification of the Appeals Review Commission's decision to the minister (whether this be that his/her name be retained on or deleted from the Roll of Ministers, in the latter case the termination of the suspension coinciding with the deletion).
- E.6 The Notice of Suspension, whether issued under Paragraph B.1.2 or Paragraph E.4, shall inform the minister that any conduct on his/her part during such Suspension which breaches or contravenes either Paragraph 4 of Schedule E to the Basis of Union or the fourth paragraph of Part II of Schedule F to the Basis of Union whichever is

relevant may be taken into account by the Review Commission or, in the event of an appeal, the Appeals Review Commission in reaching its decision under Section F or Section G as the case may be.

- E.7 For the avoidance of doubt, in the case of a suspension first imposed under the Disciplinary Process upon a minister who then enters the Incapacity Procedure through the issue of a Commencement Notice, the provisions of the Incapacity Procedure, and not those of the Disciplinary Process, shall thereafter govern all aspects of that suspension. Conversely, in the case of a suspension first imposed hereunder upon a minister who then enters the Disciplinary Process as a result of the steps set out in Section H, the provisions of that Process shall thereafter govern all aspects of that suspension.
- E.8 Suspension does not imply any view about the correctness or otherwise of the reasons for the entry of the case into the Incapacity Procedure nor of any statements made or information given concerning the minister, nor does it affect the minister's stipend or pension arrangements made under the relevant United Reformed Church Pension Scheme.

## **F. Role and responsibilities of the Review Commission at the Enquiry Stage**

- F.1 The Review Commission shall have control of all procedural matters at the Enquiry Stage, including the gathering of information and any issues relating to the minister's suspension. The Review Commission may, if it sees fit, accede to any request from the Commission Officer for the appointment of any person or persons of suitable experience to assist the Commission Officer in the gathering of information and the conduct of the investigation in any particular case. The Review Commission shall also have discretion as regards the extent to which written statements, reports, videos, recorded interviews and other recordings and transcripts may be taken into account. This discretion will be particularly apposite when considering any report, information and documentation submitted by the Commission Officer under Paragraph G.4
- F.2 Where cases come into the Procedure following a recommendation from the Disciplinary Process, information may already have been considered within that Process. However, the Review Commission must always carry out its own enquiry and cannot rely upon such information simply because it was presented and considered within the Disciplinary Process.
- F.3 The members of the Review Commission shall consult together as soon as possible to consider the information laid before them and to agree upon the course which their enquiry should take.
- F.4 At the outset the Review Commission will need to address the following questions:

- F.4.1 Have all the steps outlined at Paragraphs B.1 and B.2 been taken?
- F.4.2 Are there any issues regarding suspension which need to be resolved by the Review Commission (see Section E)?
- F.4.3 How has the minister responded, if at all, to the issues raised in the Commencement Notice, particularly those relating to his/her conduct and/or behavior or to any other concerns and/or problems expressed about his/her ministry and will it be necessary to meet with other persons with knowledge of any relevant events or circumstances to test the accuracy and weight of these matters and their importance to the enquiry?
- F.4.4 Is specialist advice and guidance relevant as to the question of whether, based on the criteria set out in Paragraphs LP1 and LP4 the minister is or is not capable of exercising, or of continuing to exercise, ministry? If so, what steps should be taken to ensure that such advice and guidance are available for consideration by the Review Commission? Has any such advice or guidance already been taken and, if so, can this be made available to the Review Commission?
- F.5 The Review Commission shall be entitled to call for and consider all minutes of meetings, correspondence, notes, reports and documents which it considers appropriate to its enquiry. This provision shall not apply where those from whom such documentation is requested can demonstrate that it is protected by confidentiality.
- F.6 Should the Review Commission consider that at any time the minister might, whether or not deliberately, be in danger of infringing any of Paragraphs K.1.5/8, it shall, wherever practicable, draw this to the attention of the minister or his/her representative.
- F.7 Having carried out its initial review, the Review Commission will consider the information so far available and consider the implications of this information in the light of the criteria set out in Paragraphs LP1 and LP4 and will then issue instructions to the Commission Officer to enable him/her to carry out his/her responsibilities under Section G. In doing so, the Review Commission should draw the particular attention of the Commission Officer to Paragraphs A.2, H.1 and K.1.
- F.8 The Review Commission must make clear to the Commission Officer the issues identified by the Review Commission to which it wishes the Commission Officer to direct his/her enquiries so that there is consistency and an avoidance of duplication in the gathering of information. Consideration of any specific advice or guidance as mentioned in Paragraph F.4.4 is particularly pertinent in this respect.F.9 The Review Commission will at all times be able to issue guidance and instructions to the Commission Officer as s/he carries out his/her role under Section G.

- F.10 The Review Commission may, if it considers it appropriate so to do, adjourn the Enquiry and direct the Commission Officer to put his/her investigation on hold pending further instructions. Bearing in mind the need to move the Procedure along in a timely manner, this power should only be used sparingly when warranted by the special circumstances of the case and any such adjournment should last only so long as is strictly necessary.
- F.11 On receipt of the dossier and accompanying papers from the Commission Officer referred to in Paragraph G.7, the Secretary of the Review Commission shall forthwith supply copies of all such papers to each member of the Review Commission who may seek clarification and/or further information from the Commission Officer on any of the matters referred to therein.
- F.12 The members of the Review Commission, in considering the material presented to them, should always have in mind the desirability of reaching agreement with the minister or the minister's representative as to any information and advice which is accepted as common ground with a view to simplifying the Hearing and making it appear less confrontational.
- F.13.1 When the Review Commission has satisfied itself as to the matters referred to in Paragraph F.11, the Secretary of the Review Commission shall thereupon, acting on the instructions of the Review Commission, send to the minister or the minister's representative a copy of the Commission Officer's statement and copies of all the statements, reports and other documents contained in the accompanying dossier (save only that, if the Commission Officer shall have already provided the minister with copies of the documents in the agreed bundle in accordance with Paragraph G.6, the Secretary is not required to send to him/her further copies of those particular documents at this stage).
- F.13.2 At the same time s/he shall notify the minister or his/her representative by letter that, should s/he wish to make any observations or representations on any of the matters contained in the said statement and dossier or should s/he wish to submit any further statements, reports, or other papers, these should all be lodged with the Secretary within 21 days of receipt of the said letter. The Secretary shall forthwith on receipt supply each member of the Review Commission with a copy of any such observations, representations or documents.
- F.14 After the expiration of the said period of 21 days or, if a request for an extension of time is received, within such further period of time, if any, as the members of the Review Commission consider reasonable, the Review Commission will instruct the Secretary to put in hand arrangements for a hearing to take place in accordance with Section J.

## **G. Role and Responsibilities of Commission Officer**

G.1 The role and responsibilities of the Commission Officer shall be:-

G.1.1 To study the Commencement Notice and any supporting papers and any representations made by the minister and/or others and

G.1.2 To note the instructions of the Review Commission and any supporting information supplied with them (see Paragraphs F.7 and F.8) and

G.1.3 In pursuance of those instructions, to obtain such reports, carry out such interviews and consultations and take such other steps as are deemed appropriate within the scope of those instructions including the assembling of all the relevant information in a dossier for presentation to the Review Commission and

G.1.4 To attend the Hearing in order to respond to any questions which may be put to him/her by the Review Commission and/or the minister or the minister's representative.

G.2 The Commission Officer shall have regard to the following:-

G.2.1 S/he must act within the scope of the instructions issued by the Review Commission under Paragraph F.7.

G.2.2 Should the Commission Officer, in the course of his/her investigation, be drawn into a new line of enquiry, s/he must refer back to the Review Commission for further instructions.

G.2.3 The Commission Officer must not commission reports or incur costs without specific authorisation from the Review Commission.

G.3 Subject always to the terms of the Review Commission's instructions, the following questions (which are not necessarily exhaustive) should be addressed by the Commission Officer in the course of carrying out his/her responsibilities in accordance with Paragraph G.1:-

G.3.1 How has the minister responded, if at all, to the issues raised in the Commencement Notice, particularly those relating to his/her conduct and/or behavior or to any other concerns and/or problems expressed about his/her ministry and will it be necessary to meet with other persons with knowledge of any relevant events or circumstances to test the accuracy and weight of these matters and their importance to the investigation?

G.3.2 Is specialist advice and guidance relevant as to the question of whether, based on the criteria set out in Paragraphs LP1 and LP4, the minister is or is not capable of exercising,

or of continuing to exercise, ministry? If so, what steps should be taken to ensure that such advice and guidance are available for consideration by the Review Commission?

- G.3.3 Are there any special factors in the particular case which should be taken into account at this stage? This is particularly relevant in cases coming into the Incapacity Procedure following a recommendation from the Disciplinary Process.
- G.4 So long as such actions fall within the scope of the Review Commission's instructions and are within the constraints set out in Paragraph G.2, the Commission Officer may seek the written permission of the minister or his/her representative (but only so far as the latter has the authority in law to grant such permission on behalf of the minister) to apply for copies of all the minister's medical notes, records and reports from his/her General Practitioner and copies of the reports from any specialist who may have examined or been consulted by the minister. If the Commission Officer is unable to obtain copies of any such notes, records and reports s/he shall report this to the Review Commission and the Procedure shall continue with the best information available.
- G.5.1 The Commission Officer should seek to obtain from each person from whom s/he obtains information a written statement setting out such information and summarising the discussion at the meeting. This statement should, wherever possible, be agreed and signed by the Commission Officer and the person concerned immediately after the meeting and whilst they are still together. The Commission Officer should inform that person that s/he may be called later to attend the Hearing and answer questions which may be put to him/her by the Review Commission and/or the minister or the minister's representative.
- G.5.2 If any such person refuses or expresses an unwillingness to attend any Hearing in person or if the Commission Officer has any other reason to believe that that person will not in fact do so, the Commission Officer shall report this to the Review Commission, which may if it thinks fit invoke its discretionary powers as set out in Paragraph F.1. In such situations, it is essential that the Commission Officer should use every endeavour to obtain an agreed written statement from the person concerned as described in Paragraph G.5.1.
- G.6. The Commission Officer shall consult, or endeavour to consult, with the minister or his/her representative for the purpose of securing an agreed bundle of documents. A list of the documents in the agreed bundle should be prepared by the Commission Officer and signed by him/her and by the minister or his/her representative. The minister may request copies of the documents in the agreed bundle there and then. Otherwise they will be sent to him/her by the Secretary of the Review Commission (see Paragraph F.13.1). Should the Commission Officer be unable to secure an agreed bundle of documents for whatever reason, s/he shall prepare a report which shall explain why it has not proved possible to do so.

- G.7 When the Commission Officer has completed his/her investigation, s/he shall lodge with the Secretary of the Review Commission a dossier containing (i) a written statement setting out the result of his/her investigation, summarising the information contained in the dossier and adding any comments which s/he deems appropriate and (ii) either of the following:-
- G.7.1 If it has proved possible to secure an agreed bundle of documents in accordance with Paragraph G.6, the originals (or copies if the originals are not held by the Commission Officer) of the documents forming the agreed bundle, the signed copy of the agreed list of documents and the originals or copies of any further documents which are not included in the agreed bundle but which, in the opinion of the Commission Officer, should nonetheless be passed on to the Review Commission or
- G.7.2 If it has not proved possible to secure an agreed bundle of documents in accordance with Paragraph G.6, the originals (or copies if the originals are not held by the Commission Officer) of all statements, reports and other documents considered by him/her to be relevant to the case, including the report referred to in Paragraph G.6 as to why it has not been possible to secure an agreed bundle of documents.

## **H. Recommendation for referral to the Disciplinary Process**

- H.1 If it considers that, in a case within the Incapacity Procedure, the circumstances relating to the minister may fall within the ambit of Paragraph A.1.1 of the Disciplinary Process, the Review Commission may, at any time during the Incapacity Procedure and whether or not a Hearing has taken place, adopt the following procedure:
- H.2 It shall instruct the Secretary of the Review Commission to inform the minister by written notice of its decision to refer the case back to the person who initiated the consultation under Paragraph B.1 with the recommendation that the Disciplinary Process should be commenced in respect of the minister, stating its reasons for such recommendation. This Notice shall contain a statement of its reasons for reaching its decision to refer back and it may indicate what papers, if any, should be passed to the recipient of the Notice. This Notice shall inform the minister that if s/he is dissatisfied with this proposed reference back s/he may within a period of twentyone days from the receipt of the said Notice give written notice to the Secretary of the Review Commission of his/her intention to appeal against the proposed reference back. If at the end of the period no such notice of intention to appeal has been received (time being of the essence for this purpose) then the procedure set out in Paragraphs H.14 and H.17 shall be followed. The Notice shall draw the attention of the recipient to the strict time limit for serving a Notice of Appeal in response to a Notice served under this Paragraph.
- H.3 In the event of such appeal, the case within the Incapacity Procedure shall stand adjourned during the course of the appeal and the Secretary of the Review Commission shall request the Officers of the General Assembly to appoint a Special Appeals Body of three persons to hear the appeal against the proposed referral,

whereupon the said Assembly officers shall within fourteen days (or such further time as they may reasonably require) appoint the Special Appeals Body, which shall in turn appoint its own Convener.

- H.4 In making such appointment the Assembly officers shall have full regard to the safeguards and the criteria for appointment contained in Paragraphs D.1, L.3.2/4, L.4, L.5 and L.6 (with the necessary changes).
- H.5 The Assembly officers shall also appoint a person to act as the secretary of the Special Appeals Body for the hearing of the appeal.
- H.6 The Special Appeals Body shall consider the decision of the Review Commission to refer the case back and any representations made in connection therewith and any other papers relevant to the issue of the proposed reference back and shall invite the minister by written notice to submit any further written representations within a period of twentyone days from the date of receipt of the said Notice.
- H.7 Whether or not the minister submits further representations under Paragraph H.6, the Special Appeals Body may meet with the minister or, if circumstances render this impossible or impracticable, with the minister's representative, either of whom may, if s/he wishes, have a friend present with him/her and, if the minister does submit representations under that paragraph, the Special Appeals Body should normally meet with the minister unless there are strong reasons for not doing so.
- H.8 The Special Appeals Body shall invite the PRWC to comment on the appeal and shall have regard to any representations by it.
- H.9 Unless the minister makes a request for a formal hearing which is accepted by the Special Appeals Body or the Special Appeals Body of itself decides to convene one (in which case the provisions of Section L shall apply (with the necessary changes)), the Special Appeals Body shall decide the matter having had regard to the written material referred to in Paragraph H.6, any representations made by the minister or the PRWC and any meetings held under Paragraph H.7.
- H.10 In the event that a formal hearing does take place, the Rules applicable thereto shall, so far as possible, accord with the Rules set out in Section J for the conduct of hearings before the Review Commission.
- H.11 In recording its decision, the Special Appeals Body shall append a statement of its reasons for reaching its decision and, if the decision is to reject the appeal, it may indicate what papers, if any, should be passed with the notice of the decision to the person to whom the reference back will be made.
- H.12 As soon as the Special Appeals Body has reached its decision, the Secretary of that body shall give written notice thereof, and of any reasons appended to the

decision, to the Secretary of the Review Commission, who shall in turn inform the members of the Review Commission thereof.

- H.13 If the decision of the Special Appeals Body is to allow the appeal and to reject the proposed reference back, the Incapacity Procedure shall immediately be resumed and the Secretary of the Review Commission shall send to the minister a notice advising him/her of that fact and a copy of the notice of the decision and the statement of reasons appended to the decision.
- H.14 If the decision of the Special Appeals Body is to reject the appeal and to uphold the decision to refer the case back to the person who initiated the consultation under Paragraph B.1 with the recommendation that the Disciplinary Process should be commenced in respect of the minister, or if there is no appeal against the reference back, the Incapacity Procedure shall stand adjourned pending the outcome of that recommendation and the Secretary of the Review Commission shall send to the minister (i) a notice advising him/her of that fact, (ii) a copy of the notice of the decision and the statement of reasons appended to the decision, (iii) a copy of the Notice to the person who initiated the consultation procedure under Paragraph B.1 (see Paragraph H.17) and (iv) copies of any papers being sent with the last mentioned Notice in accordance with Paragraph H.2 or Paragraph H.11 as the case may be.
- H.15 Once the decision of the Special Appeals Body has been made and the requirements of Paragraph H.11 have been duly complied with, the roles of the Special Appeals Body and of its secretary are concluded and they have no further part to play in the case.
- H.16 The decision of the Special Appeals Body on the matter of the proposed reference back is final and binding.
- H.17 If the decision is to reject the appeal and uphold the reference back, or if there is no appeal against the reference back, the Secretary of the Review Commission shall forthwith send or deliver to the person who initiated the consultation procedure under Paragraph B.1 (i) a written notice setting out the decision of the Review Commission, or in the event of an appeal, the Special Appeals Body, incorporating both the recommendation and a statement of the reasons given for making the recommendation and (ii) such other papers (if any) as are referred to in Paragraph H.2 or Paragraph H.11 as the case may be.
- H.18 That Notice shall state that the proceedings under the Incapacity Procedure shall stand adjourned to await the recipient's response and shall also state the time, which shall be not be longer than twentyone days, within which the recipient must notify the Secretary of the Review Commission in writing whether the recommendation contained in the Notice has been accepted or rejected. The Secretary and Convener of the Review Commission may in exceptional circumstances allow a short extension of this period.

- H.19 The Secretary of the Review Commission shall at the same time send copies of the said Notice (but not the accompanying documentation) to the Moderator of the Synod (in any case where s/he is not already the recipient of the Notice under Paragraph H.17), the Synod Clerk, the General Secretary, the Press Officer, the Secretary for Ministries and the Convener of the PRWC.
- H.20 If written confirmation is received from the recipient of the Notice, countersigned by the Secretary of the Assembly Commission who operates within the Disciplinary Process, that the recommendation contained in the Notice has been accepted and that the Disciplinary Process has been initiated in respect of the minister, the Review Commission shall declare the case within the Incapacity Procedure to be concluded and no further action shall be taken in respect thereof.
- H.21 The Secretary of the Review Commission shall give written notice to this effect to the minister and the persons specified in Paragraph H.19 above, and also the responsible officer of any Outside Organisation to whom notice of the Incapacity Procedure has already been given.
- H.22 If written notification is received from the recipient of the Notice that the aforesaid recommendation has been rejected, the case shall forthwith be resumed within the Incapacity Procedure. The Secretary shall give notice to this effect to the minister and the persons specified in Paragraph H.19.
- H.23 No recommendation for referral to the Disciplinary Process shall be made in any case which enters the Incapacity Procedure as a result of a recommendation from the Disciplinary Process.
- H.24 As to the position regarding the suspension of a minister to whom this Section H applies, see Paragraph E.6.
- H.25 For the avoidance of doubt, decisions taken by the Special Appeals Body under the provisions of this Section H are not subject to the requirement to report to General Assembly contained in Section N.

*For the avoidance of confusion, there is no Section I.*

## **J. Hearings**

- J.1 The Review Commission shall decide when it is appropriate for a Hearing to take place and whom it requires to attend, whereupon the Secretary shall consult with the Convener, the other members of the Review Commission, the minister, the Commission Officer and any other such persons as might be required to attend as to the venue, date and time for the Hearing and, when these are fixed, shall give written notification thereof to all concerned with the request that they confirm their intention

to attend and, in the case of the minister, state whether it is his/her intention to have a person to accompany him/her.

J.2.1 The Hearing shall be conducted in private. The Review Commission shall be in charge of the conduct of the hearing, including the control of all procedural matters, and only the following persons shall be permitted to attend:

- The members of the Review Commission
- The Secretary or a duly appointed Deputy
- The minister
- The minister's representative (see Paragraph A.7)
- The Commission Officer
- Any medical, specialist, expert or other witnesses, but only while giving evidence, unless the Review Commission otherwise directs
- Any persons notified by the Secretary of the Review Commission under Paragraph J.1 that they are required to attend (and see Paragraph J.5)
- Any persons whom the minister intends to call as a witness, the minister having already given prior written notice to the Secretary of the Review Commission of his/her intention so to do (and see Paragraph J.5)
- A representative of the Church's Legal Advisers, if requested to attend by the Review Commission.
- Any person responsible for operating the recording equipment or otherwise preparing a verbatim report of the proceedings referred to in Paragraph J.9.
- Any other persons at the discretion and by the direction of the Review Commission (and see Paragraph J.5)

J.2.2 Subject to ensuring that the rules of natural justice are observed, the Convener shall ensure that the proceedings are as relaxed and informal as possible.

J.2.3 The Convener shall open the proceedings by introducing him/herself and the other members of the Commission and such other persons as may be present. S/he shall also explain their respective roles and the manner in which the Hearing will be conducted. The Review Commission shall have complete discretion as to the manner of conducting the Hearing and may, if considered appropriate, invite the Commission Officer at the outset to present his/her report to the Hearing.

- J.3 If invited to do so by the Review Commission, the Commission Officer will present the information set out in the written dossier and its supporting papers and, if any of the persons referred to in the dossier are present, the Review Commission may invite him or her to provide their information orally. Any such persons will be subject to questioning by the Convener (and by other members of the Commission with the Convener's permission) and by the minister or the minister's representative.
- J.4.1 All persons attending the Hearing in person to provide information may be questioned by the Convener (and by other members of the Review Commission with the Convener's permission). The minister shall be entitled to ask questions of such persons.
- J.4.2 The minister or his/her representative may invite persons attending at his/her request to provide information and may question them, as may the Convener and other members of the Review Commission with the Convener's permission.
- J.5 Unless the Review Commission directs otherwise, persons attending to provide information and/or answer questions shall only be present whilst they are doing so.
- J.6 When the procedures outlined in Paragraphs J.3 and J.4 have been completed, the minister or the minister's representative may if s/he wishes address the Review Commission.
- J.7 In the special circumstances of any case the Convener may, if s/he considers it appropriate and helpful, vary any of the above procedures at his/her discretion.
- J.8 In considering the information before it, the Review Commission shall apply a standard of proof on the balance of probability.
- J.9 The Secretary of the Review Commission shall prepare a summary minute of the proceedings at the Hearing ('the Secretary's Minute'). Where possible, a verbatim record of the proceedings shall also be made by electronic recording, or by such other means as shall be directed by the Convener. The Record of the Hearing shall consist of the Secretary's Minute together with any such verbatim record, which shall be transcribed in the event of an appeal.
- J.10 At the conclusion of the Hearing the members of the Review Commission will wish to deliberate upon their final decision, together with any guidance which they may wish to append to their decision. The Convener will inform those present that the decision will not be made that day but that written notification of the decision will be given within ten days to the minister, the General Secretary, the Synod Moderator, the Synod Clerk, the Press Officer, the Secretary for Ministries, the Convener of the PRWC, the responsible officer of any relevant Outside Organisation (and the General Assembly Representative if s/he issued the Commencement Notice in accordance with Paragraph B.3). The Hearing is thus concluded.

**K. Review Commission's decision and its notification**

- K.1 Following the conclusion of the Hearing, the Review Commission shall, all meeting and deliberating together, but in the absence of the minister and all other persons, consider all the information concerning the minister which has been before them during the case for the purpose of reaching a decision in accordance with Paragraph K.2. In particular they must make a careful and detailed appraisal of all of the following:
- K.1.1 the circumstances which have led up to the commencement of the case as indicated in the Commencement Notice and
  - K.1.2 any expert opinion of a medical, psychological or similar or related nature in respect of the minister which has been sought by the Review Commission or which has in any way been presented to it during the case and
  - K.1.3 information supplied by the minister and others within the Procedure, whether or not on the minister's behalf and
  - K.1.4 reports and other documentation requested by the Review Commission from other persons or bodies within or outside the Church with whom the minister, through the exercise of his/her ministry, might have had a particular involvement, such as ecumenical posts, chaplaincies or positions within public bodies and
  - K.1.5 Any obstruction or unreasonable delay on the minister's part in complying with the procedural steps prior to the Hearing and
  - K.1.6 The failure by the minister to attend at any meeting or at the Hearing and
  - K.1.7 Any obstruction caused by the minister or the minister's representative to the Review Commission in the conduct of any such meeting or the Hearing itself and
  - K.1.8 Any conduct on the part of the minister during his/her Suspension under the Incapacity Procedure which breaches or contravenes either Paragraph 4 of Schedule E to the Basis of Union or the fourth paragraph of Part II of Schedule F to the Basis of Union whichever is relevant and
  - K.1.9 all other factors properly coming within the scope of the review being undertaken by the Review Commission and
  - K.1.10 the weight to be attached to each of the factors in the case as indicated above, bearing in mind the manner in which the information was provided and, where appropriate, whether the minister or his/her representative had the opportunity of challenging or commenting upon it.
- K.2 The purpose of the deliberation referred to in Paragraph K.1 is to enable the Review Commission to reach (either unanimously or by a majority) a decision in accordance with Paragraph LP4 which directs the Review Commission to have full

regard to either Paragraph 2 of Schedule Ethereto or the second paragraph of Part II of Schedule F thereto whichever is relevant, the name of the minister in the particular case should remain upon, or be deleted from, the Roll of Ministers.

- K.3 The Review Commission shall record its decision (the Decision Record) and, in doing so, shall state whether it was reached unanimously or by a majority and shall append a statement of its reasons (the Statement of Reasons) for the decision, but shall not be obliged, unless it wishes to do so, to comment in detail on any of the matters considered by it.
- K.4.1 Subject to any obligations which may arise under Paragraph A.4.2 the decision so taken shall conclude the involvement of the Review Commission in the Procedure subject only to the requirements of A.4.2 except as to the discharge of its responsibilities under Paragraph N.2 and shall have the effect provided for in Paragraph K.4.2 or Paragraph K.4.3, whichever is applicable.
- K.4.2 If the Review Commission/Appeals Review Commission decides to retain the minister's name on the Roll of Ministers, his/her status is unchanged.
- K.4.3 If the Review Commission decides to delete the name of the minister from the Roll of Ministers, no appeal having been lodged by or on behalf of the minister within the period specified in the notification referred to in Paragraph K.8.1, deletion shall take effect on the date of expiry of such period.
- K.5.1 Every decision reached under the Incapacity Procedure (whether or not on appeal) is made in the name of the General Assembly and is final and binding on the minister and on all the Councils of the Church.
- K.5.2 If the decision is to delete the name of the minister from the Roll of Ministers, the Review Commission is particularly requested to include in the Decision Record appropriate guidance concerning any restrictions which it considers ought to be placed upon any activities involving the minister after his/her deletion with the object of assisting moderators of synod, synods, local churches, the General Secretary, the Press Officer, the Secretary for Ministries, the PRWC and others within the Church and also any relevant Outside Organisation. It is emphasised that any such guidance is of an advisory nature and does not form part of the decision, as a consequence of which it cannot form the subject matter of any appeal.
- K.6 Within ten days of the date of the Review Commission's decision the Secretary shall send or deliver to the minister or the minister's representative written notification of the decision and copies of the Decision Record, the Statement of Reasons and any guidance issued with the Decision Record.
- K.7 Where the decision is that the minister's name be retained on the Roll of Ministers, the Secretary shall at the same time send or deliver notice of that fact and of the

consequent termination of the minister's suspension under Paragraph E.5.2 to the General Secretary, the Moderator of the Synod, the Synod Clerk, the General Assembly Representative (but only if s/he issued the Commencement Notice), the Press Officer, the Secretary for Ministries, the Convener of the PRWC and the responsible officer of any relevant Outside Organisation and shall at the same time send to those persons copies of the Decision Record and the Statement of Reasons, stressing to all the recipients the sensitive nature of the information imparted and the need to exercise care and discretion as to how it is used.

- K.8 Where the decision is that the minister's name be deleted from the Roll of Ministers, then:
- K.8.1 The written notification shall draw the minister's attention to his/her right of appeal and specify the precise date by which notice of appeal must be lodged by the minister or his/her representative with the Secretary, being a date not more than twenty eight (28) days from the date of the written notification to the minister.
- K.8.2 The Secretary (see Paragraph L14 as to a Notice of Appeal lodged after the date specified) shall, at the same time as taking the action required under Paragraph K.6, send to the General Secretary, the Moderator of the Synod, the Synod Clerk, the General Assembly Representative (but only if s/he issued the Commencement Notice), the Press Officer, the Secretary of the Ministries Committee and the Convener of the PRWC a Notice to the effect that a decision has been made by the Review Commission that the minister's name be deleted from the Roll of Ministers. Such Notice shall not contain any further information other than that the decision is still subject to appeal and that a further Notice will be sent when it is known whether there is to be an appeal or not. The Notice shall stress to all the recipients the sensitive nature of the information imparted and the need to exercise care and discretion as to how it is used.
- K.8.3 If by the date specified in the written notification to the minister under Paragraph K.8.1 as the final date for the lodging of an appeal no Notice of Appeal has been lodged by the minister or his/her representative, the Secretary of the Review Commission shall send or deliver notice of the minister's deletion and of the consequent termination of the minister's suspension under Paragraph E.5.3 to the General Secretary, the Moderator of the Synod, the Synod Clerk, the General Assembly Representative (but only if s/he issued the Commencement Notice), the Press Officer, the Secretary for Ministries, the Convener of the PRWC and the responsible officer of any relevant Outside Organisation and shall at the same time send to those persons copies of the Decision Record and the Statement of Reasons and any guidance appended to the Decision and sent to the minister in accordance with Paragraph K.6 (as regards any Outside Organisation, only such guidance as it expressly states to be its wish to be passed on to that Outside Organisation), stressing to all the recipients the sensitive nature of the information imparted and the need to exercise care and

discretion as to how it is used. The Review Commission shall thereupon comply with the provisions of paragraph M.7.

- K.8.4 If the minister lodges a Notice of Appeal, the procedure set out in Section L applies.
- K.9.1 In the event of the Review Commission deciding not to delete the minister's name from the Roll of Ministers, the Incapacity procedure case shall be regarded as concluded on the date of the Hearing.
- K.9.2 7 In the event of the Review Commission deciding to delete the minister's name from the Roll of Ministers and there being no appeal against that decision under paragraph L.1.1 within the period allowed under paragraph K.8.1, the incapacity procedure case shall be regarded as concluded on the first day after the expiration of such period.

## **L. Appeals Procedure**

- L.1.1 Should the minister wish to appeal against the decision of the Review Commission to delete his/her name from the Roll of Ministers, s/he or his/her representative must lodge written notice of such Appeal with the Secretary of the Review Commission no later than the date specified in the notification referred to in Paragraph K.8.1 (which shall set out the grounds of the appeal either in detail or in summary form as the minister chooses).
- L.1.2 The Secretary of the Review Commission shall forthwith notify the General Secretary that an Appeal has been lodged, at the same time passing on to the General Secretary the Notice of Appeal together with the body of papers laid before the Review Commission in hearing the case and the Record of the Hearing as defined in Paragraph J.9. The General Secretary shall thereupon act in a secretarial and administrative capacity in all matters relating to the Appeal.
- L.1.3 At the same time the Secretary of the Review Commission shall also notify the Moderator of the Synod, the Synod Clerk, the Press Officer, the Secretary for Ministries, the Convener of the PRWC and the responsible officer of any relevant Outside Organisation (and the General Assembly Representative if s/he issued the Commencement Notice in accordance with Paragraph B.3) that the minister has lodged an Appeal against the decision of the Review Commission. The Notice shall stress to all the recipients the sensitive nature of the information imparted and the need to exercise care and discretion as to how it is used.
- L.1.4 The provisions in this Incapacity Procedure which are applicable to the Review Commission shall also apply to the Appeals Review Commission (with the necessary changes), except for those which by their context are inappropriate for the Appeals Procedure.

- L.1.5 No-one apart from the minister shall have a right of appeal against a decision of the Review Commission.
- L.2 On receipt of a valid Notice of Appeal lodged under Paragraph L.1, the General Secretary shall as soon as possible acknowledge receipt of the Notice of Appeal and send to the minister or the minister's representative a copy of the Record of the Hearing before the Review Commission (see Paragraph J.9).
- L.3.1 The Officers of the General Assembly shall within 14 days of receipt by the General Secretary of the Notice of Appeal under Paragraph L.1.2 (or within such further time as they may reasonably require) appoint the Appeals Review Commission, which shall consist of three persons, in accordance with Paragraphs L.3.2 and L.3.3.
- L.3.2 The three persons to be so appointed shall be (i) a person with some legal, tribunal or other professional experience or other similar background (being a member of the Church but not necessarily a member of General Assembly), who shall normally act as Convener of the Appeals Review Commission, (ii) a former Moderator of the General Assembly and (iii) either a person with general medical experience or one with professional expertise in the condition(s) giving rise to the subject matter of the case (such person not necessarily being a member of the Church).
- L.3.3 In the event that for any reason it is inappropriate for the person in the first category specified in Paragraph L.3.2 to be the Convener of the Appeals review Commission, the convenership shall be assumed by the person in the second category thereof.
- L.3.4 Persons appointed to an Appeals Review Commission are subject to Paragraph D.1.
- L.4.1 The General Secretary shall send or deliver to each of the proposed appointees a written invitation to serve on the Appeals Review Commission for the hearing of the Appeal, naming the minister concerned but supplying no further information about the case.
- L.4.2 The invitation shall draw the attention of each proposed appointee to Paragraph D.1 and shall request confirmation that s/he is willing to accept appointment and that s/he is unaware of any circumstances which in the present case might prevent him/her from serving on the Appeals Review Commission.
- L.4.3 The Invitee shall within seven days of receipt of the invitation to serve notify the General Secretary in writing whether s/he is able and willing to accept appointment and, if so confirming compliance with Paragraph L.4.1.
- L.5.1 The General Secretary shall notify the minister or the minister's representative in writing of the names, addresses and credentials of each proposed appointee, drawing attention to Paragraph D.1 and pointing out that any objection to any of the proposed appointees must be made to the General Secretary in writing within fourteen days, setting out the grounds of such objection.

- L.5.2 To ensure that the appeals process moves along in a timely manner, any such objection received outside the period allowed will not normally be considered unless very good reason can be shown for its late delivery.
- L.5.3 The officers of the General Assembly shall consider every objection properly notified and shall decide whether to uphold or reject it.
- L.5.4 If they reject the objection, the General Secretary shall notify the minister or the minister's representative.
- L.5.5 If they uphold the objection, the General Secretary shall give written notification thereof to the minister or the minister's representative and to the person to whom the objection has been taken and the above procedure shall be repeated as often as is necessary to complete the appointment of the Appeals Review Commission.
- L.6.1 In the event that any member of the Appeals Review Commission shall be unable to carry out his/her duties on that Commission, the remaining members shall continue to act as the Appeals Review Commission, subject to there being a minimum of two members, in which event, but not otherwise, the Convener shall have a casting vote.
- L.6.2 In the event that, for the reasons stated in Paragraph L.6.1 the Appeals Review Commission shall consist of fewer than two members at any time after that Commission has taken any steps in connection with the Appeal, the Appeals Review Commission so appointed shall stand down and be discharged and a new Appeals Review Commission shall be appointed in accordance with the procedure laid down in this Section L to hear the Appeal.
- L.6.3 Once the Appeals Review Commission has been validly constituted and has taken any steps in accordance with this Section L, no person shall be subsequently appointed to serve on that Appeals Review Commission.
- L.7 Each member of the Appeals Review Commission when appointed shall receive from the General Secretary copies of the following:
  - L.7.1 The Decision Record and
  - L.7.2 The Statement of Reasons and
  - L.7.3 Any guidance appended to the decision in accordance with Paragraph K.5.2 and
  - L.7.4 The Notice of Appeal, setting out the grounds of the appeal and
  - L.7.5 The body of papers considered by the Review Commission and
  - L.7.6 The Record of the Hearing.

- L.8 The members of the Appeals Review Commission, when constituted, shall consult together as soon as possible to review the information laid before them and to agree upon the course which their conduct of the appeal shall take, having in mind but not being bound to follow the procedures laid down for the Review Commission in Section F. They may, if the circumstances so require, consider any of the following, particularly if any such issues are raised in the Notice of Appeal:
- L.8.1 Whether there is or may be new information which has come to light and which could not have reasonably been available to the Review Commission before it made its decision under Section K.
- L.8.2 Whether any such new information would in its opinion have been material in that, had it been tested and proved to the satisfaction of the Review Commission, it might have caused it to reach a different decision.
- L.8.3 Whether there may have been some procedural irregularity or breach of the rules of natural justice or serious misunderstanding by the Review Commission of the information before it or of any aspect of the Procedure itself.
- L.9.1 Before reaching its decision on the Appeal, there shall be a Hearing before the Appeals Review Commission which the minister shall normally be expected to attend.
- L.9.2 The General Secretary shall consult with the Convener and the other members of the Appeals Review Commission and, where possible, with the minister or his/her representative as to a suitable venue, date and time for the Hearing and, having so consulted, shall decide thereupon and shall notify all concerned in writing of the arrangements for the Hearing.
- L.9.3 The General Secretary shall (unless excluded for the reasons specified in Paragraph D.1) attend the Hearing for the purpose of giving such procedural advice to the Appeals Review Commission as may be appropriate and of keeping a formal record of the Hearing. S/he shall not be present when the Appeals Review Commission deliberates and decides on the case.
- L.9.4 The General Secretary (or his/her Deputy appointed under Paragraph A.11) shall prepare a summary minute of the proceedings at the Hearing (the Secretary's minute). Where possible, a verbatim record of the proceedings shall also be made by electronic recording or by such other means as shall be directed by the Convener of the Appeals Review Commission. The Record of the Hearing shall consist of the Secretary's minute together with any such verbatim record.
- L.9.5 A representative of the Church's legal advisers may, at the invitation of the Appeals Review Commission, attend the Hearing in order to advise it on matters relating to procedure and any legal issues which may arise relating to the interpretation of the information provided at the Hearing but s/he shall not take any part in the decision

reached by the Appeals Review Commission, nor shall s/he be present when it deliberates and decides upon the case.

- L.9.6 The conduct of the Hearing of the Appeal is in the hands of the Appeals Review Commission whose Convener will at the outset of the Hearing read out the decision of the Review Commission.
- L.9.7.1 If requested to do so by the Appeals Review Commission, the General Secretary shall invite the Commission Officer to attend the Hearing of the Appeal and at some point during the Hearing the Convener may invite the Commission Officer and the minister or his/her representative to address the Appeals Review Commission on the subject matter of the Appeal.
- L.9.7.2 At some point during the Hearing the Convener will invite the minister or his/her representative to address the Appeals Review Commission on the subject matter of the Appeal.
- L.10.1 The members of the Appeals Review Commission shall at the conclusion of the Hearing, all meeting and deliberating together but in the absence of the minister and all other persons consider and arrive at their decision in accordance with Paragraph L.10.2. In so doing they are required to make a careful and detailed appraisal of all the factors set out at Paragraphs K.1 and of all the information, reports, representations and other factors forming the subject matter of the appeal.
- L.10.2 The purpose of their deliberation is to enable them to reach (either unanimously or by a majority vote) a decision in accordance with Paragraph LP.4 which directs the Appeals Commission to have full regard to either Paragraph 2 of Schedule E thereto or the second paragraph of Part II of Schedule F thereto whichever is relevant, the name of the minister in the particular case should remain upon, or be deleted from, the Roll of Ministers.
- L.10.3 There shall be no appeal from the decision of the Appeals Review Commission which is final and binding on the minister and on all the Councils of the Church.
- L.11.1 The Appeals Review Commission shall record its decision (the Decision Record) and, in doing so, shall state whether it was reached unanimously or by a majority and whether its decision upholds or reverses the decision of the Review Commission and shall append a statement of its reasons for the decision (the Statement of Reasons), but shall not be obliged, unless it wishes to do so, to comment in detail on any of the matters considered by it.
- L.11.2 If the decision is to delete the name of the minister from the Roll of Ministers, the Appeals Review Commission is particularly requested to include in the decision Record appropriate guidance concerning any restrictions which it considers ought to be placed on any activities involving the minister after his/her deletion with the object

of assisting Moderators of Synods, local churches, the General Secretary, the Press Officer, the Secretary for Ministries, the PRWC and others within the Church and also to any relevant outside organisation. It is emphasised that any such guidance is of an advisory nature and does not form part of the decision.

- L.11.3 Subject to any obligations which may arise under Paragraph A.4.2 the decision by the Appeals Review Commission so taken shall conclude the involvement of the Appeals Review Commission in the Procedure except as to the discharge of its responsibilities under Paragraphs M.7 and N.2.
- L.11.4 If the decision is that the name of the minister shall be deleted from the Roll of Ministers, such deletion takes effect with immediate effect.
- L.12 Within ten days of the date of the Appeals Review Commission's decision the General Secretary shall:
  - L.12.1 Send or deliver to the minister or his/her representative written notification of the decision and copies of the Decision Record and the Statement of Reasons and any guidance issued with the Decision Record.
  - L.12.2 Send or deliver notice of that fact and of the consequent termination of the minister's suspension under Paragraph E.5.4 to the Secretary of the Review Commission, the Moderator of the Synod, the Synod Clerk, the General Assembly Representative (but only if s/he issued the Commencement Notice), the Press Officer, the Secretary for Ministries, the Convener of the PRWC and the responsible officer of any relevant Outside Organisation and shall at the same time send to those persons copies of the Decision Record and the Statement of Reasons and any guidance appended to the Decision and sent to the minister in accordance with Paragraph L.12.1 (as regards any Outside Organisation, only such guidance as it expressly states to be its wish to be passed on to that Outside Organisation), stressing to all the recipients the sensitive nature of the information imparted and the need to exercise care and discretion as to how it is used.

## **M. Forms, sending/delivery of documents and miscellaneous**

- M.1 Model forms have been prepared to assist those concerned with the Procedure. The forms may be amended from time to time and new forms introduced. Use of the model forms is not compulsory and minor variations in the wording will not invalidate them, but it is strongly recommended that the model forms be used and followed as closely as possible to avoid confusion and to ensure that all relevant information is supplied at the proper time.
- M.2 Any form, letter or other document required to be sent or delivered to a person under the Procedure shall be assumed to have been received by that person if sent or delivered in any of the following ways:

- M.2.1 By delivering the same personally to the person concerned or
- M.2.2 By delivering the same or sending it by first class pre-paid post or by Recorded Delivery post addressed to the last known address of the person concerned in a sealed envelope addressed to that person or
- M.2.3 In such other manner as the Review Commission or the Appeals Review Commission (in the latter case if the sending or delivery relates to the Appeals Procedure) may direct having regard to the circumstances.
- M.3 Any form, letter or document required to be sent or delivered to the Secretary of the Review Commission or on the General Secretary (in the case of an appeal) shall be delivered or sent by first class pre-paid post or by Recorded Delivery post addressed to the Secretary of the Review Commission or the General Secretary as the case may be at the address given in the current issue of the Year Book or subsequently notified or (in the absence of any such address in the Year Book) in an envelope addressed to that person at Church House, 86 Tavistock Place, London WC1H 9RT and marked 'Ministerial Incapacity Process'.
- M.4 All documents required to be sent or delivered shall be placed in a sealed envelope clearly addressed to the addressee and marked 'Private and Confidential'.
- M.5 Where any form, letter or other document is sent by first class pre-paid post, it shall be assumed to have been received by the recipient on the third day after the posting of the same.
- M.6 Deletion as a result of the Incapacity Procedure shall have the effect of terminating any contract, written or oral, between the minister and the United Reformed Church or any constituent part thereof in relation to his/her ministry.
- M.7. Within one month of the conclusion of each case as provided in either paragraph K.8.3 or paragraph L.11.3, the Review Commission or the Appeals Review Commission (as the case may be) shall prepare a written report of its conduct of the case and submit it to the secretary of the Review Commission, who shall, in order to preserve confidentiality, remove from the report the name and address of the minister, the name of the minister's church(es) and any other information which might lead to the identification of any of the individuals involved in the case. The purpose of the report shall be to help those charged with the ongoing review of the operation of the incapacity procedure and thus to ensure that appropriate training and assistance are provided and that the highest standards are maintained.

**N. Report to General Assembly, costs and retention of records and papers**

- N.1 The General Secretary shall report to the General Assembly all decisions reached by the Review Commission and the Appeals Review Commission (other than decisions made by the Special Appeals Body under Section H) in the following manner:
- N.1.1 If a decision of the Review Commission to delete the name of a minister from the Roll of Ministers is subject to appeal, the Report shall simply state that a decision has been reached in a case which is subject to appeal and shall not name the minister.
- N.1.2 If a decision of the Review Commission to delete is not subject to appeal, the Report shall so state. The name of the minister shall not be read out at General Assembly, but shall be recorded in the list of all those no longer on the Roll of Ministers.
- N.1.3 If a report has already been made to the General Assembly under Paragraph N.1.1 and the Appeals Review Commission reverses the decision of the Review Commission and allows the name of the minister to remain on the Roll of Ministers, the General Secretary shall report the decision of the Appeals Review Commission to the next meeting of the General Assembly without naming the minister.
- N.1.4 If the Review Commission decides to retain the name of the minister on the Roll, the report to General Assembly shall simply state that a case under the Incapacity Procedure has been concluded and the name of the minister has been retained on the Roll, but shall not supply the minister's name or any further information.
- N.2 The cost of operating the Incapacity Procedure and the reasonable and proper expenses of persons attending a Hearing and the costs of any reports obtained by or on the authority of the Review Commission or the Appeals Review Commission or any other costs and expenses which the Review Commission or the Appeals Review Commission deem to have been reasonably and properly incurred in the course of the Procedure (but excluding any costs and expenses incurred by the minister in the preparation of his/her case and the cost of any representation at the Hearing) shall be charged to the general funds of the Church, and the Report of each case to the General Assembly shall state the total cost incurred in that case.
- N.3 The Secretary of the Review Commission shall be responsible for the keeping of the record of decisions taken by the Review Commission and by the Appeals Review Commission, and for the custody of all papers relating to concluded cases, which shall be kept in a locked cabinet at Church House.

## Appendix to the incapacity procedure

PRIVATE AND CONFIDENTIAL

Form [...]

**The United Reformed Church**  
**Ministerial Incapacity Procedure**  
(as set out in Section P of the MANUAL)

**Certificate of suitability for entry into the procedure**  
(defined in the Procedure as “the Certificate of Entry”)

re: .....

This Certificate of Entry has been completed by the Convener of the Pastoral Reference and Welfare Committee (PRWC) to fulfil the requirements of Paragraphs B.1.1 and B.2 of the Procedure.

As Convener of the PRWC I hereby certify as follows:

1. Pursuant to Paragraph B.1.1, the Consultation Group (as defined in Paragraph A.1 1 of the Procedure) has carried out its responsibility to consider the question of whether the Incapacity Procedure should be initiated in respect of the above named minister/Church Related Community Worker (CRCW) and has reached the conclusion that it should be so initiated and
2. The PRWC, after having given full consideration to the concerns relating to the above named minister/CRCW as required by Paragraph B.2, has reached the following conclusions:
  - (i) That all reasonable steps to rehabilitate the minister/CRCW have been attempted (B.2.1): and
  - (ii) That the Church's procedures for ill health retirement do not apply and that there is no reasonable prospect of their implementation or of the resignation of the minister (B.2.2): and
  - (iii) That the PRWC has been involved with the minister/CRCW but has now stated that it believes it can do no more for him/her (B.2.3): and

either

- (iv) That no case against the minister/CRCW is already in progress under the Ministerial disciplinary Process:

Or

- (iv) That the minister/CRCW is already involved in a Ministerial Disciplinary case, but the provisions of Paragraph B.6 apply.

*[delete whichever does not apply]*

Dated.....20...

Signed.....Convener of PRWC

or his/her duly appointed deputy (see paragraph B.3.1.2)

***Person responsible for editing document:*** Clerk of General Assembly

***Date of last revision:*** March 2016