The United Reformed Church **Effective from April 2018**

The Ministerial Disciplinary Process (see Section O of the Manual)

GUIDELINES FOR SYNODS

(N.B. The Synod has the responsibility under the Ministerial Disciplinary Process to make appointments to a Joint Panel (A.5) and to a Synod Panel (A.5) (or, if it is a member of a Group of Sharing Synods (A.5), to a Shared Synod Panel (A.5)). These appointments are made before any case arises (see Section 2 and Appendix I). As regards the Shared Synod Panel, see also Paragraph 2.3 and Appendix II.

These Guidelines have been prepared by Mission Council's Ministerial Incapacity and Discipline (MIND) Advisory Group to help you to understand the part which the Synod (as distinct from the bodies representing the Synod within the Process) has to play in the Disciplinary Process. They take into account changes made to the Disciplinary Process up to and including May 2017. This is an advisory document; it does not carry the authority of the General Assembly and, in every respect, it is subject to the Disciplinary Process the text of which always takes precedence over these guidelines. Make sure you have the latest version of the Disciplinary Process by your side when reading this. The Process and these Guidelines can both be found on the Church's website (http://www.urc.org.uk). You will need to include the word "Manual" when accessing any document relating to the Disciplinary Process.

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

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

A flowchart has been prepared which charts the progress of a disciplinary case from start to finish. This can be found on the Church's website www.urc.org.uk.

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

There are several persons and groups who have an involvement in the Disciplinary Process and the MIND Advisory Group has prepared a series of Guidelines to assist all of these. Some relate to the work of the Assembly and Appeals Commissions and do not directly concern you; some are held on the Synod Moderators' secure website. The remainder, consisting of the Guidelines for Synods, Synod Appointees, Mandated Groups, ministers and Local Churches, Notes for a Complainant and the Flowchart appear on the Church's open website and you are asked to keep up to date copies of all of these at your Synod office. This is very important since, when a disciplinary case arises, you will be asked at short notice, probably by your Synod Moderator, to supply copies to the minister concerned in the case, the Synod Appointees (if these are involved), members of the Mandated Group, the secretary(ies), and possibly the interim moderator, of the minister's church(es) and others.

The numbers of the relevant paragraphs of the Disciplinary Process are shown in brackets in the text of these Guidelines.

Throughout the Disciplinary Process many words and phrases are used which have special meanings in the context of the Disciplinary Process. These are all set out in Paragraph A.5 of the Process and you must study that Paragraph and make sure that you understand those meanings.

1. Introduction

1.1 The oversight of ministers is the responsibility of Synods. Therefore the responsibility for identifying the need for disciplinary action will normally fall upon the Synod (under the guidance of the Synod Moderator) (AA.2.1.1 and B.3.1). If disciplinary action is needed, this will be instigated by the Synod Moderator on behalf of the Synod.

1.2 Most of the work of the Synod in relation to ministers is pastoral. However, issues of natural justice and confidentiality arise in the conduct of the Disciplinary Process, and for that reason the Process involves the total separation of disciplinary action from pastoral care. Therefore the disciplinary action is entrusted during the Caution Stage (see Section 4 of these Guidelines) to the "Synod Appointees" (A.5 and AA.1.5) and thereafter to a "Mandated Group" (A.5 and B.1). These act in the name of the Synod (see Sections 5 and 6 of these Guidelines).

1.3 **Confidentiality**. No publicity should be given to any case until the Assembly Commission has reached its decision, other than a simple statement by the Secretary or Convener of the Assembly Commission that a case is proceeding in relation to a particular minister. The Synod Moderator may provide information to the elders/members of the pastorate as the case proceeds but this will be confined to explanations about procedure and s/he will not divulge any information about the substance of the case. Although definitely not to be

encouraged, there may be occasions when the minister him/herself chooses to waive confidentiality and discusses the case with members of the local church.

1.4 **Safeguarding**. In any disciplinary case involving allegations of abusive conduct by the minister, issues centred round the safeguarding of a vulnerable person or persons will arise and the Synod Moderator and, most probably the Mandated Group, will need to consult the Synod Safeguarding Officer. It follows that the Synod should only consider appointing to this position a person of proven skills and experience in what is a delicate and specialised area.

1.5 In any case in which the public media approach members of the Synod for information, they should be referred to the Church's Press Officer (A.11).

2 Synod Panels, Shared Synod Panels and the Joint Panel

2.1 Although as stated earlier the Synod has no direct role to play in the conduct of an individual disciplinary case, it does have distinctive and very important duties to perform in relation to the Panels named in the Heading above. Specifically, it is each Synod's responsibility (i) to maintain its own Panel (the Synod Panel) (unless Paragraph 2.3 applies) and (ii) to appoint two persons onto a Panel made up of representatives from all the Synods (the Joint Panel).

2.2 It is from these two Panels that the persons are chosen to take part in the investigation of each case passing through the Process and, if appropriate, to present the case before an Assembly Commission at a formal Hearing. The important distinction between these two Panels and the mode of appointment of persons from the Panels for participation in cases are explained at Appendix I of these Guidelines.

2.3 A group of three. four, five or six Synods may elect to join together to set up a Shared Synod Panel to which they will all contribute members and which they will service and maintain jointly (B.2.2). The resolution which all the Sharing Synods must pass is set out verbatim in Appendix I of the Process (**Note**: not to be confused with Appendix I of these Guidelines). Synods wishing to set up a Group of Sharing Synods should follow the procedure outlined in Appendix II of these Guidelines.

2.4 The crucial part played by all these Panels in providing people of competence and skill to perform vital roles in the investigation of disciplinary cases cannot be overstressed. So each Synod must be painstaking in making appointments to the Panels and vigilant to ensure that the numbers of panel members are constantly maintained.

3 Before a Case Arises

3.1 It is worth considering how a particular minister might be identified as the subject of possible disciplinary action.

3.2 If the minister's conduct, as alleged or admitted, involves Gross Misconduct (A.5), the Synod Moderator must invoke the Disciplinary Process. The most obvious examples of Gross Misconduct would be any abusive conduct, conduct with a sexual connotation, fraud or any conduct which could amount to a criminal offence.

Occasionally the Moderator might feel that, although the alleged misconduct did not strictly fall within the description of Gross Misconduct, there might be special circumstances which would justify the bypassing of the Caution Stage and the calling in of a Mandated Group. The Process is sufficiently flexible to allow this, but the Moderator will not take this step lightly.

In the circumstances outlined in this Paragraph 3.2, issues relating to suspension are likely to arise. Important changes were made to the Process in May 2017 affecting suspension and you are referred to Paragraph 5.2 for more information on this subject.

3.3 Information as to possible Gross Misconduct might reach the Synod Moderator either from a voluntary confession by a minister or as a result of concerns expressed by the church elders or a complaint from a third party which the Moderator considers to be sufficiently reliable and serious to justify disciplinary investigations through the Disciplinary Process. In such a case, the Synod Moderator call in the Mandated Group thus moving straight to Section B of the Process (B.3.1 and B.7.1) (the Initial Enquiry Stage) – also see Section 5.

3.4 Alternatively where there is no evidence of Gross Misconduct, those responsible for pastoral care within the Synod, working with the Synod Moderator, may nevertheless come to realise, possibly after a period of increasing concern and/or increasing anxiety, that, either due to deliberate intent or a blatant lack of care and concern, the minister is failing to live up to his/her ordination promises and that this in turn is causing significant damage within the minister’s pastorate and/or other areas of his/her ministry. In such circumstances, all involved will need to exercise great sensitivity in addressing the situation.

3.5 Eventually the Synod Moderator may feel that "enough is enough" and that disciplinary action is justified. Although the decision to take this step rests with the Moderator, those responsible for pastoral care within the Synod will also have been working with the Moderator assessing the situation and they will be closely involved in the reaching of that decision. So the Synod Officers need to be aware of the procedure which follows from a decision to initiate the

Disciplinary Process. This is particularly so in a case where Gross Misconduct is not involved. The first step in such a case would be the initiation of the Caution Stage and this is fully described in the next Section of these Guidelines.

3.6 If the Synod Moderator decides to initiate the Caution Stage under Section AA of the Disciplinary Process, the Process commences with the calling in of the Synod Appointees. If the Synod Moderator proceeds straight to the Initial Enquiry Stage, the Disciplinary Process commences with the calling in of the Mandated Group under Section B of the Process.

3.7 The officers and members of the Synod must play no part in any case which is passing through the Disciplinary Process, because the role of the Synod in the Process will be undertaken in its name by the Synod Appointees or the Mandated Group as explained above.

3.8 Those in the Synod charged with pastoral responsibilities must arrange (in consultation with the Synod Moderator) for appropriate pastoral care to be provided for the minister, his/her family, his/her pastorate and other affected churches.

3.9 This pastoral responsibility also exists in cases where the Disciplinary Process has been initiated not by the Synod but in the name of the General Assembly.

3.10 All involved, either directly or indirectly, in a consideration as to whether the Process should be initiated in the case of a particular minister must realise that this has the potential to lead to the removal of that minister's name from the Roll. Since his/her ministerial status is at stake and in the case of stipendiary ministers his/her livelihood and pension rights are also at stake (and in many cases the accommodation of the minister and his/her family), normally the Process should not be invoked until all other means of resolving the issue have been exhausted. The exception to this will be when the allegations against the minister are of such a serious nature that the Synod Moderator in consultation with the Synod Officers (unless the situation is so extreme that an immediate decision is necessary) deems it necessary to begin the Process immediately.

4 The Caution Stage

4.1 The Caution Stage has been introduced into the Disciplinary Process to provide a way of dealing with those cases falling short of Gross Misconduct, where the disciplinary issues consist of such matters as lack of pastoral care, laziness, slipshod or superficial preparation for worship, failure to participate in the life of the Church, stubbornness and intransigence in the face of attempts to guide and counsel, etc. etc. the list goes on.

4.2 Such behaviour, whilst not amounting to Gross Misconduct, may nevertheless damage the Church's unity, purity, peace and well-being. If, despite the best efforts of those with ministerial oversight, the problems persist and can be attributed to a blatant disregard or refusal or unwillingness to change, this could amount to a breach of ministerial discipline, albeit one which would have occurred over a period of time and, quite likely, be based on a number of related factors building up cumulatively.

4.3 The persons having the major role during the Caution Stage are known as Synod Appointees (see Appendix I of these Guidelines as to how these persons are chosen). In cases falling under this heading the Synod Moderator will begin the Caution Stage by appointing one person from the Joint Panel and one person from the Synod Panel to act together as the Synod Appointees. (A.5 and AA.1.5.2). This process is known as "calling in the Synod Appointees". Their task, which is set out in detail at Section AA of the Disciplinary Process is to carry out an investigation and, if necessary, to issue Cautions (see next Paragraph). This will carry a heavy responsibility and the Joint Panel member will take the leading role.

4.4 During their investigation the role of the Synod Appointees is to address with the minister (hopefully with his/her co-operation) the shortcomings which have been identified and to develop proposals to enable these to be overcome (AA.4.1, AA.4.4 and AA.4.5). This is to be regarded as a constructive piece of work designed to help the minister, but as it is part of the Disciplinary Process the Synod Appointees are given the power to back up their proposals by issuing a series of Cautions (Initial and Final). Their purpose is to warn the minister that, unless the Cautions are heeded and the expected improvements are made, the minister is putting his/her ministerial status at risk as the Synod Appointees will almost certainly recommend that the Process moves forward, leading to a final hearing before an Assembly Commission.

4.5 Some of you may have shared with the Synod Moderator in the discussions about the minister leading up to the Moderator's decision to begin the Caution Stage and so it is likely that the Synod Appointees will wish to talk to you as part of their investigation (AA.4.2). If so, your role is purely and simply to supply the relevant information, and it would not be proper for you to go beyond that and attempt to influence the course of the investigation.

4.6 The Caution Stage will be concluded when the Synod Appointees either:

(i) report that in their view no further action is necessary (AA.5.1, AA.6.4.1 and AA.7.4.1) or
(ii) recommend that the case should go forward to the next stage of the Disciplinary Process (AA.5.3.1, AA.6.4.3.1 and AA.7.4.2)

If they issue a recommendation under (ii) above, the Synod Appointees will

also provide a report explaining their reasons and attaching copies of all relevant statements and papers (AA.9.1/2). The Synod Moderator will pay careful attention to the reasons why the Synod Appointees decided to make the recommendation, but, at the end of the day, the decision as to whether or not to act upon it rests entirely with the Moderator. It is likely that s/he will wish to discuss the recommendation with you to assist him/her in coming to a decision as to whether or not to discontinue the Disciplinary Process or to move it on to the next stage, which would be the Mandated Group's Initial Enquiry Stage.

5. The Initial Enquiry Stage

5.1 The Synod will be represented by the Mandated Group in the Initial Enquiry Stage and for the remainder of the case. Appendix 1 explains how this Group is constituted.

5.2 **The suspension of the minister**. In May 2017 a more flexible suspension procedure was brought in. In accordance with that procedure, your attention is drawn to the following changes:

5.2.1 When the Synod Moderator calls in the Mandated Group to begin the Initial Enquiry, s/he has to consider whether it would be appropriate to suspend the minister. This would not normally be done unless there were allegations (or admissions by the minister) of Gross Misconduct or at least misconduct which the Moderator regarded as sufficiently serious to justify suspension. The most obvious examples of Gross Misconduct would be any abusive conduct, conduct with a sexual connotation, fraud or any conduct which would amount to a criminal offence.

5.2.2 In deciding whether to suspend or not, the Moderator must carefully consider all the relevant circumstances, including the nature and seriousness of the alleged misconduct, the risks and pressures to which vulnerable persons or potential witnesses might be exposed, the length of time which has elapsed since the alleged misconduct took place and the conduct of the minister during that time. The key word in all this is “flexibility”.

5.2.3 So now, even if the minister is not suspended at the outset, s/he can be suspended at any time throughout the progress of the case should circumstances warrant this. The reverse is also true, namely that an existing suspension can be reconsidered and removed if this would be appropriate. The Synod Moderator is responsible for issues relating to suspension up to the time when an Assembly Commission is appointed and, from then, this responsibility passes to the Assembly Commission.

5.2.4 At whatever stage in the Process suspension occurs, it is very important that the minister and all who have dealings with the minister (for example, the pastorate, the other pastorates in the area, churches of other denominations, any Outside Organisations (A.5) with which the minister works) understand the implications of suspension (B.9.2 and Basis of Union, Schedule E, Para. 4 (in the case of ministers) and Schedule F, Part II, Para.4 (in the case of CRCWs)). In particular, it should be understood that suspension does not carry any implication of censure. In this context "Outside Organisation" means: "any body or organisation outside the Church by which the minister is employed or with which the minister holds any position or post or has any involvement, paid or unpaid, where such body or organisation would have a reasonable and proper expectation of being made aware of the particular step(s) being taken". This will be an organisation with which the minister has a relationship, perhaps directly through the work of his/her church or because s/he is, for example, chaplain to a hospital, school or prison or is involved with any of the uniformed organisations such as Scouts or Guides.

5.3 At the conclusion of its Initial Enquiry, the Mandated Group may decide that there is no case to answer in which case it issues a Notice of Non-Continuance (A.5 and B.8.2). There is no appeal against such a decision by the Mandated Group.

5.4 In a case which had not already passed through the Caution Stage, the Mandated Group could recommend that the Moderator refers the case back into the Caution Stage, and the Moderator could accept or reject that recommendation. You are referred to Paragraph B.8.4 of the Process should this situation arise.

5.5 If, following its Initial Enquiry, the Mandated Group considers that there is a sufficient case to go forward for further investigation, the Group will issue a referral notice to take the case into the Commission Stage of the Process.

6 The Commission Stage

6.1 Once a minister's name has been referred into the Commission Stage (A.5), it is not possible to withdraw the referral.

6.2 During the Commission Stage the Mandated Group investigates the matter in more detail than would have been possible during its initial enquiry and prepares to take the case to the Hearing before the Assembly Commission. Ultimately, the Hearing date is arranged and the spokesperson for the Mandated Group conducts the case before the Assembly Commission.

6.3 The case must proceed to a Hearing before an Assembly Commission, unless Paragraph E.9.2 applies. This Paragraph gives the Assembly Commission the

discretion to dispense with a formal Hearing if the Mandated Group informs the Commission beforehand that, as a result of its investigation, it does not consider that it has a case – or at least a sufficiently strong case to satisfy the required standard of proof – against the minister.

6.4 Following the Hearing, you will be advised of the decision in accordance with Paragraph F.6.3 or (in the event of an appeal) Paragraph G.14.5. Should the Assembly Commission (or the Appeals Commission if the case goes to Appeal) decide to retain the minister's name on the Roll of Ministers but should it, as part of its decision, issue a written warning as to the minister's future ministry, you must pay careful attention to the wording of that warning. This is especially important if the Written Warning is accompanied by a Direction from the Assembly Commission since this will specify the steps which the Synod will need to take to help to ensure that the minister complies with the terms of the Written Warning. You will need to set up a monitoring process to ensure that the disciplinary matters specified in the warning and the Direction (if one was issued) are addressed by the minister. Should the minister move to another Synod, you must pass on to the officers of that Synod a copy of the warning and any Direction issued with it and full details of the steps so far taken by you under the monitoring process (F.2.2, F.3.2 and G.13.2).

6.5 Should the Assembly Commission (or the Appeals Commission if the case goes to Appeal) decide to remove the name of the minister from the Roll, it is particularly requested to include guidance concerning any restrictions which ought to be placed on any activities involving the minister after his/her removal from the Roll. It is important that, should this be the case, this guidance about restrictions should be passed on to those who need to know. If the Commission has issued such guidance, you must ensure that it is duly followed, keeping careful records of precisely what steps have been taken in this connection. If the minister (now, of course, the former minister) transfers his/her church membership to a local church in another synod or is in any other way connected with any such local church, you must pass the records on to the officers of the minister's new Synod (F.2.3, F.6.4, G.13.4, G.14.5 and G.14.6).

APPENDIX I – See Section 2 and Paras 4.3 and 5.1 of these Guidelines

This is a brief explanation of the methods of appointment to the Synod Panel and the Joint Panel and the procedure for appointing persons from those panels to be either Synod Appointees or members of Mandated Groups in actual cases.

In inviting people to allow their names to go forward for either Panel, Synods must explain carefully to them the crucial role which those serving as Synod Appointees or on Mandated Groups will play in the Disciplinary Process and the pressures which they will undoubtedly have to face. This point is emphasised because in the past some members of Mandated Groups have commented at training events that they did not

feel they had been properly informed at the outset as to exactly what was involved.

In appointing the Joint Panel member, the Synod needs to bear in mind that, if called upon, s/he may be expected to serve on a Mandated Group in a case arising outside that Synod.

A. The Synod Panel

Except where a Group of Synods together establish a Shared Synod Panel as explained in Paragraph 2.3 of these Guidelines, each Synod must maintain a panel **(the Synod Panel**) of people available to take part in disciplinary cases instigated by the Moderator of that Synod (B.2.1.1). Each Synod Panel is separate and distinct from the panels of the other Synods. Synods are free to appoint not more than 25% of their Panel from members of churches in other Synods (B.2.1.2).

The Synod Panel serves two purposes. In a case going through the Caution Stage, the Synod Moderator will choose one of the Synod Panel members to act as one of the Synod Appointees (AA.1.5). In every case, the Synod Moderator will appoint two members of the Synod Panel onto the Mandated Group (B.3.1). The method of selecting a member from a Shared Synod Panel for appointment as a Synod Appointee or as a member of a Mandated Group is explained in Paragraph B.2.2.4 of the Process.

B. The Joint Panel

Each Synod is expected to appoint two persons onto a Joint Panel formed from all the Synods (A.5 and B.2.2). Ideally this panel will consist of 26 members (2 per synod). The list of persons on this panel is held by the Synod Moderators. As with the Synod Panel, the Joint Panel serves two purposes. In a case going through the Caution Stage, the Synod Moderator will choose one Joint Panel member to act as one of the Synod Appointees. In every case, the Synod Moderator will appoint one Joint Panel member onto the Mandated Group (B.3.1). A person who has served as one of the Synod Appointees in any case cannot be a member of a Mandated Group in the same case (B.2.1).

There are two types of panel, the Synod Panel/Shared Synod Panel on the one hand and the Joint Panel on the other hand, because in the light of experience the MIND Advisory Group realised that there needs to be one person trained to play the leading role and it was precisely for this purpose that the Joint Panel was established. Paragraph B.2.3 of the Disciplinary Process states that the persons appointed to the Joint Panel shall be “selected preferably on account of some legal, tribunal or professional experience or other similar background". The members of the Joint Panel receive regular training planned by the Advisory Group and are well suited to play the leading role, whether as one of the Synod Appointees or as a member of the Mandated

Group.

APPENDIX II – Procedure for Synods wishing to set up a Shared Synod Panel

1. The Synods (no fewer than three nor more than six) wishing to participate will have informal discussions and agree in principle to set up a Shared Synod Panel.

2. Each of the Synods will bring forward to a plenary session of its Synod a resolution in the form of Appendix 1 of the Disciplinary Process

3. If the number of Synods passing the required resolution is fewer than three, the procedure is aborted.

4. So long as enough Synods pass their resolutions, they will need to have further discussions as to the appointment of persons onto the Shared Synod Panel and as to the date when the Shared Synod Panel shall come into existence ("the formation date"), allowing enough time to have completed the appointments prior to that date. To avoid confusion, all the Sharing Synods should agree and publish a joint declaration as to the formation date.

5. The individual Synods must maintain their separate panels right up to the formation date, but these panels will cease to exist immediately thereafter.

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