

The United Reformed Church
Executive Summary
Interim Report 2
July 2024
[Revised Following Consultation on 12 August]

ED MORGAN KC
PHD JCD FCIARB FRSA
OuterTemple
Chambers

Executive Summary

1. This Review has involved a comparative analysis of the present procedural arrangements detailed in Section O (and accompanying appendices). For this purpose, each of the procedural stages has been examined and considered alongside six other comparator regimes. In each of those regimes, the registrant occupies a position of trust and, in the normal course of their operational duties, is permitted to work with a degree of autonomy and professional accountability. Whilst many will be employed by third parties (i.e. not their professional regulator) others are—in various ways—permitted or licensed to exercise their professional skills within atypical relationships which defy legal classification. This is particularly so of those comparators who participate within the life of a faith community or religious denomination.
2. Whilst there are differences between the comparators which have been selected, there are significant commonalities. In the view of the author, these provide a legitimate basis for reliable comparison and assessment. To paraphrase the language to be found in primary legislation, the reader may be satisfied that the comparators do not—for present purposes—occupy materially different circumstances.
3. It is with this in mind that a number of Recommendations are made. It should be emphasised that these are and remain recommendations. They are advanced in order that the present procedural scheme may be clarified without undermining either its character or provenance. The Church's disciplinary procedure is an expression of its witness. It attests to a commitment that the people of God should be governed, regulated, and held accountable in a manner which reflects not only its polity, but—as might be termed elsewhere—its ecclesiology or self-understanding.
4. A core element of this witness is a recognition that Church procedures should be at the service of justice. This is nothing more than rendering to others that which is due to them. In the words of Aquinas, laws (procedural or otherwise) ought to represent the ordinance of reason, directed for the common good.

5. The common good depends upon vigilance and an institutional resolve to do what is right, to protect all within the Church, but most especially, those who are for whatever reason ill-equipped to protect themselves. The realisation of this ambition is a continuing work. It is the hallmark of effective and authentic witness. Contrary to views expressed in some quarters external to The Church, the exercise of a review is not symptomatic of deficiency. It is the outworking of an institutional commitment to optimise resources at the service of The Church. In the words of the psalmist: “that the next generation might know that such is our God.” (ps.78)
6. The following are offered as recommendations for the enhancement of existing procedures. The rationale for each is to be found in the corresponding section of this Interim Report.

| Recommendation No | Subject | Para No. | Recommendation |
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| 1 | Standards of Behaviour | 118 | Reconsideration to the formulation of those matters which are considered have the potential to require or trigger regulatory response. Such an exercise is less directed to the tabulation of ‘index offences’ than the presentation of those recognised as being essential to effective and safe ministry or deployment within The Church |
| 2 | Duty of Cooperation | 156 | Consideration should be given the adoption of both a duty of disclosure on the one hand, and a duty of co-operation on the other. |
| 3 | Meaning of Complaint | 192 | Procedural rules and related guidance are amended to clearly communicate the need for an allegation of substance. It is also recommended that the present mandatory reference to Safeguarding is removed beyond the initial classification prior to the Moderator referral to the ASP. |
| 4 | Jurisdiction | 231 | Consideration should be given to the formulation of express provisions dealing with the jurisdictional reach of the ASP, Commission etc, including the identification of those matters in respect of which The Church is unable to exercise regulatory oversight. |

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| 5 | Limitation Period | 252 | The existing regime (and participant confidence within it) would likely be significantly enhanced if provision was made for a limitation period, with appropriate carve out for specific cases. |
| 6 | Preliminary Investigation | 312 | <p>Consideration is given to the following matters to enhance / clarify the existing regime:</p> <ul style="list-style-type: none"> • At the stage of initial investigation, the person implicated should be described in more neutral terms (e.g. Minister or Respondent). The vocabulary of accusation should be removed; • The status of the Moderator should be clarified and refined. Given the ecclesial relationship which justifies the Moderator’s involvement, the potential for compromise and/or conflict and issues of partiality, need to be addressed; • Suspension should be imposed for defined periods and/or subject to periodic review. This should include application for review by the person implicated; • An obligation upon the Investigation Team to provide periodic updates concerning the progress of the Investigation in order that a review of Interim Measures (see below) may be undertaken and/or the transmission of additional information to the person implicated; • A power of the ASP to intervene in the event of excessive delays or an ability to progress matters to a conclusion; • Clarification concerning when, how and by whom, the competence of the ASP is to be exercised relative to the decision to suspend; • Separation and clarification of the roles of the ASP and Investigation Team concerning interim decision making; |

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| | | | <ul style="list-style-type: none"> • The separation of the investigatory function of the Investigation Team and the decision-making process concerning the regulatory process (i.e. proceed or dismiss); • Reconsideration of the role and competence of the ASP within the initial investigatory process; • The conferral of an express power to the ASP to instruct the Investigation Team to pursue additional lines of inquiry in response to matter raised by the person implicated or the ASP itself; • The clarification of the powers enjoyed by the ASP under the Framework [5.3 (ii)] for the ASP to declare the process as at an end and the eventualities prompting exercise of this discretion and the matters intended to inform it; • The restriction of safeguarding input to those cases properly classified as raising a safeguarding concern and provision for the person implicated to be given the substance of that advice and ability to make representations upon it; • Provision for a case to be re-opened or reviewed in the light of additional evidence or other matters of significance; and • The recital of the measures to be adopted to aid the return to ministry in the event of the allegation being dismissed and/or assessed as undeserving of further response. |
| 7 | Interim Measures | 335 | <ul style="list-style-type: none"> • An interim orders panel (drawn from the same cohort as other decision makers within the regulatory process) should be established; • It should be a matter for the interim panel to determine the interim measures if any, in a given case; |

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| | | <p>336</p> <p>337</p> | <ul style="list-style-type: none"> • Rules should be adopted which confirm that the Interim Measures do not involve any predetermination or finding of fact, but are instead made for the one of the identified regulatory purposes; • Interim Measures orders should be of limited duration and—where imposed—subjected to periodic review; • Consideration should be given to providing a long-stop date beyond which interim measures cannot be continued; • Provision should be made within the Rules for the continuation of interim measures at the time of the final hearing (see below) and/or in relation to the period between a determination of findings of fact and the imposition of any sanction; • Guidance should be issued concerning the manner in which decisions re interim measures should be made, the criteria to be adopted and the alternatives available to interim measures panel; • Training should be given to those discharging the role of membership of an interim measures panel member. This may be achieved by way of induction; • Decisions upon interim measures should —save in the case of extreme urgency or other truly exceptional circumstances— be made at a hearing at which the ASP and the person implicated are represented. Similarly, where Interim Measures have been imposed by reason of exceptional circumstances, it should be the subject of a hearing for review of that decision within 7 days. <p>The ASPD to enjoy jurisdiction of all interlocutory matters, including the imposition of interim measures.</p> |
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| | | | <p>The rules should provide that in the context of an interim measures hearing, there shall be no burden or standard of proof operating on either the ASP or the person implicated. Instead, the hearing is to be detailed as an occasion for the panel to consider the exercise of its own discretion upon the information available.</p> |
| 8 | Formulation of Charges | 387 | <ul style="list-style-type: none"> • The Investigation Team’s function should be reduced to the reporting upon evidence. Any preliminary conclusions based upon such material should be a matter for the ASP; • The decision of referral to a regulatory panel (in this case the Assembly Commission) should be within the exclusive competence of the ASP; • Referral should be made by means of a schedule of charges or notice of allegations; • The Schedule of Charges should be the subject of notice to (and potential response from) the person implicated prior to the referral to the Assembly Commission; • Once the charges have been formulated, they should be referred to the Assembly Commission after necessary case management decisions (i.e. the interlocutory stages) have been undertaken by the ASP; • Any application for amendment of charges ought to be made to the Assembly Commission at or before the final hearing; • Guidance and additional training will be required for those who participate in these processes; and • The final formulation of charges/allegations should be undertaken by an independent person retained to represent the ASP at the final hearing. |

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| 9 | Discontinuance | 417 | <ul style="list-style-type: none"> • The expansion of the grounds upon which withdrawal and/or discontinuance might be proposed; • The delegation of such a decision to the presenting officer or ASP and its withdrawal from the Assembly Commission save in limited circumstances; • The ability of the person implicated to make representations concerning the withdrawal of allegations and/or cessation of proceedings; • The Assembly Commission's role to be limited to the final hearing and the withdrawal/amendment of allegations at that time; and • The removal of the requirement to seek safeguarding advice at this stage of the process. |
| 10 | Substantive Hearing | 463 | <p>The promulgation of Rules to address the following:</p> <ul style="list-style-type: none"> • A reference to the presumption of innocence; • The granting of powers for the Assembly Commission to proceed in the absence of the person implicated; • The reception of evidence and its admissibility; • Submissions of no-case to answer; • The power of the Assembly Commission to refer the case for consideration under a different policy and/or commission independent medical or other evidence to assist in their understanding of the issues in the given case; • The recording of the proceedings; • Express disclosure obligations upon the Investigation Team; • Rights of representation for the presenting officer and/or the person implicated; • The provision of legal advice via an assessor and/or |

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| | | | <p>appointment of a legally qualified chair;</p> <ul style="list-style-type: none"> • The deliberative voting (if any) of the Assembly Commission; • The powers of the Assembly Commission in a case where the allegations are upheld; and • The right of appeal (i.e. all parties and/or person implicated alone). |
| 11 | Procedural Personnel | 479 480 | <p>Consideration should be given to the promulgation of rules of procedure which separate the functions of the participations by reference to three discrete phases of the regulatory process: (i) notification and investigation; (ii) interlocutory management (including interim measures); and (iii) final determination and beyond.</p> <p>The contraction of the Investigation Team role, the expansion of the ASP management of proceedings and, at the determination stage, the involvement of a presenting officer and either a legally qualified chair of the Tribunal or the appointment of a legal assessor</p> |
| 12 | Determination | 507 | <p>Clarification of a number of matters relative to the terms of the Assembly’s determination. These include issues around immediate orders, the impact of any right of appeal, third party interests, circulation and wider regulatory purposes. The following being deserving of close consideration:</p> <ul style="list-style-type: none"> • Whether the Assembly decision is to take immediate effect in relation to both determination and sanction; • The anonymisation or redaction of any aspect of the determination for the purposes of third-party protection; • The powers (if any) of the Assembly Commission to impose interim measures pending determination of any appeal; • The removal or cessation of previously imposed interim measures; |

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| | | | <ul style="list-style-type: none"> • Whether the views of any other person are to be sought on the issue of sanction and, if so, who; and • The sharing or publication of the determination to other church personnel having an ongoing regulatory responsibility. |
| 13 | Sanction | 532 | Detailed sanctions guidance is issued for the benefit of participants and stakeholders. Such guidance would serve the additional purpose of a training aid for those who are required to make decisions. |
| 14 | Right of Appeal | 559 | <p>New Rules of Procedure to make provision for:</p> <ul style="list-style-type: none"> • Clarifying the grounds of appeal; • Insofar as a prosecutorial right of appeal is to be retained, restricting such right to matters of proportionality as to sanction; • Making provision for the imposition of interim measures pending determination of any appeal; and • Defining the powers of the appeal panel. |
| 15 | Role of Safeguarding | 570 | A clear distinction should be drawn between those cases which are within the remit of safeguarding and those which are not. Similarly, insofar as the regulatory process is intended to draw upon safeguarding information or evidence, it should be presented and adduced as with any other forms of evidence; with the result that the person implicated is able to have sight of the material, any recommendations and the reasons for them, and afforded an opportunity to respond to them. |
| 16 | Consequences of Decision | 574 | <p>Rules of procedure should expressly provide for operational consequences of the determination, including the following:</p> <ul style="list-style-type: none"> • The sharing of information with third parties and agencies; |

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| | | | <ul style="list-style-type: none"> • The issue of statements of restoration where the allegations have not been upheld; • Reference to the potential reporting of matters to the DBS; and • Ongoing support for those affected. |
| 17 | Parallel Proceedings | 579 | In the interests of transparency, the interrelationship of internal processes with parallel proceedings (and the findings which they generate) should be addressed by revised procedural rules |

Ed Morgan KC

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