

# Paper R1

## Amendments to Section O

### Complaints and Discipline Advisory Group

#### Basic information

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<b>Action required</b>	Adoption of resolution.
<b>Draft resolution(s)</b>	<b>Assembly Executive amends the Manual's Section O framework and appendices as outlined in this paper.</b>

#### Summary of content

<b>Subject and aim(s)</b>	To amend the discipline process in various ways to bring it further into line with best practice.
<b>Main points</b>	<p>As outlined in paper A3, the Complaints and Discipline Advisory Group (CDAG) commissioned Dr Ed Morgan KC to review our discipline system in the light of processes from other churches and regulatory bodies. These included the Church of England, the Catholic Church, the General Medical Council, the Bar Standards Council, the Nursing and Midwifery Council and the Care Quality Commission. Dr Morgan's report was summarised and all those involved in the disciplinary process were invited to comment upon it. In paper A3 the Business Committee asks Assembly Executive to accept Dr Morgan's report as the basis for an enhanced ministerial discipline process and to continue work on this. In the meantime, CDAG felt it appropriate to bring some immediate amendments which are fairly simple enhancements building on Dr Morgan's work and on the feedback we have received through the consultation process.</p> <p>These suggested amendments: give the URC the ability to act if the 'home denomination' of a minister serving with us does not attend to a discipline case appropriately, clarify that Moderator's recorded warnings are not part of the discipline process but that records of them should be kept on the minister's file, write in the new post of Secretary to the ASPD created by the Business Committee and which reflects the fact the Assembly and Appeal Commissions have Secretaries, clarify, at the investigation stage, the ASPD and Investigation Team responsibilities – especially regarding cautions, make explicit the requirement for the ASPD to draft formal allegations if a matter proceeds to the hearing stage, clarify what needs to be in a Commission's written decision, suggest the removal of a confusing paragraph in the Framework</p>

about suspension, make clearer the time allowed to make and appeal and rename MIND to CDAG.

## **1. Appendix B, Ministers under other denominational jurisdictions**

The suggested changes here make clear that our process will start in the same way as for a URC minister and, if the home denomination is not able or willing to act or does not address concerns appropriately, to continue through the Investigation Stage. We provide the same considerations for suspension from ministry as URC ministers, and clarify that in cases involving safeguarding or potentially criminal concerns we will inform the necessary authorities; we will monitor any case in the minister's home denomination. Ultimately in the face of inaction by the home denomination, the URC Ministries Committee could act.

## **2. Appendix D, Moderator's Recorded Warnings**

Here we ask for clarity that a Moderator's Recorded Warning is not in itself a disciplinary step, and simplify the language. We ask that the 'recorded locally' provision is removed as such matters should be placed on minister's files not kept in Synod local records.

## **3. Appendix H The Assembly Representative for Discipline and the Assembly Standing Panel for Discipline**

In this, we write up the decision of the Business Committee to add a Secretary to the Assembly Standing Panel for Discipline to assist the ASPD in its work. This role is similar to the Secretary of the Assembly Commission and the Disciplinary Appeal Commission. A further paragraph is added noting the Secretary is to minute meetings of the ASPD and record its decisions.

## **4. Appendix K Investigation Team and the Disciplinary Investigation Panel**

The substance of the suggested changes is to clarify the process, the role of the ASPD and to allow other expert investigation, eg safeguarding not just HR specialists.

## **5. Appendix L The Investigation Stage**

Now we are using professional investigators the requirement to have two additional people appointed from the IT panel is no longer necessary and so we suggest its removal. We suggest simplifying the language about when criminal or statutory investigations take place, and we suggest the removal of the responsibility on the IT to negotiate the terms of an Agreed Caution believing this is the responsibility of the ASPD.

## **6. Appendix M Cautions**

Here we again suggest citing the negotiation of an Agreed Caution with the ASPD who might be informed regarding the possible terms of such a Caution by the Investigation Team.

	<p><b>7. Appendix N Assembly Commissions for Discipline and the Commission Panel</b>          We suggest that the ASPD refer ‘formal allegations’ on to the Hearing Stage. These will be drafted by the ASPD and will indicate which expectation may have been breached and include the evidence that has been offered. This removes any possible doubt a minister may have about the allegation to be answered.</p> <p><b>8. Appendix T Written Reasons for a Commission Decision</b>          We suggest changes which serve to strengthen the written statement required when a Commission reaches its decision.</p> <p><b>In the Framework:</b>          Section 3.4: we suggest the removal of the paragraph which suggests the ASPD may need to meet the minister before imposing a suspension. The current drafting is confusing. The ASPD should consider the facts before it. The ability to impose a partial suspension is now clearer. Ministers are contacted when suspended and may make representations to the ASPD regarding the suspension at any point during the Investigation Stage.</p> <p>Section 5: Here we suggest removing the responsibility of the Investigation Team to comment on the seriousness of the concerns believing this assessment should lie with the ASPD and we suggest clarification of some language. We suggest making it clearer, and simpler what we ask the Investigation Team to do and separate out what the Investigation Team and Assembly Standing Panel for Discipline do. We suggest making clearer that an Agreed Caution lies with the Assembly Commission for Discipline and does not need the Investigation Team to recommend it although it can express a view about it and its terms.</p> <p>Section 6.1: We suggest clarifying that the Assembly Commission for Discipline acts in the name of General Assembly.</p> <p>Section 7.1: We suggest clarification of the wording so that the time limit for submitting appeal grounds is clearer. Currently it suggests two different ways of calculating it.</p> <p>Section 8.8: We include the post of Secretary to the Assembly Standing Panel for Discipline in line with the decision of the Business Committee to create this post.</p> <p>Finally, in Section 8.10 we change the name of the Ministerial Incapacity and Discipline Advisory Group to the Complaints and Discipline Advisory Group.</p>
<p><b>Previous relevant documents</b></p>	<p>Section O.</p>
<p><b>Consultation has taken place with...</b></p>	<p>All those involved in the Discipline Process – Assembly Standing Panel for Discipline, the Investigation Team, the Assembly</p>

	Commission for Discipline, the Disciplinary Appeal Commission and the Synod Moderators.
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## Summary of impact

<b>Financial</b>	None.
<b>External (eg ecumenical)</b>	None.

## Appendix B Ministers under other denominational jurisdictions

1. If a person ordained outside the United Reformed Church to a role equivalent to that of a minister of Word and Sacrament, or admitted or commissioned to a role equivalent to that of a Church Related Community Worker, serves in a local ecumenical partnership to which the United Reformed Church is party or is inducted to any ministry within the United Reformed Church or recognised as eligible for call to such a ministry, then the conduct of such a person is a legitimate concern of the United Reformed Church. However, if that person, rather than transferring to the Roll of Ministers of the URC, remains a minister of the denomination in which he or she was ordained, admitted or commissioned, then disciplinary jurisdiction belongs to that denomination ('the home denomination').
2. Allegations against such a person which would, in the case of a minister of the United Reformed Church, lead to the calling together of the Assembly Standing Panel for Discipline ~~may~~ **must** be reported to the Moderator of the Synod of the province or nation where the person serves. The Moderator is to transmit that report to the officer of the home denomination competent to initiate proceedings under that denomination's disciplinary procedure **and at the same time to inform the Assembly Representative for Discipline who shall appoint an Assembly Standing Panel for Discipline.** The Moderator may ~~recommend to that officer that the person concerned should be suspended~~ **the minister** from ministry pending investigation of the allegations by their denomination **and if not already suspended the Assembly Representative for Discipline ASPD shall consider suspension from the minister's role.**
3. If, after receiving safeguarding advice, the Moderator is aware that the allegations raise safeguarding **or criminal** concerns, this must be communicated to the competent officer of the minister's home denomination. ~~It must be agreed whether the Moderator, officer of the home denomination, or both,~~ **The Assembly Standing Panel for Discipline will also** report the matter to the Local Authority Designated Officer or other public authority.
4. **On receiving confirmation from the competent officer that the minister's denomination has initiated its disciplinary process the ASPD will continue to monitor the case. If such confirmation is not received the ASPD may initiate the investigation stage.**
5. **The initiation and conclusion of the minister's denominational disciplinary process will not prevent the ASPD from initiating the investigation stage should it decide that the denominational disciplinary process was defective.**
4. The Moderator is to transmit to the Ministries Committee of the General Assembly a report of the steps taken in such a case.

## Appendix D Moderators' recorded warnings

1. If a concern which comes to the notice of a Synod Moderator or the Assembly Representative for Discipline is not considered by that person to amount to an allegation of misconduct within the meaning of paragraph two of the Framework the Moderator or Assembly Representative for Discipline may speak to the minister concerned, giving such advice and pastoral support as seems appropriate. This is not to be considered a disciplinary step. ~~and no central record will normally be made unless a safeguarding concern is involved.~~
2. Such advice may, however, include a warning that repeated allegations in the same field may have to be treated as disciplinary.
3. The issue of such a warning, **with brief reasons in support**, is to be recorded ~~locally~~ **as part of the minister's record**. (That is, in a form to which only the Moderator, **Safeguarding Officer** or Assembly Representative for Discipline and any successor or deputy to that person will have access). Should misconduct on the part of that minister later be alleged the warning **may be disclosed within the disciplinary process as part of the minister's record**. ~~of a nature to which the recorded warning is relevant, the Moderator or Assembly Representative for Discipline may inform the Investigation Team that such a warning was issued, and of the reasons for it. The mere giving of such factual information will not disqualify a Moderator or Assembly Representative for Discipline from exercising his / her role on the Assembly Standing Panel on Discipline.~~
4. No formal procedure is required before the issue of a Moderator's warning **as it is a concern and not a reflection of disciplinary misconduct**, ~~nor need it be preceded by any proof or admission of guilt.~~ This means that the facts on which the warning was issued remain unproven **and of itself is of no disciplinary value**. ~~at the time when they are reported passed to the to the Investigation Team. It lies in the Team's discretion whether or not to make the existence of a Moderator's warning part of its case, and Should the warning be referred to within disciplinary proceedings if it does so the accused minister will be free to dispute the alleged facts underlying the warning. or to present his/her own view of their seriousness.~~

## Appendix H The Assembly Representative for Discipline and the Assembly Standing Panel for Discipline

9. The General Assembly, or the Assembly Executive in its name, shall appoint a Secretary of **the Assembly Standing Panel for Discipline to assist the Panel as necessary** for such term as it may decide. **If unable to act a deputy will be appointed by the Officers of General Assembly.**
16. **The Secretary of the Assembly Standing Panel for Discipline shall take a minute of all meetings and record in writing all decisions.**

## Appendix K Investigation Teams and the Disciplinary Investigation Panel

5. A disciplinary case is passed on to the Investigation Stage by a member **the Secretary** of the Assembly Standing Panel for Discipline, on its behalf, transmitting **to the Assembly Representative for Discipline Senior Member of the Disciplinary Investigation Team Panel the allegations concerns received and referred for investigation** ~~(or of a~~ **with a** written summary ~~if they were originally made orally)~~, any documents submitted in support of the allegations, the names of the complainant and

details of any other sources of relevant information known to the Assembly Standing Panel for Discipline at that time. The Assembly Standing Panel for Discipline is also to state whether or not the accused minister has been suspended.

6. On receiving the material transmitted by the Assembly Standing Panel for Discipline, the Assembly Representative for Discipline will appoint an Investigation Team comprising a Human Resources specialist ~~and/or if required other appropriate expert,~~ **and** supported by a suitably qualified member of the United Reformed Church, with relevant subject experience, appointed by the Officers of General Assembly on recommendation from the General Secretariat. ~~The Assembly Representative for Discipline also~~ **Senior Member will** appoint a member of the Disciplinary Investigation Panel to assist the accused minister to address the issues and, if required, **to present the minister's response** before the Assembly Commission for Discipline or the Disciplinary Appeal Commission. No panel member shall be appointed to assist the accused minister who is related to, belongs to the same local church as, or is otherwise closely concerned with the accused minister or the complainant, has any pastoral or personal involvement with the case or is liable to be a witness.
7. Ministers are **also** encouraged to use ~~an~~ **the** Assisting Member of the Disciplinary Investigation Panel to **advise on the process to be followed**, help gather evidence and draw up their own statement/s, and, either to accompany the ~~minister~~ **them** to the hearing before the Assembly Commission for Discipline or the Disciplinary Appeal Commission or to present ~~their minister's case~~ **and /or alternatively to seek their own independent advice and representation.**

## Appendix L The Investigation Stage

3. The Team may work as it thinks fit, having regard to the need for fairness, confidentiality and expedition. Tasks may be distributed between members of the Team but anything known to one member must be shared with **any** others and all decisions must be made collaboratively. ~~The Team may make decisions by a majority if consensus cannot be achieved.~~
4. The Team ~~may~~ **should** interview the complainant (if any) and / or the accused minister or both during the Investigation Stage ~~as necessary.~~ The accused minister must be interviewed by the Team before any Hearing if this has not been done earlier. Supplementary interviews are in order when necessitated by fresh information **or need for clarification.** If the Team proposes to base any questions to the minister on the contents of one or more documents, copies of those documents must be supplied to the accused minister sufficiently in advance of the interview for the minister to consider them.
5. ~~No interview with any person outside the Team, whether taking place in person, by electronic means or by telephone, may take place unless at least two members of the Team are present; the person being interviewed~~ **The minister or any potential witness** must also be offered the opportunity to have a friend (or, in the case of the accused minister, a colleague, their assisting Investigation Panel member or Trade Union representative) present. A note of any interview is to be taken at the time or made immediately afterward, and a copy supplied to the person interviewed for comment.

7. If the Team becomes aware that a criminal investigation or charges (or any other statutory investigation) are pending against a minister which cover the same facts as, or are otherwise relevant to, the disciplinary allegations it shall suspend its work (subject to Paragraph 7) until the outcome of the criminal prosecution process or statutory investigation is known, save for monitoring any court proceedings and securing a certificate of conviction or acquittal when they conclude, or a concluding report from any other investigating body. Suspension of an investigation for this reason is to be reported to the Assembly Standing Panel for Discipline if it happens during the Investigation Stage, or to the Secretary of Assembly Commissions for Discipline if it happens during the Hearing Stage.
8. A Criminal charges process are is considered pending from the time when a minister is arrested or remanded on such a charge or receives a summons from a court of criminal jurisdiction, or if the Team reasonably believes that the minister is a suspect in an investigation by the police or comparable public authority. ~~from which criminal charges or charges under another statutory procedure may follow.~~ They remain pending during the currency of any appeal against conviction, though not in the event of an appeal against sentence only. ~~Charges in Northern Ireland or abroad have similar effect to those pending in Great Britain or the Islands.~~ A statutory investigation is considered pending from the time when the allegations about a minister are passed to a statutory authority (whether its functions are adjudicatory or investigative), until all statutory authorities have concluded their work or indicated that the Church's disciplinary process can proceed. However, the Assembly Standing Panel for Discipline or Commission under whose authority the case is proceeding or its delegated body may authorise earlier resumption of the investigation or other steps under this Process if it is satisfied
  - i. that such steps would not unreasonably prejudice the statutory or criminal proceedings, and
  - ii. that delaying the Disciplinary Process until the conclusion of such proceedings would itself be prejudicial to the complainant, the accused minister or the Church.
  - iii. The Team may at any time recommend to the Assembly Standing Panel for Discipline or Commission under whose authority the case is proceeding that the accused minister be suspended or that any current suspension be lifted.
10. The report submitted by the Team to the Assembly Standing Panel for Discipline at the close of the Investigation Stage will be in accordance with either Paragraph 5.2 or 5.3 of the Framework. ~~The ASPD may refer the report back to the Team for clarification as necessary. If a report in accordance with 5.3, on receipt of the written answer from the minister the ASPD may refer the report back to the Team for reconsideration (5.3(i)) before it is decided whether to refer the matter to the hearing stage (5.3(iv)). A report in accordance with Paragraph 5.3 may also be referred back to the Team for reconsideration and include a recommendation for negotiation of should the ASPD consider that an agreed caution may be appropriate to ask, and the Team's to give an indication initial position on what this of the possible terms of such a caution should contain (5.3(iii)). The negotiation of a caution is a matter for the ASPD.~~ If, after receiving safeguarding advice, the Assembly Standing Panel for Discipline refers a report under Paragraph 5.2 back for reconsideration, the Team is to reconsider its report against any comments made by the Assembly Standing Panel

for Discipline and any safeguarding advice **received**. Available to it, before resubmitting the report.

11. If a case is to proceed to the Hearing Stage **the ASPD will draft the formal allegations of misconduct that are to be referred to the Assembly Commission for Discipline. These allegations are also to be sent to the minister at the time of referral to the hearing stage.** ~~the Team is to notify the Secretary of Assembly Commissions for Discipline when its further investigations are complete and the case against the minister is ready for hearing.~~

## Appendix M Cautions

1. An agreed caution is a possible outcome of ~~that~~ **the Investigation Stage Team may recommend in its report provided** the circumstances set out in Paragraph 5.4 of the Framework **are present. A caution may also be initiated by the ASPD. The responsibility for the negotiation and agreement of a caution is a matter for the ASPD although the investigation team may recommend terms for the ASPD to consider.** ~~It may be recommended by the Investigation Team in its report to the Assembly Standing Panel for Discipline or proposed by the Assembly Standing Panel for Discipline of its own motion after considering the report. Accused ministers cannot themselves initiate consideration of a caution as a procedural step. though an Investigation Team can pursue a minister's proposal if it thinks fit.~~
2. ~~On the part of the accused~~ **the minister** There are three elements involved in disposing of disciplinary allegations by a caution: he/she **1. the minister** must admit the facts to which it relates, **2. The minister** must satisfy the ~~Investigation Team and Assembly Standing Panel for Discipline~~ of an appropriate level of remorse, and **3. The minister** must undertake to observe the precautionary steps set out in the caution to obviate or minimise the risk of such conduct ever being repeated. The term 'negotiation' in the Disciplinary Process refers to a 'without prejudice' discussion (in the sense of paragraph 9 below) between the ~~Investigation Team~~ **Assembly Standing Panel for Discipline (see 4 below)** and the ~~accused,~~ **minister** designed to make clear whether these elements are present, and if so to agree the wording of the written caution **for agreement.** ~~proposed to the Assembly Standing Panel for Discipline.~~
3. Before opening the possibility of a caution to formal negotiation, and again before settling the final form of any caution, the Assembly Standing Panel for Discipline **is to be satisfied that the 'three elements' referred to in 2 are present and in a case that involves safeguarding issues** to consider safeguarding advice. The Assembly Standing Panel for Discipline must not allow negotiation of a caution if it considers at least one of the allegations so serious, for any reason, that a caution could not be an appropriate outcome if it were admitted or proved.
4. ~~If the Assembly Standing Panel for Discipline allows negotiation of a caution, it is to decide whether it will take the lead in proposing a caution text, seeking the agreement of the accused minister and the Investigation Team, or whether the Investigation Team is to take the lead, seeking the agreement of the accused minister and the Assembly Standing Panel for Discipline.~~
5. Negotiation is then to proceed accordingly, with a view to drafting a written text which expresses the extent of the accused minister's admission of the allegations made (or such as the Assembly Standing Panel for Discipline considers necessary to be



disposed of before the Process can be ended) and the steps to be taken or conditions to be observed to remedy any harm and ensure the admitted misconduct is not repeated. Time limits may be attached in the caution text to these steps or conditions. The text should also express some degree of remorse, although this should be in the minister's own words and not the subject of negotiation.

6. If the issue of misconduct resolved by an agreed caution is repeated, or if the steps or conditions agreed as part of the caution are not taken or observed, this may amount to a fresh case of misconduct and the text of the caution may be taken into account in the investigation and disposal of fresh allegations. The text is to include a statement that the accused minister understands this.
9. Negotiation of a caution and all proposed texts and amendments thereto are without prejudice to the further steps in the Disciplinary Process, should these take place. Accordingly, **if the minister** or the Assembly Standing Panel for Discipline ends the negotiation **and passes the case is referred** on to the Hearing Stage, correspondence entered into (subsequent to the Team's report) in connection with the proposal and attempted negotiation of a caution is not to be passed on to the Assembly Commission for Discipline and will not be admissible at the Hearing Stage or at the Appeal Stage. Beyond the fact that a caution was proposed but not, in the event, given, no reference to the negotiations or any concession made in them is to be made by the Investigation Team during the Hearing or Appeal Stages (and any reference contrary to this paragraph is to be disregarded by the Commission), unless the accused minister first makes such a reference and the Commission holds the interests of justice to require a reply by the Investigation Team.

## Appendix N Assembly Commissions for Discipline and the Commission Panel

6. A disciplinary case is passed on to the Hearing Stage by ~~a member~~ **the Secretary** of the Assembly Standing Panel for Discipline, on its behalf, transmitting to the Secretary of Assembly Commissions for Discipline **the formal disciplinary allegations to be considered,** the Investigation Team's report, any answer made by the accused minister, any documents submitted in support of the report or answer, and a written statement of the Assembly Standing Panel for Discipline's finding that there is a disciplinary case to answer. The Assembly Standing Panel for Discipline is also to state whether or not the accused minister is currently suspended.

## Appendix T Written reasons for a Commission decision

2. The written statement must include:
  - i. an indication of those elements of the decision which were unanimous and those (if any) which were reached by a majority
  - ii. a summary of any allegations found to be proved against the minister **and brief reasons in support.**
  - iii. a summary of the factors leading the Commission to direct deletion, to impose a written warning or to impose no sanction
  - iv. a summary of the advice (if any) given to the Commission by any Assessor

- v. the substance of any written warning to be given and any Directions to accompany it, with the period for which they are to remain in force
- vi. The statement should also be prepared so as to maintain the confidentiality of the participating parties as necessary.

## The Framework

### Section 3.4: Decisions on suspension

As soon as it is aware of the allegations the Assembly Standing Panel for Discipline may suspend the minister, with the consequences set out in the Basis of Union.

The Moderator may suspend, acting alone, on first receiving the allegations if there is delay in calling together the Assembly Standing Panel for Discipline and the Moderator considers immediate suspension necessary. However, neither the Moderator acting alone nor the Assembly Standing Panel for Discipline should proceed to suspension without first considering whether an alternative course of action is available. ~~If it is believed such an alternative could be considered appropriate but an interview with the accused minister would assist the decision, the minister must be offered the opportunity to meet with at least one member of the Assembly Standing Panel for Discipline before the suspension decision is taken.~~

### Section 5.1 1: Investigation and report

The purpose of the Investigation Stage is for the original allegations (and any further allegations of misconduct which this stage may bring to light) to be fairly and expeditiously investigated by an Investigation Team, whose findings are to be reported to the Assembly Standing Panel for Discipline. At this stage the Team is concerned with ~~three~~ **two** issues:

- i) ~~the facts of the case~~ **and evidence in support of or against each allegation**, and in particular whether there is a prima facie case **in respect of each allegation**. ~~for full investigation;~~
- ii) ~~the seriousness of the allegations if proven, and~~
- ii) whether **in its view** the case ~~can~~ **is suitable to** be appropriately disposed of by a caution. It may also, at any time, recommend the suspension of the ~~accused~~ minister or the lifting of a current suspension.

### Section 5.2

On conclusion of the investigation the Investigation Team may conclude:

1. that the allegations **raised against a minister are not in its view capable of amounting to a prima facie case**, or ~~that even if proven they would not merit formal disciplinary sanctions. the Team will report accordingly to the Assembly Standing Panel for Discipline. On receiving such a report, the Assembly Standing Panel for Discipline must take safeguarding advice and may refer the report back to the Team on one occasion for reconsideration. It must then send the report to the minister for an answer to be provided for comment. The ASPD will then consider the report, any response answer from the minister, and in the event that it agrees with the conclusions reached by the Investigation Team then declare the Process and any suspension terminated from that point~~

2. That the allegations are capable of amounting to a prima facie case which would merit the imposition of a disciplinary sanction **and if so whether a caution would in its view be appropriate.**

## Section 5.3

~~If the Investigation Team believes its investigation into allegations against a minister reveals a *prima facie* case, on the basis of which, if the allegations were proven, it would seek the imposition of a disciplinary sanction, the Team will report accordingly to the Assembly Standing Panel for Discipline.~~

**On receipt of the report the Assembly Standing Panel for Discipline may seek clarification from the Team as necessary and is to then to send to the minister a copy of the Team's report and to advise them minister of the time allowed for a written answer.**

~~On considering the report and any answer the Assembly Standing Panel for Discipline must **may**: do one of the following: refer the report and the minister's answer back to the Team for on one occasion for reconsideration and if necessary further investigation or comment. On receipt of the Team's further report the Assembly Standing Panel for Discipline may:~~

- a) On the basis that the report does not support a prima facie case in respect of the allegations, or that even if proven they would not merit formal disciplinary sanctions** declare the Process and any suspension terminated from that point, if (after receiving safeguarding advice) it does not agree that the report supports the Team's conclusions,
- b)** (after receiving safeguarding advice) propose **an the negotiation of an** agreed caution in accordance with paragraph 5.4, or
- c) On the basis that the report supports a prima facie case in respect of the behavioural concerns prepare formal allegations of misconduct and** pass the report, any answer and all supporting evidence on for consideration at the Hearing Stage.

## Section 5.4

An agreed caution may be an appropriate outcome in disciplinary cases where ministers accept the allegations against them (other than any allegations which the Investigation Team **and ASPD** would not pursue for the reasons in Paragraph 5.2), **and** display convincing remorse and are willing to undertake appropriate precautions against recurrence.

A caution may be considered **and negotiated by the Assembly Standing Panel for Discipline** at the close of the Investigation Stage. ~~if the Investigation Team recommends this in its report, or The Assembly Standing Panel for Discipline, on receiving that report and the minister's answer, proposes a caution on its own initiative.~~

Safeguarding advice must be taken on the terms of a caution as finally negotiated.

A caution is not appropriate where a minister denies allegations being pursued investigated by the Investigation Team; nor, normally, in the case of allegations similar to allegations found proved on an earlier occasion under this Process or an earlier version of the Disciplinary Process.

If a caution is agreed by the minister ~~with and the Investigation Team and the Assembly Standing Panel for Discipline, delivered formally by the Assembly Standing Panel for Discipline and acknowledged by the minister,~~ the Process and any suspension are terminated from that point.

~~If a caution is recommended by the Investigation Team or proposed on the Assembly Standing Panel for Discipline's own initiative, but the Assembly Standing Panel for Discipline is satisfied it will not be possible to reach agreement on a caution in appropriate terms and within a reasonable time, then the Assembly Standing Panel for Discipline must prepare formal allegations of misconduct and pass the Team's report, any answer and all supporting evidence on for consideration at the Hearing Stage. At the same time a copy of the formal allegations must be sent by the Secretary to the Assembly Standing Panel for Discipline to the minister.~~ Correspondence entered into (subsequent to the Team's report) in connection with the proposal and attempted negotiation of a caution ~~is not to be passed on, and~~ will not be admissible at the Hearing Stage.

## Section 6.1

As soon as the Assembly Standing Panel for Discipline passes a case on to the Hearing Stage, an Assembly Commission for Discipline is constituted to oversee and hear the case. Once a Commission is in being for a particular case, authority over that case passes from the ~~synod~~ **ASPD** to the **Assembly Commission for Discipline. Both act in the name of** General Assembly. Any procedural directions, or decisions regarding suspension of the accused minister, are thereafter to be given by the Commission (after receiving safeguarding advice in respect of any lifting of suspension).

## Section 7.1

Notice of any appeal must be lodged, with a summary of the appeal grounds, within 24 days of ~~posting~~ **sending by post or by electronic means** of the Assembly Commission for Discipline's **decision and** written statement of reasons ~~or the date on which it is sent electronically.~~

## Section 8.8 Restriction of simultaneous appointments

### 1. Principles

Save as permitted by Paragraph 8.8(2), no person may simultaneously do more than one of the following:

- i. be included on the Disciplinary Investigation Panel
- ii. serve on the Assembly Standing Panel for Discipline,
- iii. be included on the Commission Panel,
- iv. be included on the Appeal Commissions List
- v. **serve as Secretary of the Assembly Standing Panel for Discipline**
- vi. serve as Secretary of Assembly Commissions for Discipline, or
- vii. serve as Secretary of Disciplinary Appeal Commissions.

### 2. Exceptions

- i. A person may be included simultaneously on the Disciplinary Investigation Panel and on the Commission Panel, but may not be appointed to any Assembly Commission for Discipline hearing a case against a minister after having, in that or any previous case, served on an Investigation Team regarding allegations made against that minister.

- ii. The same person may be appointed as Secretary of the **Assembly Standing Panel for Discipline, the** Assembly Commission for Discipline and Disciplinary Appeal Commission.