

# Paper A2

## Toward a Fitness to Practice Process

### Business Committee – Ministerial Disciplinary Working Group

#### Basic information

<b>Contact name and email address</b>	John Bradbury <a href="mailto:john.bradbury@urc.org.uk">john.bradbury@urc.org.uk</a>
<b>Action required</b>	Discussion and Decision
<b>Draft resolution(s)</b>	<b>Resolution 1</b> <b>General Assembly welcomes the report of the Ministerial Disciplinary Working Group and affirms the direction of travel towards a ‘Fitness to Practice’ process.</b>

#### Summary of content

<b>Subject and aim(s)</b>	Progress report on the revision of the Ministerial Disciplinary Report.
<b>Main points</b>	<ul style="list-style-type: none"><li>• The working group is developing a new process to replace the current ministerial disciplinary arrangements, aiming for a clearer, fairer, more consistent and legally robust system.</li><li>• The work has widened from discipline alone to a broader ‘Fitness to Practice/Fitness to Minister’ approach, so that disciplinary, capability, competency and health-related concerns can be handled appropriately.</li><li>• Further policy and rules work has been commissioned from Ed Morgan KC, including a review of ministries policies and a revised draft framework to support a coherent new process.</li><li>• Before adoption, the proposals will go through wider consultation and testing with Ministers, Church Related Community Workers (CRCWs), Moderators, Safeguarding Officers and others to identify issues and unintended consequences.</li><li>• Implementation will require governance arrangements, appointments, guidance, training, professional support and transitional planning; adoption is now likely to be sought from General Assembly in 2027.</li></ul>
<b>Previous relevant documents</b>	Paper A3 – Assembly Executive 2025

<b>Consultation has taken place with...</b>	Along the journey so far: online consultation with ministers, with the Moderators Meeting, with CDAG and with Synod Safeguarding Officer. A further round of significant consultation is envisaged.
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## Summary of impact

<b>Financial</b>	Agreed within current budget process, with significant implementation costs to be budgeted for 2027.
<b>External (eg ecumenical)</b>	

## Introduction

Assembly Executive in February 2025 appointed a working group consisting of the General Secretary, the Clerk, The Deputy General Secretary Ministries and the Head of Safeguarding to continue work towards a new disciplinary process. It received, and commended, the recommendations from an initial report from Ed Morgan KC (King's Counsel) which was a comparative process, drawing lessons from similar professional standards processes in sister churches, and other processional bodies.

The working group remains deeply alert to the reality that ministerial discipline is an exercise of the pastoral function of the church. Where things go wrong, there needs to be time, space and appropriate support to enable healing and renewal to take place. It is also a key element in keeping the church safe and ensuring the peace and wellbeing of the body. It is about the credibility of our witness to Christ within the world and an expression of our commitment to the gospel principles of justice. It is trying to embody, within sound process, all these foundational commitments that speak to the heart of our faith. Simultaneously, it is about ensuring that we are safeguarding the people, the finances and the reputation of the church in terms of the effective use of our charitable funds. In an increasingly litigious climate, and a climate in which some with a strong secularist agenda are actively seeking to hold faith communities to account in the furtherance of an ideological agenda, this creates a heady mixture of risks that we are trying to enable the church to carry responsibly and pastorally.

Work has progressed more slowly than initially hoped. This is partly simply a recognition of the capacity of the individual members of the working group, and partly because as work has progressed, we have become aware that to effectively meet the needs of the Church in the area of ministerial discipline is more complex than first assumed, and is inter-related with a wider range of concerns.

We are delighted to welcome Ed Morgan KC to address General Assembly this year. It seemed important to us, as the range of the work we deem necessary expands, for Assembly to have the chance to hear from, and engage, with Ed himself, as the person whose professional advice is supporting this process. Ed is a senior barrister, a deeply committed and faithful member of the Roman Catholic Church, an expert in employment law, regulatory competence, and particularly fitness to practice processes in the professional sphere and has advised a wide range of faith communities on matters relating to his areas of expertise, including disciplinary, performance, and fitness to practice processes. Ed has become a trusted ally of the United Reformed Church as he's offered us assistance in a range of matters over many years.

## Developments since February 2025

Following the adoption of the principles of the Interim Report from Ed Morgan received by Assembly Executive 2025, Ed was instructed to produce a draft set of rules for a new disciplinary process. This in and of itself was a major piece of work.

Those draft rules offer us a comprehensive and coherent process that addresses the key issues facing us in the development of a new disciplinary process. This includes measures to ensure the issues identified in the recommendations made by Ed Morgan were met: the new disciplinary process should be clearer, fairer, and more consistent, with explicit behavioural standards, defined jurisdiction, and a duty of disclosure and cooperation; it should have a formal screening stage before full proceedings, improved and reviewable interim measures, precise drafting of allegations, and clearer rules for discontinuing cases where appropriate; it needed robust hearing procedures, a better separation of roles to ensure impartiality, published guidance on sanctions, clearer appeal arrangements, and a more transparent safeguarding role limited to relevant cases. Overall, the aim was to create a process that is legally sound, proportionate, transparent, and properly resourced.

There are various practical issues with the operation of the current process that we hoped a revised process will enable us to refine and evolve positively. These include the amount of time a process can take, the number of volunteers it takes to staff the current process which becomes increasingly untenable, the lack of a responsible person with oversight of the operation of the whole process and a lack of detailed provisions, which at times can lead to vagueness or considerable discretion being exercised by Assembly Commission who are left to operate without detailed procedural guidance.

In the opinion of the working group, the draft rules gave us a much more coherent, logical, comprehensive process from which we can safeguard the life of the church.

### **Towards a Fitness to Practice/Fitness to Minister process**

As we grappled with the realities of the cases that present themselves, whilst also considering the draft new process, we became aware that restricting the work simply to a disciplinary process was unhelpful. There are a range of complex situations which can bring into question someone's fitness to engage in ministry. There are straightforward ministerial disciplinary cases. Human beings are finite and fallen and we do not always live up to the standards expected of us. But there are also at times more complex situations, where someone's ability to engage in ministry safely and competently are rooted in health issues, beyond someone's control, and yet which have a direct bearing on their ability to minister safely. The Church use to have an incapacity process for such situations, which had to be withdrawn because of legal difficulties the use of that process might have caused. There are different situations again, when someone's competency in ministry is called into question. The church has processes to try to support people in their ministry, and enable them to live into the competency that the wider church and congregations need from ministers. Where despite support, that is not forthcoming, the church needs fair, transparent process to enable that situation to be handled.

The working group, on reflecting on the new draft disciplinary rules, and the wider context of the situations that need careful handling, realised that a new process needed to be considerably wider than simply a disciplinary process. It needed to be able to handle the full range of disciplinary, capability and competency issues that can arise. This reflects the complex and often multi-layered situations which arise. The process needs to be able to handle a situation in a way appropriate to all the facts which surround it. This may mean that what begins as a disciplinary matter, needs at some point to change track and be handled as either a competency or a capability matter.

What is needed if a process which can handle the range of fitness to practice concerns which can arise.

This realisation led to the commissioning of some further work from Ed. This led to two key outcomes. Firstly, a review of the whole suite of ministries policies, and secondly, a revised set of Rules for a fitness to practice process.

A process which may bring someone's ministry to a close is a deeply serious matter. It is right that the matters under consideration be considered with care, in detail and fairly, and that a minister has the full right to respond to the concerns raised. But this, in many instances, needs to come right at the end of attempts to support and encourage a minister in their ministry to enable their flourishing. Any fitness to practice process therefore needs to be rooted in a range of effective policies surrounding ministry in the round, including clarity about expected standards, clarity over who such processes apply to, and the necessary policies in place to appropriately support, equip and enable people within their ministries.

Ed Morgan produced for us a review of our current suite of ministries policies, with a view to helping us frame them more effectively to support the development of a new, coherent fitness to practice approach. This affirmed the quality of the approach taken to drafting ministries policies, and pointed to a number of ways the approach might be refined and in places tightened, to provide the appropriate basis for the drafting of a new fitness to practice process. Many of the amendments to Ministries policies coming before this General Assembly find their origin in this work and are a significant and necessary piece of work on the journey to a new fitness to practice process.

A new draft set of Rules, embedded within and expanding the first draft has also been produced which the working group now needs to work through with care, before arriving at a draft that can form the basis of wide-spread consultation.

### **Towards adoption of a new process**

Once a complete revised draft has been arrived at, it is then envisaged that before General Assembly is invited to adopt a new process there will be a widespread process of consultation carried out to enable a final revision. It is expected that various groups will be consulted:

- Ministers and CRCWs: we expect to run a further series of on-line consultations enabling Ministers to fully feedback their comments on the proposed new process.
- Synod Moderators are a key group of people, with an overview of the kinds of situations which arise, and considerable experience of operating the disciplinary process, and a living awareness of the impact on ministers, complainants and congregations.
- Synod Safeguarding Offices are a key group, who have particular functions in cases with a safeguarding element.
- Those who have experience in operating the current process have important insights to offer the development of the new process. CDAG have already been consulted at various stages, and they, and those with particular functions within the current process will be consulted further.
- The Equality, Diversity, Inclusion and Belonging (EDIB) sub-committee, who will have an important view on the equalities aspects of running an effective process.

We also envisage running some sessions where various people from different constituencies are invited to run case studies through a mock version of the process to

stress test it and ensure that there are as few unintended consequences to the changes as possible.

## **Towards implementation of a new process**

Agreeing a new set of Rules in and of itself is not an action which brings into being a new process. The Rules are envisaged as just that – the particular ‘rules’ which govern a process, and ensure it is just and fair. Around that there is considerable apparatus which needs to be in place:

- Key appointments to roles within the process
- Support and guidance material to help people navigate effectively what will necessarily be quite a complex set of rules.
- Training and education for those who will have roles within the process.
- Appointments made of professionals who will offer services in the process, for example in investigation or in acting as spokesperson either as case presenters or supporting ministers through the process.
- A process in place to ensure that ministers who need support and representation within the process can find that and are enabled to make informed decisions as to where that might come from.
- Transitional arrangements put in place to ensure a smooth transition from the current process to the revised process.

## **Governance of Fitness to Practice Process**

A coherent governance process will need to be set in place to oversee the operation of the new process. Currently, the Complaints and Disciplinary Advisory Group is largely made up of representatives of key people who are involved in operating the process. This makes it difficult for it to exercise effective governance oversight of the process. It is envisaged that a new, much smaller committee of the General Assembly will offer governance oversight of the process, and be supported in its work by a small rules committee that will have delegated authority from the General Assembly to make minor changes to the rules to aid the effective ongoing operation of the process in the light of experience and/or changes to the legislative contexts in which we work. It is envisaged wholesale changes to the substance of the process would require the authority of the General Assembly, but more minor changes to the process to be delegated to allow effective and efficient development of the process as required.

## **Timescale**

We are wary about offering a specific timescale for the completion of this work, which partly depends on the capacity of various people carrying a range of significant responsibilities. Realistically, consultation and further revision will not be complete by the end of this year which constitutes the paper deadline for Assembly Executive in 2027. It is therefore likely that General Assembly 2027 will be invited to adopt the new process. Following this, there will need to be considerable implementation work before a new process comes into effect.