



Section O: Ministerial Disciplinary Process – flowchart through the process

Schedule E, paragraph 2 and schedule F, part II, paragraph 2 to the Basis of Union, set out the standards required of Ministers and church related community workers (CRCWs) respectively and refers to their Ordination/Commissioning Promises. Paragraph A.1.4 of the Disciplinary Process incorporates these as the yardstick for judging their conduct. This is supremely important. Wherever the term "Minister" is used in this flowchart it should be interpreted to include CRCWs. It is usually the Synod Moderator acting on behalf of the synod who takes the relevant steps, although the General Assembly Representative acting on behalf of Mission Council can also do so.

Where the Caution Stage is initiated, the appointment of the synod appointees marks the commencement of the Disciplinary Process – paragraph AA.2. 6. In Gross Misconduct cases where the Caution Stage is not invoked the calling in of the mandated group marks the first step in the Disciplinary Process, which begins with the Initial Enquiry Stage and the minister is informed – paragraphs B.3.1 and B.6.3.

A complaint (or other serious concern) comes to the notice of the Synod Moderator and/or synod pastoral committee about the conduct of a Minister. The Moderator, in consultation with such other officers of the synod as s/he considers appropriate, decides if there is need to initiate the Disciplinary Process – paragraph AA.2.1 and paragraph B.3.1.

Yes



No



The matter continues to be dealt with pastorally by the Synod Moderator and/or the synod pastoral committee.

Stage 1 of the Disciplinary Process

If the Synod Moderator decides to initiate the Disciplinary Process, s/he must consider whether the disciplinary issues identified involve Gross Misconduct – defined at paragraph A.5. If the answer is "yes" s/he must suspend the minister at this point – see paragraph B.7.1.

Yes

No

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Under paragraph AA.2.1 the Synod Moderator initiates the Caution Stage at Section AA by calling on the synod to appoint persons known as synod appointees – defined at paragraph A.5 – to consider the disciplinary issues with the minister and, if they deem it appropriate, to issue one or more Caution(s) against the minister, the outcome of which could be a recommendation by the synod appointees to the Synod Moderator to proceed to the next stage of the Disciplinary Process.

If the Moderator accedes to the recommendation

If there is no such recommendation, or, if there is, the Moderator does not accede to it

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The Disciplinary Process is concluded – see paragraphs AA.10.1 and AA.10.2.4/5

Stage 2, the initial enquiry

The Synod Moderator calls in the mandated group to conduct its Initial Enquiry. During this stage the mandated group, in consultation with the Synod Moderator, conducts an Initial Enquiry (not a detailed investigation at this stage) to decide whether there is sufficient prima facie evidence to refer the matter to the next stage of the process – paragraph B.8.1.

Yes

No

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The mandated group issues a Notice of Non-Continuance to the Synod Moderator, who in turn notifies the minister and the Synod Clerk – Paragraph B.8.2.

This terminates the Disciplinary Process and the matter continues to be dealt with pastorally as before.

The mandated group submits a report under paragraph H.4 and paragraph B.8.2

The mandated group takes the following steps:

1. It issues a Referral Notice which sets out the complaints/allegations against the minister.
2. It suspends the minister

The process thus moves from the 'Initial Enquiry stage' to the 'Commission Stage' – paragraph B.9 and B.10.

The next stage of the process is called the 'Commission stage'.

What does suspension mean? See Basis of Union, schedule E, paragraphs 3 and 4 or schedule F, part II, paragraphs 3 and 4; Disciplinary Process, paragraphs b.7.2, B.9.2 and B.11.

Stage 3, the Commission Stage

During the Commission Stage, the mandated group:

1. Conducts a full investigation
2. Prepares the case against the minister ready to present it at the formal hearing before the Assembly Commission.

The minister also prepares his/her case. **Once a case has entered the Commission Stage the procedure cannot be stopped**, except in extremely rare and exceptional circumstances – paragraphs E.5.3 and E.9.2.

Reference into the Commission Stage means that the Assembly Commission will have to decide whether the name of the minister should be removed from the Roll, leading to loss of status and job, income, right to occupy manse, future pension provision.

If the minister is the subject of a criminal investigation, or if criminal charges have already been brought against him/her, then apart from monitoring the criminal trial, the mandated group must adjourn its investigation and await the outcome of the criminal process – paragraphs D.4 and E.7.1.

If the Assembly Commission considers that the case should be heard within the Incapacity Procedure, it can refer the case back to the Synod Moderator with a recommendation that the Incapacity Procedure be initiated – paragraph E.5.3.

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The hearing

At the hearing both the mandated group and the minister present their cases and, if they wish, bring witnesses to give evidence. For the rules which apply at the hearing – see paragraphs E.11/18.

The minister may have a person with him/her at the hearing either simply to provide support or actually to conduct the minister's case on his/her behalf— paragraph E.10.

The mandated group appoints a spokesperson (who need not be a member of the mandated group) to present its case – paragraph E.2.2.4. All members of the mandated group should be present at the hearing, but in no circumstances should there be less than two.

The decision

When both parties have presented their cases, the members of the Assembly Commission will meet in private to reach their decision – paragraphs E.18 and F.1.

The Assembly Commission's decision must be one of the following: (i) to remove the minister's name from the Roll, (ii) to retain the minister's name on the Roll or (iii) to retain the minister's name on the Roll but to issue a written warning – paragraph A.1.1.

Where the name is to be deleted, the Commission is particularly requested to issue guidance concerning restrictions to be placed upon the minister's activities – paragraph F.2.3. Following notification of the decision, the question arises as to whether either party will appeal.

For the procedure as to the recording of the decision, see paragraph F.3 and for the procedure as to the notification of the decision to the parties, see paragraphs F.5.1 and F.5.2 and as to the other interested persons, see paragraph F.6.1.

Yes

C

No

If the Secretary of the Assembly Commission does not receive a Notice of Appeal from either party within the 21 day period, the decision of the Assembly Commission is final and concludes the Disciplinary Process – paragraph F.6.3 and F.7.

Stage 4, lodging an appeal

Either the minister or the mandated group, but no-one else, can appeal against the decision of the Assembly Commission – paragraph F.6.2.

But the party wishing to appeal **must** serve the Notice of Appeal on the Secretary of the Assembly Commission no later than 21 days from the date of service of the decision notice – paragraphs A.3 and G.1.1.



The appeal itself

The procedure on the appeal is similar to that for the Assembly Commission – paragraph G.1.3 – with one important difference that, save in exceptional circumstances, no rehearing of the evidence will be allowed at the appeal – paragraph G.10.3. As to the range of decisions which can be made by the Appeals Commission – see paragraph G.11. The decision of the Appeals Commission is **final** – paragraph G.12.



Reporting of decision to General Assembly

The General Secretary reports the decisions of the Assembly Commission and the Appeals Commission to General Assembly. As to the manner in which the report shall be given – see paragraph J. 1.

N.B. This chart simply takes you step by step through the Process. You are therefore also urged to study the Process itself and the particular set(s) of Guidelines most appropriate to your own involvement.