The United Reformed Church

Section O: The United Reformed Church
The ministerial disciplinary process

Guidelines for the assembly commission

This is an advisory document, made available by the Mission Council's ministerial incapacity and discipline advisory group (MIND). It does not carry the authority of the General Assembly and, in every respect, it is subject 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 (CRCW's) 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 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.

1. Introduction

1.1 You have agreed to be a member of an Assembly commission for the hearing of a case against a minister and are anxious to learn more about the role you will be called upon to play. These guidelines are designed to help you.

1.2 The documents which are the tools you need as a member of the Assembly commission are:

* an up to date copy of the **disciplinary process** (check for changes after every General Assembly an Mission Council and before each case). Also you will need to ensure that the minister has access to this

* an up to date copy of the **Basis of Union**, which you will find at section A of the Church's manual
* an up to date copy of the **incapacity procedure**
* an up to date copy of **these guidelines**, a copy of the **referral notices**, copies of **any cautions** (except those successfully appealed against) issued where a case has passed through the caution stage
* copies of **all papers** lodged by the parties.

All the documents marked * are available on the Church's website.

It goes without saying that you must study all the papers in the case very carefully, but you must put out of your mind any information which may reach you from any outside source.

1.3 It cannot be emphasised too strongly that everything which happens throughout the whole process is strictly confidential (see paragraph A.4). Disciplinary process hearings are conducted in private (see paragraph E.12.1) and, while the case is continuing, you must under no circumstances make any public comment or discuss any aspect of the case with anyone other than your colleagues on the Assembly commission or the secretary of the commission. To do so would prejudice the chance of a fair hearing. Even after the case has been concluded unguarded comments can be damaging to people connected with the case and must at all costs be avoided. Paragraph A.11 refers to the relationship between the Church and the media in cases involving the disciplinary process, and in particular explains the special role of the Church's Press Officer.

1.4 Throughout the disciplinary process many words and phrases are used which have special meanings in the context of the process. These are all set out in paragraph A.5 and you must study that paragraph and make sure that you understand those meanings. Several occur in these guidelines, in particular 'mandated group', 'caution stage', 'initial enquiry stage', 'commission stage', 'referral notices', 'parties', 'Assembly commission ', 'outside organisations'. (This last term is defined in paragraph A.5 as: "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.) You have no part to play until a mandated group believes that there is a prima facie case for the minister to answer and issues a referral notices to take the case into the commission stage.

The procedure for your appointment as the Assembly commission takes place at that point.

The word 'convenor' is used to denote two different roles within the disciplinary process, i.e. the convenor of the commission panel and the convenor of the Assembly commission. The former is appointed by General Assembly under paragraph A.6.3 and s/he and his/her deputy must appoint five panel members to the Assembly commission for the hearing of each case (see paragraph C.2). They must also appoint one of those to be the convenor of the Assembly commission for that case (see paragraph C.6). That person will take the chair at the hearing and could be consulted from time to time by the secretary of the Assembly commission on procedural issues.

1.6.2 Having completed the appointments to the Assembly commission, the convenor and deputy convenor of the commission panel have as such no further part to play, although either or both of them may, as members of the commission panel, serve as members of the Assembly commission for that case.

1.7 You have two distinct roles to play during the commission stage. The first of these occurs during the period prior to the hearing in which the mandated group will be carrying out a more detailed investigation than was possible at the initial enquiry stage and they will also be preparing for the hearing. Your role as members of the Assembly commission during this part of the commission stage is explained in section 3 of these guidelines. The second part of the commission stage is the formal hearing and this is dealt with at sections 4 and 5 of these guidelines.

2. Natural justice

2.1 The need to observe the rules of natural justice runs right through the disciplinary process from its inception with the calling in of the mandated group to the reaching of the final decision (whether or not on appeal). Some years ago a learned judge expressed the concept of natural justice in the following terms, which still hold good today:

"What then are the requirements of natural justice in a case of this kind? First, I think that the person accused should know the nature of the accusation made: secondly that he should be given an opportunity to state his case: and thirdly, of course, that the tribunal should act in good faith".

2.2 The right to know 'the nature of the accusation made' extends to the right to challenge the evidence brought to support the accusation. These safeguards are built into the process, but you must be constantly on your guard to ensure that they are fully applied.

2.3 Natural justice requires a fair and impartial hearing. Because of this and the risk of conflict of interest the convenor and deputy convenor of the commission panel must not appoint as a member of an Assembly commission anyone who is a member of any local church or synod connected with the case or who has any other involvement (see paragraph C.3.1).

2.4 The minister and all other persons involved in the disciplinary process must at all times be treated fairly and with all due courtesy and consideration and the proceedings, although formal in nature, should not be intimidating.

3. Before the hearing date

3.1 Much of the work during this period will fall upon the secretary and convenor of the Assembly commission. The Secretary of the Assembly commission must ensure that all the procedural steps are taken at the right times (see in particular section E), dealing with all enquiries and consulting the convenor of the Assembly commission on matters requiring procedural decisions. Sometimes they may also consult you all. The extent of these consultations must be a matter of judgment for them.

3.2 In the interests of natural justice, the full details of each party's case must be disclosed to the other party, including the names of witnesses and the evidence which they will be giving (see paragraph E.3). This is bound to take some time and involve some paperwork. Yet at the same time the process must be kept moving. The secretary and convenor must constantly keep the balance between these two important principles.

3.3 After the parties have lodged their original statements they may wish to introduce new evidence, which may arise from the evidence introduced by the other party or as a result of new information which comes to light (see paragraphs E.5.1 and E.16.3). Provided that the other party is made aware of it and it is relevant to the case, the new evidence should normally be admitted. This may sometimes involve a postponement of the hearing to give the other party the chance to consider it. You, as the Assembly commission, have discretion in these matters (see paragraph E.6). In the exercise of that discretion, there are two important factors to bear in mind. On the one hand, in the interests of fairness and justice, sufficient time must be allowed for all the available evidence to be thoroughly investigated. Having said that, however, you must keep a tight control on any postponement and not permit undue delay, since it is in everyone's interest that the case proceeds as expeditiously as possible (see paragraph A.2.1).

3.4 It is a principle of natural justice that, if a party wishes to bring evidence to support that party's case, the other party should be given the right to challenge that evidence

by cross-examination. Therefore, unless a witness's evidence is undisputed and agreed beforehand, s/he should attend the hearing to give evidence in person.

3.4 However, you do have a discretion to dispense with the personal attendance of a witness and there may be exceptional circumstances where it would be right to exercise that discretion, but only sparingly (see paragraph E.5.1.2). Proper examples of the occasional exercise of that discretion might be where the witness is (i) old or infirm and unable to travel to the hearing or (ii) abroad or (iii) unwilling for strong personal reasons to attend or (iv) a child or young person. You would have to consider any such request very carefully.

3.6 You can also direct that statements, videos, other recordings or transcripts of that evidence should be produced at the hearing (see paragraph E.5.1.2). However in those circumstances you would have to exercise very great care in deciding how much weight to attach to that evidence, bearing in mind that the other party will have been unable to challenge it by direct cross-examination at the hearing.

3.7 On reviewing all the pre-hearing papers you may invite the parties to agree any evidence which is not controversial so as to save time and witness attendance at the hearing (See paragraph E.5.1).

3.8 You must not gather factual evidence in the case, except that you may call persons with expert specialist knowledge to give evidence at the hearing under paragraph E.5.2.1. Examples might be in the fields of medicine or psychology, or accounting although it is envisaged that this procedure would only be invoked occasionally. The parties must be notified if you wish any such persons to attend the hearing, and written reports received beforehand from such persons should, with their permission, be supplied to the parties prior to the hearing.

3.9.1 You may occasionally be asked to hear a case where the minister is subject to criminal investigation, and indeed criminal charges may have already been brought against him/her. Where any of the matters set out in paragraph E.7.2 are involved, it would be wrong for you to conduct a disciplinary hearing and attempt to reach a decision based on evidence still sub judice in a criminal court. Accordingly you must adjourn the disciplinary proceedings under paragraph E.7 and await the outcome of the criminal process. The Secretary of the Assembly commission will notify the minister of the compulsory adjournment, and will inform the mandated group also, so that it can adjourn its investigation for the same period. (See paragraphs D.4 and E.7.1). The purpose of the adjournment is to allow the criminal prosecution (if it proceeds) to take its course.

3.9.2 Now a word of explanation about paragraph E.7.5. In criminal cases, the courts have the power to subpoena witnesses to attend court in person to give evidence.

Furthermore, in cases involving physical abuse or violence, the police will most likely have carried out a detailed investigation, possibly involving medical examinations of witnesses. It must also be remembered that the standard of proof in criminal cases is ' beyond reasonable doubt' rather than simply 'on the balance of probabilities' which is the civil standard adopted by the Church for the disciplinary process (see paragraph E.16.1.2). Therefore under paragraph E.7.5 if a guilty verdict is reached against a minister in a criminal case, the conduct which constituted the offence that guilty verdict is, for the purposes of the disciplinary process, taken as having been committed without the mandated group having to present before you as the Assembly commission the evidence which led to the criminal verdict. This is so even if the minister should attempt at the disciplinary process hearing to assert his/her innocence of the criminal charges.

3.9.3 Having said that, however – and this is extremely important – the Church's disciplinary code is quite distinct from the criminal proceedings. Therefore, even though a minister may be found guilty on a criminal charge (so that certain conduct would be assumed to have been committed), this should not of itself automatically lead to a decision to delete his/her name from the roll under the disciplinary process. Conversely, if the minister is acquitted on a criminal charge, this does not necessarily mean the end of the case against him/her under the disciplinary process. The reason for this is that the criminal law is not founded primarily on a code of Christian ethics, but on the need to protect law-abiding members of society and to provide a sanction against those who break the law. On the other hand the Church's disciplinary process is directly based on the minister's promises at ordination to lead a holy life and to act in such a way as to preserve the unity and peace of the Church (see paragraph A.1.4 and also paragraph 2 of schedule E to the Basis of Union in the case of ministers and part II, paragraph 2 of schedule F to the Basis of Union in the case of CRCWs). In many situations, of course, the same result will be achieved whichever criterion is applied, but neither the mandated group nor the minister nor you as the Assembly commission must assume that this will always be the case. Therefore, once a criminal case has been resolved, either by being withdrawn or by a decision one way or the other, the Church's disciplinary proceedings must be resumed, the investigation continued by the mandated group and the case brought to a hearing before you (see paragraph E.7.4).

3.9.4 The question has been asked as to whether you should attend the criminal trial relevant to that case. No – you must not do this. You are not investigators and the gathering of evidence is not your business. You are

sitting as an independent commission and must reach your decision only upon the evidence which the parties place before you.

3.9.5 During the period of postponement while the criminal case is being dealt with, it is the responsibility of the mandated group to monitor the progress of the criminal investigation against the minister (see paragraph D.4).

3.9.6 When the criminal case is finally resolved, it is the mandated group's responsibility to obtain a duly certified court record or memorandum of the decision and pass it to the secretary of the Assembly commission (see paragraph E.7.4). However, the secretary of the Assembly commission should also check the position from time to time, because, as soon as the criminal case (or criminal investigation if the matter does not proceed to trial) has been resolved, the Church's procedures under the disciplinary process must immediately be resumed.

3.10 Once a case has passed into the commission stage it must proceed to a formal hearing, subject only to the paragraph E.9.2 exception mentioned in the next paragraph.

3.11 Sometimes there may seem at first sight to be a sufficiently strong case against the minister, but when the mandated group investigates further, it may become apparent that the evidence is unreliable or not as substantial as at first appeared. In this event, it would be open to the mandated group to notify the secretary of the Assembly commission, preferably in advance of the hearing, that as a result of its investigation it no longer considered there to be a case for deletion and to request that the minister's name be retained on the roll. If such a request is received you, as the Assembly commission, may, entirely at your own discretion, invoke the special procedure set out in paragraph E.9.2 and bring the case to a conclusion without a formal hearing.

3.12 A further possibility is that, although satisfied from its investigation that a breach of ministerial discipline has occurred, the mandated group may not think the breach sufficiently serious to justify deletion from the roll. Also mitigating factors may exist and the mandated group may consider that in the circumstances a written warning would be sufficient. If so it may, preferably in advance of the hearing, ask you, should you find the case proved, to issue a formal warning to the minister under paragraph F.2.2, rather than to delete the minister's name from the roll.

3.13 However, whilst you will doubtless consider any such request from the mandated group under paragraph 3.11 or paragraph 3.12 above, this can have persuasive force only and you do not have to comply with it as the final decision rests entirely with you. If you do not agree to the request a formal hearing must take place.

3.14 At any point in the commission stage, whether or not a hearing has taken place, you may receive a written request from the mandated group asking that you consider whether it might be more appropriate for the case to be dealt with

under the incapacity procedure. If this occurs, you must study the incapacity criteria set out in paragraph LP.1 of that procedure and come to a view as to whether it would be appropriate for the case of the particular minister to be handled within that procedure, rather than through the disciplinary process. Even if you have not received such a request you might, as a commission, decide that the incapacity procedure would be appropriate. Should you so decide, your course of action would be to refer the case back to the person who initiated the disciplinary process with the recommendation that s/he consider whether or not the case should be dealt with under that procedure (see paragraphs E.5.3.1 to E.5.3.21). The disciplinary process case will stand adjourned pending the outcome of that referral.

4. The hearing Itself – (i) The parties present their cases

4.1 The responsibility for the detailed practical arrangements for the hearing itself and for making sure that things get under way smoothly will fall upon the secretary and the convenor. You will need to listen carefully to the information and instructions which are given so that you understand fully the nature of the proceedings in which you have an important part to play.

4.2 The case proceeds in a set order. After introducing him/herself and you as the other members of the Assembly commission and explaining the roles of the secretary and the legal adviser, the convenor will invite the spokesperson for the mandated group to make the opening statement and the hearing will continue as laid down in paragraph E.13. The convenor will decide at what point any person attending the hearing under paragraph E.5.2.1 shall give evidence.

4.3 During the hearing each of you is entitled to ask questions of the witnesses, but, to avoid constant interruptions, you should, before the hearing opens, agree a procedure for this – possibly directing all questions through the convenor.

4.4 As the case proceeds, you should be paying keen attention both to the importance and relevance of the evidence itself and also to the general demeanor of the witnesses giving that evidence, so as to gain some impression of their reliability. Both these factors will be crucial to the decision to be taken later in which each one of you as a member of the Assembly commission must play your part.

4.5.1 The three paragraphs under this 4.5 are intended to assist you if the case which you are considering has passed through the caution stage (as to which see section AA of the disciplinary process). This was 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.

4.5.2 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.

4.5.3 In a case which has proceeded through the caution stage, attempts will have been made to work with the minister to find ways of resolving the perceived problems and difficulties affecting his/her ministry. It is likely that the mandated group will address you on these matters and you should, in particular, pay great attention to the wording of any cautions which have been issued.

4.6 Here are some procedural issues which might arise. The secretary and the convenor will in the main be responsible for handling them, but you too need to be aware of them:

4.6.1 The minister may decline to give evidence. If so, s/he or his/her spokesperson may address you by way of argument and may comment on the mandated group's evidence. However s/he loses the right to 'prove' any matters on which s/he wishes to rely. The reason for this is that s/he can bring facts to support his/her defence only if prepared to give evidence and thus to submit to questioning by the spokesperson for the mandated group.

4.6.2 If the minister refuses to give evidence and tries to assert facts the convenor must intervene to exclude those assertions and to explain why. If the minister should then decide to give evidence s/he may assert those facts and then be open to questioning about them.

4.6.3 What happens if the minister maintains his/her refusal to give evidence? S/he cannot be compelled to do so. However if s/he continues to assert facts after intervention by the convenor, not only will the convenor rule these out of order but may, after consultation with you as the other members of the commission, refer the minister to paragraph E.8.3 and warn him/her that the continued assertion of facts coupled with the refusal to give evidence will amount to an obstruction of the procedure, a factor which you can take into account in considering your decision later.

4.6.4 Even when the minister chooses not to give evidence him/herself s/he may still call witnesses to challenge the mandated group's case. Those witnesses would of course be subject to questioning by the spokesperson for the mandated group.

4.6.5 If the minister fails to attend the hearing without offering a satisfactory

explanation, you may proceed with the hearing. The minister's non-attendance is a factor which you can take into account when considering your decision (see paragraph E.8.2). If the hearing proceeds without the minister you should weigh the allegations carefully against any documentary evidence submitted by him/her, bearing in mind of course that the mandated group were unable to question the minister about it.

4.6.6 Written statements, videos, transcripts etc can in exceptional circumstances be admitted as evidence at your discretion, but always with the important proviso that you would need to consider how much weight to attach to them if the person providing that evidence is not present to be questioned directly. Evidence presented in any such way should have been made available to the other party prior to the hearing.

4.6.7 As well as oral evidence from individual witnesses the parties may produce documentary evidence such as certified copy minutes of meetings, letters, receipts, etc. These are acceptable so long as they have been disclosed to you and to the other party beforehand.

4.6.8 Sometimes new issues may be introduced during the hearing. If these are irrelevant to the subject matter of the case the convenor should rule that they be disregarded, unless they tend to reveal an underlying serious situation previously undisclosed, such as some indication that a criminal offence might have been committed. In that case the convenor will immediately adjourn the hearing and seek advice from the secretary and the legal adviser.

4.6.9 If the new issues do have a bearing on the case, the convenor should adjourn the hearing to give the other party the chance of considering them. S/he should consult you about this, so that you can decide whether the case can continue after a short break or whether, exceptionally, the hearing should be adjourned to a later date.

4.6.10 You should not lightly interfere in the questioning of the minister or of any of the witnesses. However the convenor may sometimes disallow questions which are put to the minister or any of the witnesses. S/he should do so where the questions are irrelevant to the matters in issue or offensive in the way they are framed or unnecessarily repetitive.

4.6.11 There is often a temptation for the minister or his/her spokesperson or the spokesperson for the mandated group to 'lead' witnesses who are there to give evidence in support of their case. This arises when a question is framed in such a way as to give a broad hint to the person being questioned as to the reply which the questioner is anticipating and hoping to receive. The convenor should immediately disallow the question and insist that the questioner rephrases the question in a neutral way so as not to give any indication of the answer which s/he is hoping to receive. You must all be alert

to this and be prepared to call the convenor's attention to any question which you believe falls foul of this or the preceding paragraph.

4.6.12 You must disregard any information based on allegations against the minister which were considered at an earlier Assembly commission unless at the hearing of the previous case a written warning was issued relating to those issues (see paragraph E.16.2). Otherwise the convenor should rule out of order any attempt to introduce any such matter at any stage of the proceedings.

4.7 It is understandable that the parties will wish to know the decision as quickly as possible but it is even more important that you as the members of the Assembly commission should have as much time as you need to weigh the evidence fully and meticulously and reach your decision. Too much is at stake for you to be hurried! So, immediately following the closing speeches, the convenor of the Assembly commission will announce to the parties that the decision will not be given that same day but that written notification will be issued to both parties within 10 days of the decision being reached. (51) S/he will then ask the parties to leave. You, as the members of the Assembly commission, will then deliberate in private in order to reach your decision.

4.8 The secretary and the legal adviser will also leave the room at this point to enable you to consider your decision in complete privacy. They will however remain on hand in the building to assist with any explanations as to procedure or as to the wording of the disciplinary process. However their function, if they are consulted in this way, is purely advisory and they do not play any part in the reaching of the decision.

5. The hearing Itself (continued) – (ii) Reaching your decision

5.1 In approaching your task, you must remember that the burden of proving the case against the minister falls upon the mandated group (see paragraph E.16.1.1) and that the standard of proof required is the standard set for civil cases of 'balance of probability', not the criminal standard of 'beyond reasonable doubt' (see paragraph E.16.1.2).

5.2 The first stage of the decision-making process must be a detailed and painstaking assessment of the evidence and the witnesses. Each piece of evidence should be put under the microscope. Can it be relied on as part of the body of facts on which you have to base your decision? Do the parties agree about it? If they disagree, what have their witnesses said about it? What does the documentary evidence suggest? On the balance of probability, which version is the more likely? If you feel very undecided the minister is entitled to the benefit of the doubt.

5.3 How reliable are the witnesses? Here are some factors which might affect a witness's credibility – his/her emotional state, some degree of personal animosity, inconsistencies in the information given, a witness saying, quite simply that, whilst believing that such and such happened, s/he cannot be absolutely sure.

5.4 Having carefully sifted all the information before you, you must next discard any which you consider to be unreliable, irrelevant or trivial. You are then left with the reliable, relevant and significant evidence and it is upon this that you must reach your decision.

5.5 Now – the decision itself. At this stage take time to remind yourselves particularly of the Basis of Union, schedule C (affirmations made by minister at Ordination and Induction), schedule D (Statement concerning the nature, faith and order of the United Reformed Church), schedule E, paragraph 2 (ministers' duties in relation to schedules C and D), schedule F, part I (affirmations made by CRCWs at their commissioning and induction), schedule F, part II, paragraph 2 (CRCWs' duties in relation to schedule D and schedule F, part I) and of the disciplinary process, paragraph A.1.4 (reference to Basis of Union), the disciplinary process, paragraphs F.2.1 (your decision), F.3 (recording your decision), E.16.1.1 (burden of proof), E.16.1.2 (standard of proof) and F.1./F.3 (also relates to the reaching and recording of your decision).

5.6 As stated in the last paragraph, the conduct of the minister is to be judged in the light of the promises made at ordination. What if the conduct complained of occurred prior to ordination? In that situation the issue is whether that conduct was disclosed to those responsible for assessing him/her as a candidate for ministry (see paragraph A.1.5).

5.7 In coming to your decision, the fundamental question which you must ask is this – taking account of both the burden and the standard of proof referred to in the last paragraph, does the reliable, relevant and significant evidence against the minister lead you to the conclusion that s/he has broken either or both of the promises given at ordination to lead a holy life and/or to preserve the unity and peace of the Church? If the answer to that question is 'no', then – end of story – the decision must be to retain the name of the minister on the roll.

5.8 If, however, the answer is 'yes' you are saying that a breach of discipline has occurred. Therefore you cannot simply dismiss the case and decide to retain the minister's name on the roll – and nothing more (see paragraph F.2.2). You then have a further question to consider – do you believe that the breach of discipline is so serious that the minister's name must be deleted from the roll or would a written warning be sufficient?

5.9 To go down the 'written warning' route you have to be satisfied either that the breach, although proven, is not sufficiently serious as to justify removal from the

roll or that mitigating factors exist which would justify giving the minister a second chance. Examples are given in paragraph F.1.2, but you need to be extremely wary of placing too much weight on mitigating factors in cases where violence or abuse or both have been proved because of the overriding need to protect vulnerable people in the future.

5.10 Thus there are three possible decisions open to you:

a) to retain the minister's name on the roll – full stop (see paragraph F.2.1) - but only if you find that no breach of discipline at all has occurred or

b) to retain the minister's name on the roll, but as part of the decision to issue a written warning (see paragraph F.2.2 and paragraph 5.9 above) or

c) to delete the minister's name from the roll (see paragraph F.2.1).

5.11 Should you decide to delete the name of the minister from the roll, you are particularly asked to include guidance as to any restrictions which ought to be placed on the minister becoming involved with any activities after deletion (see paragraph F.2.3). N.B. This guidance, important though it is, is not part of the decision itself; it is guidance only.

5.12 Paragraph F.3 explains how you should record your decision. The record must be clearly worded, it must satisfy the requirements in that paragraph and it must not contain extraneous material. In your written statement you must expressly state your wish as to which items of guidance (if any) should be passed on to any particular outside organisation with which the minister may be involved. The secretary of the commission will need this information so that s/he can comply with paragraph F.6.4.

5.13 Should you decide to retain the name of the minister on the roll, whether or not you decide to issue a written warning, you have no brief whatsoever to make recommendations, suggestions or comments about the minister's future ministry. Nor indeed is the decision record the proper place to make any suggestions or comments about any other aspect of the Church's life even though you think they have a bearing on the present case. If any of you should feel strongly enough that you would like to make known any such concerns, the proper course is to wait until the case has been concluded (which would include the hearing of any appeal) and then to communicate those concerns to the convenor or secretary of the Assembly commission who will pass them on for consideration either to the Advisory Group or exceptionally to the General Secretary. The minister and others involved in the case are entitled to confidentiality (see paragraph A.4). You must therefore express your concerns without naming

anyone involved.

5.14 Although the secretary and the legal adviser are not present when the actual decision is reached, you may whilst you are still all together in session consult them as to the actual wording of the record of the decision. Note the important distinction here. They must not influence you in the actual decision but, once you have reached that decision, you may consult them as to the phraseology to be used in the wording of the record of the decision. In the interests of all concerned it is imperative that the record is properly worded and that it fully complies with paragraphs F.1 to F.3 – this cannot be overstressed!

5.15 The making and recording of the decision as previously explained conclude your involvement subject only to any issues regarding ISA compliance – see paragraph 5.16.

15.16.1 The Safeguarding Vulnerable Groups Act 2006 (SVGA 2006) provides that where an individual(s) behaves in an inappropriate way with children or vulnerable adults, such behaviour should be referred to the Independent Safeguarding Authority (ISA) (or its intended successor body) for review with the possible outcome being that the person(s) concerned might be placed upon a barred list, the purpose of which is to prevent them having further contact with children or vulnerable adults. The decision as to whether an individual is placed on a barred list is one that the ISA makes alone.

15.16.2 Any information provided by the Church to the ISA is in confidence. After referral the ISA liaises with the Minister/CRCW or others as required.

15.16.3 The SVGA 2006 provides that a referral to the ISA **must** be made in a situation where as a result of the Church's disciplinary procedure it is decided that a minister/CRCW has behaved in an inappropriate way towards a child or vulnerable adult and that a sanction has been applied. Alternatively, if the disciplinary process has not established on the evidence available that the alleged inappropriate behaviour has occurred but nonetheless the Assembly commission or the appeals commission have concerns about the behaviour of the minister/CRCW towards a child/vulnerable adult, a **voluntary referral** can be made.

15.16.4 Inappropriate behaviour is anything of an emotional, psychological, physical or sexual nature and (in the case of a child) also neglect and (in the case of a vulnerable adult) financial or verbal in nature which is considered to be harmful or whether the Minister/CRCW has caused, attempted to cause or has incited harm to a child or vulnerable adult.

15.16.5 See paragraph A.14 of the disciplinary process and Appendix I of these Guidelines for further details regarding the ISA. If additional

information is required refer to the ISA's Referral Guidance which can be accessed on the ISA's website.

Appendix I - see paragraph 5.16.5 of these guidelines

ISA referral guidance - Referral Policy

Type of harm to children	Meaning	Examples
Emotional/Psychological	Action or inaction by others that causes mental anguish	Emotional harm is the emotional ill-treatment of a child such as to cause severe and persistent adverse effects on the child's emotional development. It may involve conveying to children that they are worthless or unloved, inadequate, or valued only insofar as they meet the needs of another person. It may feature age or developmentally inappropriate expectations being imposed on children. It may involve causing children frequently to feel frightened or in danger, or the exploitation or corruption of children. It may involve children witnessing aggressive, violent or harmful behaviour such as domestic violence. Some level of emotional harm is involved in all types of ill-treatment of a child, though it may occur alone. Grooming. Harassment. Inappropriate emotional involvement.

Physical	Any intentional physical contact that results in discomfort, pain or injury	Physical harm may involve assaults including hitting, shaking, throwing, poisoning, burning or scalding, drowning, suffocating, or otherwise causing physical harm to a child. Physical harm may also be caused when a parent or carer feigns the symptoms of, or deliberately causes ill health to a child whom they are looking after. This situation is commonly described using terms such as factitious illness by proxy or Munchausen syndrome by proxy. Supply drugs to children. Inappropriate/ unauthorised methods of restraint.
Sexual	Any form of sexual activity with a child under the age of consent	Sexual harm involves forcing or enticing a child or young person to take part in sexual activities, whether or not the child is aware of what is happening. The activities may involve physical contact, including penetrative (e.g. rape or buggery) or non-penetrative acts. They may include non-contact activities, such as involving children in looking at, or in the production of, pornographic material or watching sexual activities, or encouraging children to behave in sexually inappropriate ways. Downloading child

		pornography. Taking indecent photographs of children. Sexualised texting.
Neglect	Failure to identify and/or meet care needs	Neglect is the failure to meet a child's basic physical and/or psychological needs, likely to result in the serious impairment of the child's health or development. It may involve a parent or carer failing to provide adequate food, shelter and clothing, failing to protect a child from physical harm or danger, or the failure to ensure access to appropriate medical care or treatment. It may also include neglect of, or unresponsiveness to, a child's basic emotional needs.

ISA Referral Guidance - Referral Policy

Type of harm to vulnerable adults	**Meaning**	**Examples**
Emotional/Psychological	Action or inaction by others that causes mental anguish	Inflexible regimes and lack of choice. Mocking, coercing, denying privacy, threatening behaviour, bullying, intimidation, harassment, deliberate isolation, deprivation.
Financial	Usually associated with the	Unauthorised withdrawals

	misuse of money, valuables or property	from vulnerable adult's account, theft, fraud, exploitation, pressure in connection with wills or inheritance.
Physical	Any physical action or inaction that results in discomfort, pain or injury	Hitting, slapping, pushing, shaking, bruising, failing to treat sores or wounds, under or overuse of medication, un-prescribed or inappropriate medication, use of restraint or inappropriate restraint, inappropriate sanctions.
Sexual	Coercion or force to take part in sexual acts	Inappropriate touching. Causing bruising or injury to the anal, genital or abdominal area. Transmission of STD.
Neglect	Failure to identify and/or meet care needs	Untreated weight loss, failing to administer reasonable care resulting in pressure sores or uncharacteristic problems with continence. Poor hygiene, soiled clothes not changed, insufficient food or drink, ignoring resident's requests, unmet social or care needs.
Verbal	Any remark or comment by others that causes distress	Demeaning, disrespectful, humiliating, racist, sexist or sarcastic comments. Excessive or unwanted familiarity, shouting, swearing, name calling.

The above guidance is no substitute for a careful study of the Basis of Union, schedules C, D and E (paragraph 2), F (part II paragraph 2)
and the disciplinary process.

Effective from November 2013