



The
United
Reformed
Church

The United Reformed Church The ministerial disciplinary process

Guidelines for synod appointees who act during the caution stage

These guidelines have been prepared by Mission Council's ministerial incapacity procedure and disciplinary process advisory group (MIND) to help you to understand the distinctive role which as a synod appointee you will play in the disciplinary process. They take into account all the changes made up to and including April 2011. This is an advisory document; it does not carry the authority of the General Assembly and, in every respect, it is subject to the disciplinary process the text of which always takes precedence over these guidelines. Make sure you have the latest version of the disciplinary process by your side when reading this. It can be found on the Church's website (<http://www.urc.org.uk>).

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.

One of you will be selected from the joint panel which receives regular ongoing training from representatives of MIND. The person selected will therefore be able to take the leading role as you embark on your responsibilities during that part of the disciplinary process known as the 'caution stage'.

The MIND training team has prepared a number of papers which are used for training purposes and members of the joint panel have copies and will be familiar with them. These cover a range of issues and provide greater detail than is possible in these guidelines. You may find one or other of these papers helpful in the particular circumstances.

Forms have been specially prepared to help those involved at the various stages in the process. The forms for use in connection with the caution stage are all headed AA and are listed in Appendix I of these guidelines. These forms are held by the Synod Moderator.

Note that the 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. Great care must be exercised to protect the confidentiality of all e-mail correspondence in which you may be involved within the process. Consequently, it is strongly recommended that you should each use a dedicated e-mail address available only to yourself for such correspondence.

1. Introduction

- 1.1 In April 2011 a caution stage was introduced into the disciplinary process (see Section AA) to provide a means of dealing with those cases falling short of gross misconduct. The most obvious examples of gross misconduct are any abusive conduct, conduct with a sexual connotation, fraud or any conduct which could amount to a criminal offence. In such cases the caution stage will be bypassed and the Synod Moderator will proceed immediately with the calling in of the mandated group.
- 1.2 However, the Church recognises that, even in the absence of gross misconduct, issues of discipline can still arise where the minister's perceived shortcomings 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.
- 1.3 Such behaviour, whilst not amounting to gross misconduct, may nevertheless damage the Church's unity, purity, peace and well-being and so amount to a breach of the promises made by the minister at ordination – the yardstick by which disciplinary cases are judged. 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.
- 1.4 The caution stage has been drafted specifically to examine cases of this sort and, hopefully, to help the minister to overcome the problems which have arisen. If that outcome can be achieved, the case will proceed no further than the caution stage, although it must be stressed that, if a case cannot be resolved at the caution stage, it will be taken forward into the later stages of the disciplinary process.
- 1.5 These guidelines have been written primarily for the use of synod appointees, but we also commend them to Synod Moderators and other responsible officers within the synod.

2. Two important principles

- 2.1 It is important to stress that the caution stage is part of the disciplinary process, not a separate procedure which precedes it. So the need for confidentiality and the other general principles and procedural rules governing the process apply to the caution stage unless clearly precluded by or inappropriate in the particular context.
- 2.2 In cases which raise issues of gross misconduct, the Synod Moderator will bypass the caution stage and proceed directly to the calling in of the mandated group. Essentially therefore you as synod appointees will be looking at issues which, while falling short of gross misconduct, imply an element of 'blameworthiness' of a lesser degree which may nevertheless indicate that the minister is falling short of the promises made at ordination. Some examples of such 'lesser' conduct have been given at paragraph 1.2 above.
- 2.3 It may be helpful for you to be aware of the sort of issues which fall within the realm of gross misconduct. The most obvious examples would be any abusive conduct, conduct with a sexual connotation, fraud or any conduct which could amount to a criminal offence. If during the caution stage you believe that there may be issues involving gross misconduct, you must report this to the Synod Moderator immediately.
- 2.4 More specifically, if you become aware that the minister is the subject of a criminal charge or is involved in any criminal investigation you must immediately adjourn your enquiry and advise the Synod Moderator. (see paragraph AA.12.1 of the disciplinary process).
- 2.5 As your enquiry may be ongoing for some time and as you are likely to wish to talk to some of the elders and, possibly, other members of the congregation, the Synod Moderator will most likely wish to forewarn the local congregation and explain your role to them. S/he will decide on how to go about this and it will of course depend to a large extent on the individual circumstances. The Synod Moderator should advise you as to what has been said to the congregation but, if s/he fails to do this, you should raise the matter with him/her, since you need to know what has already been said when planning your approach.

3. Similarities/differences between your role and that of the mandated group

- 3.1 Before we look at your work in detail, we set the scene by comparing your role with that of the mandated group. Indeed, some of you may already have taken part in a disciplinary case as a member of a mandated group. This experience will certainly be helpful, and indeed in two respects the task of synod appointees at the caution stage is similar to that of a mandated group later in the process. However, in two important respects it is quite different. First the **similarities**:

- 3.1.1 You will need to conduct interviews both with the minister and with other people who might be able to assist your enquiry. As to how you should go

about this task the guidance given at section 4 is similar to that which appears in the guidelines for mandated groups.

3.1.2 The second similarity is that because your work takes place within the framework of the disciplinary process you must have no pastoral involvement whatever with the minister or his/her family. Everything you do must be objective and focused on an examination of the ministry of that particular minister. You are not concerned with his/her private life or personal problems or those of his/her family **except insofar as you consider that these have a direct bearing on the case with which you have been entrusted.** You are very likely to uncover pastoral issues as you proceed with your enquiry, but you must not under any circumstances get sucked into trying to sort them out. That is pastoral work and it is a task for others, **not you.**

3.1.3 However, in two important respects your task is quite unlike that of the mandated group which is, in brief, to investigate the allegations against the minister, to weigh all the evidence and prepare and present the case against the minister at the hearing before the Assembly commission. Your role is quite different. So here are two **differences:**

3.2 Whilst, as we have already stressed, you must not become involved pastorally with the minister, your brief is wider than that of the mandated group in that you must address, hopefully with the minister's co-operation, the perceived shortcomings in his/her ministry and look for ways of restoring that ministry and bringing it into line once more with the ordination promises. This will require great tact and sensitivity and will to a large extent depend on whether the minister responds positively. This is a constructive piece of work, the outcome of which, it is to be hoped, will be to restore to good health a ministry which is failing and may otherwise be in terminal decline. To achieve such a solution must be the best outcome for both the minister and the whole church. The mandated group has no such role as this.

3.2.1 However, as the minister has already entered the disciplinary realm, your work has to be much more than a simple exercise in mediation. Your efforts must be reinforced by the sharp edge of discipline and this is why sanctions are present at the caution stage (there is nothing comparable in the mandated group's role later in the process). These cautions take the form of (i) an initial caution and (ii) a final caution which you can, **indeed you should,** impose on the minister if you feel that, despite all your efforts s/he has not seriously attempted to address the shortcomings identified by you. So then, this is the second point of difference between your role and that of the mandated group. You have the power to impose a formal disciplinary sanction over the minister the purpose of which is to test his/her suitability for continued ministry. This occurs at an early stage in the process and, as such, it amounts to a 'pre-hearing decision' against which the minister can appeal. By contrast the mandated group has no such power.

4. Your task

- 4.1 At the outset you will need to agree between yourselves as to who does what and how you intend to conduct your enquiry. One of you will have been appointed from the joint panel as being the more knowledgeable, having already received training and guidance about the process. So that person will be expected to play the leading role and to assist the other with some preliminary guidance about the disciplinary criteria and the general operation of the process. Throughout the caution stage you must keep in regular touch and work closely together.
- 4.2 Cases passing through the caution stage are likely to depend on a pattern or patterns of conduct building up cumulatively over a significant period of time or an unhelpful and inflexible attitude to the views and sensibilities of others or both. Such cases are unlikely to involve the dramatic and occasionally 'headline-grabbing' incidents that can occur in cases involving gross misconduct. Therefore you will need to be painstaking and thorough as you work through a mass of detailed information and as you conduct what could amount to a series of interviews with the minister and with a number of other people. Only in this way will you be able to build up a sufficiently detailed picture to understand what has led up to the present unhappy situation.
- 4.3 In particular you will probably need to meet the elders of the local church/pastorate. You may also need to meet with different groups since there may be a split in the congregation with some supporting the minister and others who are dissatisfied and who may well have lodged the initial complaint with the Synod Moderator. If you do find yourself in this situation, you will need to exercise the utmost sensitivity and impartiality. You must be able to stand back and treat all the information provided with complete objectivity, particularly as the minister is likely to be at the centre of the conflict. You may instinctively feel drawn more to one side than the other but you must absolutely resist any tendency towards partiality. All the steps which you take, which may include the imposition of cautions upon the minister and recommendations to the Synod Moderator, must be based on sound logical analysis of the information provided and a clear-headed assessment of the situation.
- 4.4 Sometimes you may come to realise that, although the problems are real enough, their root cause does not lie in the disciplinary realm but rather that specialised pastoral help is needed. On other occasions allegations may have been made mischievously or maliciously.
- 4.5 In arranging and conducting meetings, please bear the following points in mind:-
- 4.5.1 When asking anyone to attend an interview, you should make it clear that the person concerned can decline to be interviewed or, if agreeing to attend, that s/he may terminate the interview at any time. You should also tell the minister or other interviewee that s/he may have a friend present with him/her at any interview.
- 4.5.2 When making the appointment, you must stress that the whole of the disciplinary process is protected by confidentiality. This is essential in the interests of natural justice in order to ensure that the process is scrupulously

fair to the minister. It should be pointed out, both when the appointment for the interview is made and again at the outset of each interview, that discussion of the case with people not directly involved in the disciplinary process might put this at risk.

- 4.5.3 When interviewing the minister and other witnesses you should both be present. This is to ensure that the record of the meeting is accurate and to afford protection against any criticism that one of you acting alone might have conducted the interview improperly or misunderstood or misrepresented the evidence given by the person being interviewed.
 - 4.5.4 You must be courteous and fair and not intimidatory, your aim being to create a relaxed and informal atmosphere so that the person being interviewed does not feel under pressure.
 - 4.5.5 Remember that your primary objective is to seek a satisfactory solution of the problems, rather than to 'throw the book' at the minister by adopting an aggressive or judgmental attitude.
 - 4.5.6 At the conclusion of every interview you should prepare a written summary of the discussion and invite the interviewee to read the statement and, if satisfied with it, to sign it. You should then also sign it. If the interviewee is unwilling to sign the statement, you should invite him/her to state why and, if appropriate make any necessary amendments to resolve any reasonable and proper concerns which s/he may have. If s/he still refuses to sign, you should add an explanatory note at the end of the statement and then you should sign it, so long as you are satisfied that it represents a fair and accurate summary of the discussion.
- 4.6 Throughout your enquiry you may refer back to the Synod Moderator for discussion (paragraph AA.4.3). You may also consult him/her as to the terms of any caution you wish to impose. Whilst this line of communication is of importance generally, we would particularly recommend consultation with the Synod Moderator if you are considering taking some action to bring the caution stage to an end before it has run its full allotted course (this expression is explained in paragraph 6.1). Should the moderator have serious reservations, it would be as well for you to be aware of these and have the chance of reconsidering your proposed course of action. If, for example, you are intending to make an early recommendation to the moderator to move the process forward and s/he thought that this was premature, a discussion might forestall a difficult and time-consuming situation (see paragraphs 6.7 and 6.8).
- 4.7 There are two other procedures which might be relevant in the case of a minister whose ministry is causing concern to the Church. These are:

4.7.1 The capability procedure

This procedure was introduced by General Assembly Resolution 25 of 2008 and is printed in full at pages 230/234 of the General Assembly Report of that year. Its purpose is 'to give ministers/CRCWs who are not performing to a satisfactory level the opportunity to improve their performance to an acceptable standard.' This procedure would apply

where the minister's under-performance does not involve any misconduct on his/her part. In the absence of 'blame' a minister is outside the disciplinary process. This is an easy distinction to make on paper, but in 'real life' it might be a close call, because the dividing line between mere inadequacy on the one hand and deliberate laziness and obfuscation on the other might in some cases be a very thin one. Or you may think that, while the minister is not being as co-operative as you may have hoped and while you may detect some degree of fault on his/her part, the element of 'misconduct' or 'blame' is not sufficient to justify a disciplinary case. You will need to weigh up all the relevant factors very carefully and we would also suggest that in this situation you should consult the Synod Moderator before finally making up your mind. If, having exercised this high level of care, you still feel that the minister in your case would be better dealt with under the capability procedure, you should report to the Synod Moderator under paragraph AA.5.1 that no further action should be taken under the disciplinary process and include in your report a recommendation for the moderator to initiate the capability procedure instead.

4.7.2 The incapacity procedure (see Section P of the Manual)

As stated in paragraph LP.1 of that procedure quoted below, this is intended to deal with **'cases properly referred to it in which ministers or church related community workers (CRCWs), whilst not perceived to have committed any breach of discipline, are nevertheless regarded as being incapable of exercising, or of continuing to exercise, ministry on account of (i) medical and/or psychiatric illness and/or (ii) psychological disorder and/or (iii) addiction.'** If you think that the minister in your case falls into one or more of these categories, you should again report to the Synod Moderator that no further action be taken under the disciplinary process under paragraph AA.5.1, coupled with a recommendation that the Moderator might consider whether the incapacity procedure was appropriate.

- 4.8 In either of the situations mentioned in paragraph 4.7 you should give reasons to support your recommendation. You are unlikely to consider making a recommendation for a referral into one of these other procedures after you have issued a caution since by doing this you have by implication already attributed 'blame' to the minister.
- 4.9 You may occasionally find yourselves involved in a case where the minister was first considered within the incapacity procedure but was later brought within the disciplinary process instead. If so, you are asked to pay careful attention to any special factors which may be present. (The incapacity criteria are set out in paragraph 4.7.2 above).

5. Issuing cautions

- 5.1 If, despite all your attempts the shortcomings remain and, in your view, represent a breach of the minister's ordination promises, you should follow the route of issuing cautions, the first of which is the initial caution. If you consider the position sufficiently serious to bypass an initial caution, you can immediately issue a final caution or even recommend to the Synod Moderator that, without further ado, s/he should move

immediately on to the next stage by calling in a mandated group, but either of those courses would be exceptional. Similarly, at the end of the period of monitoring the initial caution you can bypass the final caution and recommend to the synod moderator the calling in of the mandated group. Again this would be exceptional. Another possibility is that you might conclude that the disciplinary case needs to proceed no further and that the initial caution should be removed.

5.2 **If a case works its way right through the caution stage**, it could well continue for 12/18 months or even longer and will pass through three stages. These are:

5.2.1 An initial period while you meet with the minister and others involved to gather the facts and generally to understand what led the Synod Moderator to call you in to begin the caution stage. This period will end when you impose an initial caution.

5.2.2 The period whilst you monitor the way the minister responds to the initial caution. This period will end when you impose a final caution.

5.2.3 The period whilst you monitor the final caution. This period ends when you either conclude that no further disciplinary action is needed or when you recommend to the synod moderator that s/he should move to the next stage of the disciplinary process by calling in a mandated group.

5.3 The preparation of the caution itself is an equally responsible and demanding task. In drafting the caution, you must set down a full explanation of the enquiries which you have made, the shortcomings which you have identified, the steps which you expect the minister to take in order to rectify matters and the period (not more than twelve months) within which you expect this to be done. See also paragraph AA.6.1 in the case of an initial caution and paragraph AA.7.1 in the case of a final caution.

5.4 Because the caution, whether initial or final, amounts to a 'decision' taken under the disciplinary process, the minister does have a right of appeal. The appeals procedure is contained in paragraph AA.8. In the interests of space, we have not included any further reference to the appeals procedure in these guidelines.

6. **Your report to the synod moderator at the end of the caution stage**

6.1 You will need to give very careful attention as to how to bring the caution stage to a conclusion and present your report to the Synod Moderator. We have explained in paragraph 5.2 what will happen if the caution stage runs its full allotted course (**i.e. an enquiry, followed by an initial caution, followed by a monitoring period, followed by a final caution, followed by a further monitoring period and finally your concluding report**). In submitting your report to the Synod Moderator, you must either **(i) report that no further disciplinary action is necessary or (ii) recommend that s/he should call in a mandated group and move to the next stage of the process.**

- 6.2 We have also made it clear that these two options are open to you **at any time during the caution stage** and that if, at an earlier point, you wish to follow one or other of these options, you do not have to work through the remaining steps outlined above.
- 6.3 So first let us look at the procedure you must follow if you decide that no further disciplinary action is necessary. Under paragraphs AA.9.1 you must present a report to the Synod Moderator and you should study that paragraph closely as it explains what information should be included. Also do not overlook paragraph AA.9.2 which says that you must attach to the report all relevant statements and documents. paragraphs AA.9.3 and AA.10.1 confirm that, once you have taken these steps, you are discharged and indeed the disciplinary process itself is at an end.
- 6.4 The position is more complicated if your report to Synod Moderator is coupled with a recommendation that s/he should call in a mandated group and thus proceed to Section B of the process. Here we must first ask the question: '**Have you worked through the whole of the allotted course as set out in paragraph 6.1 above or are you submitting your report to the Synod Moderator at an earlier stage.**
- 6.5 The reason for this distinction is that, if the caution stage has passed through its full allotted course, the caution stage procedures have been fully exhausted and the case must either be discontinued or referred on to the next stage with the calling in of the mandated group (if the Synod Moderator accepts a recommendation from you to this effect) (see paragraph 6.1). As there is therefore no possibility of your remaining 'on stand-by' (in contrast to the situations mentioned at paragraphs 6.6 and 6.7 below), you are accordingly discharged at this point. Note that, although your role has ceased, the disciplinary case continues in being if you have recommended the calling in of a mandated group. Should the Synod Moderator not act on the recommendation within six months, the disciplinary process then comes to an end.
- 6.6 If, on the other hand, you make your report at an earlier stage, you are, in effect, recommending the Synod Moderator to push the case forward to the next stage without its having passed through the full rigour of the caution stage process. You will no doubt have considered very carefully before taking this unusual step and have strong reasons for believing that it is the right and proper thing to do. However, bearing in mind that the process must at all times be seen to be absolutely fair to the minister, the rules provide that, in such a situation, the Synod Moderator has a period of six months within which to decide whether to accept your recommendation or to invite you to re-consider your decision to bring the caution stage to an end.
- 6.7 If s/he feels that your recommendation is premature and that you should continue with your enquiry, s/he can, within that period, invite you to take the case through the remainder of the caution stage and you, in turn, must say within one month whether you are willing to do so. If you are unwilling to do this, your involvement comes to an end when you send your notice rejecting the Synod Moderator's request.

- 6.8 If the Synod Moderator does not, within six months, act on your recommendation, the disciplinary process comes to an end and you are discharged (unless this has already happened under paragraph 6.7).
- 6.9 If the case in which you have acted as synod appointee does proceed further than the caution stage, you cannot be called upon to serve on the mandated group in that case.

Appendix 1

See the penultimate paragraph of the introductory section of these guidelines

List of forms in category AA for use during the caution stage

Number	Heading	Paragraph(s) of rules	Who uses the form
AA1	Notice calling in person to act as one of the synod appointees	AA.2.1 & AA.2.3	SM
AA2	Response to notice calling in the synod appointees	AA.2.1 & AA.2.3	SAs
AA3	Notice to minister/CRCW of calling in the synod appointees	AA.2.4	SM
AA4	Form of acknowledgement of notice of calling in synod appointees	AA.2.4	SAs
AA5	Notice to synod appointees supplying the relevant papers and informing of beginning caution stage	AA.2.4	SM
AA6	Request for meeting with minister/CRCW	AA.4.1	SAs
AA7	Request for meeting with person other than the minister/CRCW	AA.4.2	SAs
AA8	Notice that no further action needed	AA.5.1, AA.6.4.1 & AA.7.4.1	SAs
AA9	Notice recommending the calling in of a mandated group	AA.5.3.1, AA.6.3.1, AA.6.4.3.1, AA.7.3.1 and AA.7.4.2	SAs
AA10	Notice to minister/CRCW that the synod appointees have recommended the calling of a mandated group	As AA9	SAs
AA11	Notice of unwillingness to accept recommendation to call in a mandated group	AA.5.3.2	SM
AA12	Notice of willingness to accede to request to continue the enquiry at the caution stage	AA.5.3.2	SAs
AA13	Notice of unwillingness to accede to request to continue	AA.5.3.3	SAs

	the enquiry at the caution stage		
AA14	Initial caution imposed by the synod appointees	AA.6	SAs
AA15	Notice of issue of initial caution	AA.6.1	SAs
AA16	Final caution imposed by the synod appointees	AA.7.1	SAs
AA17	Notice of issue of final caution	AA.7	SAs
AA18	Notice of appeal against caution	AA.8.1	minister
AA19	Acknowledgment of notice of appeal against caution	AA.8.1	SM
AA20	Notification to synod appointees of appeal by minister/CRCW against caution	AA.8.1	SM
AA21	Request to constitute an appeals body to hear an appeal against a caution	AA.8.2.1	SM
AA22	Acknowledgment of request to constitute an appeals body	AA.8.2.1	SM (other synod)
AA23	Request to a prospective member of an appeals body to hear an appeal against a caution	AA.8.2.1/5	SM (other synod)
AA24	Response to request to serve on an appeals body to hear an appeal against the imposition of a caution	AA.8.2.1/5	AB member
AA25	Notice to synod moderator/General Assembly representative of appointment of appeals body to hear an appeal against the imposition of a caution	AA.8.2.5	SM (other synod)
AA26	Invitation to act as secretary of the appeals body to hear an appeal against a caution	AA.8.2.6	SM
AA27	Response to request to act as secretary of the appeals body appointed to hear an appeal against the imposition of a caution	AA.8.2.6	AB secretary
AA28	Notice to members and secretary of the appeals body	AA.8.3	SM
AA29	Notice to minister/CRCW of an appointment of members of	AA.8.3	AB secretary

	appeals body and request for meeting		
AA30	Response to notice to minister/CRCW of an appointment of members of appeals body and request for meeting	AA.8.3	minister
AA31	Notice of decision of appeals body relating to an appeal against a caution	AA.8.7	AB secretary
AA32	Form of acknowledgment of notice of decision of appeals body relating to an appeal against a caution	AA.8.7	Minister, SM and SAs
AA33	Report of synod appointees to Synod Moderator under the caution stage	AA.9.1	SAs
AA34	Notice to synod appointees of calling in of mandated group	AA.10.2.2	SM
AA35	Notice to synod appointees that no mandated group has been called in	AA.10.2.4	SM

Effective from November 2013