



Uniting Church in Australia
ASSEMBLY
Assembly Standing Committee

11-13 November 2022

DOCUMENT 11

Title	Regulations Review Task Group Report
Type of Paper (Information/Decision)	For noting
Assembly or ASC Minute	Assembly Minute of 7 May 2022
Consultation	Regulations Review Task Group
Purpose	To provide an update to Assembly Standing Committee on the work of the Regulations Review Task Group to date.
Rationale & Findings Summary	See the report
Attachments	Attachment 1: Unconfirmed Assembly Minute of 7 May 2022. Attachment 2: Status Report No.2. Attachment 3: Status Report No.3.
Proposal/s	That the Assembly Standing Committee: 1. Resolve to note the current status of the review of Part 5 – Church discipline – of the Regulations.
Submitted by	Heather den Houting Chair, Regulations Review Task Group heather.denhouting@ucaqld.com.au

REGULATIONS REVIEW TASK GROUP REPORT

General Background

On the 7 May 2022, at the reconvened 16th Assembly meeting, Assembly considered a submission from the Assembly Standing Committee (**ASC**) concerning the review of the Regulations and, in particular, Part 5 dealing with Church Discipline.

The Assembly resolved:

- “1. to defer any review of the Regulations that are associated with, or ancillary to, the broad strategic work done as part of the Act2 process, other than Part 5 – Church Discipline – in order to ensure that any proposals as part of the review are aligned to the strategic direction of the Assembly.
2. to delegate, pursuant to Regulation 3.10.2(a)(ii), to the Assembly Standing Committee the authority to make Regulations under Part 5 of the Regulations (Church Discipline), subject to:
 - a. those Regulations being generally in accordance with the amended Framework of Principles and subject to appropriate consultation on the draft regulations; and
 - b. the approval of those Regulations by the Assembly Standing Committee on the advice of the Assembly Legal Reference Committee.”

Further Action Taken

Since the 7 May 2022, the Assembly Regulations Review Task Group (**RRTG**) has undertaken the further following actions as part of seeking feedback on the content of a revised Part 5 of the Regulations.

On 29 June 2022, the project officer sent the second Status Report to the Regulations Review Consultation Group (RRCG). A copy of that Report forms **Attachment 2**.

On 21 July 2022, the project officer met with the Moderators concerning their possible role in the disciplinary process. It had been identified that a revised Part 5 could confer on Moderators a slightly increased role in the disciplinary process. In particular, where a complaint against a Minister alleged conduct as referred to in Regulation 5.7.2(a) to (e) that, on the face of the complaint, warranted termination of the Minister’s placement or candidature or the recognition of the Minister being withdrawn, such a complaint was to be referred to the Moderator who then decided which disciplinary body was best placed to deal with that particular matter. This increased role appeared consistent with the current Regulation that empower the Moderator to stand aside a Minister under Regulation 5.7.5(a). There were differing views expressed by some Moderators as to the new role.

In light of the feedback received to that point in time, ten (10) specific issues had been identified on which specific feedback was sought and a redraft of Part 5 was developed by the project officer. In addition, an alternate framework had been proposed to deal with complaints against ministry agents.

On 31 August 2022 the project officer sent the third Status Report to the RRCG. That report included:

- (i) a redraft of Part 5 of the Regulations;
- (ii) identified the ten (10) specific issues on which feedback was sought; and
- (iii) a “Proposed New Framework to deal with Complaints against Ministry Agents”,

and feedback was sought by 1 November 2022. A copy of that Report and its attachments forms **Attachment 3**.

Finally, an Information Session has been scheduled for 18 October 2022 with the RRCG to unpack some of the issues identified to date. It is anticipated this session will contribute to the further development of a revised Part 5 that will, in the fullness of time, be submitted to the Assembly Standing Committee.

The project remains on track in accordance with the original timeframes.

Proposal

It is recommended the Assembly Standing Committee note the current status of the work of the Regulations Review Task Group in the review of Part 5 of the Regulations.

ATTACHMENT 1

16th ASSEMBLY RECONVENED MEETING: RESOLUTIONS 7 May 2022

**Unconfirmed Minutes: NOT FOR DISTRIBUTION
(For the information of the Synod Standing Committees only)**

...

Review of the Regulations – Delegation of Authority to Amend Part 5 of the Regulations

1. to defer any review of the Regulations that are associated with, or ancillary to, the broad strategic work done as part of the Act2 process, other than Part 5 – Church Discipline – in order to ensure that any proposals as part of the review are aligned to the strategic direction of the Assembly.
2. to delegate, pursuant to Regulation 3.10.2(a)(ii), to the Assembly Standing Committee the authority to make Regulations under Part 5 of the Regulations (Church Discipline), subject to:
 - a. those Regulations being generally in accordance with the amended Framework of Principles and subject to appropriate consultation on the draft regulations; and
 - b. the approval of those Regulations by the Assembly Standing Committee on the advice of the Assembly Legal Reference Committee.

ATTACHMENT 2

REGULATIONS REVIEW – PART 5 STATUS REPORT No. 2 – 28.6.22

Introduction

The Assembly's Regulations Review Task Group (**TG**) is undertaking a review of Part 5 - Church Discipline – of the Regulations.

The purpose of this report is to advise of current progress against the project timetable.

Stakeholders will recall that in the first Status Report, advice was provided the Assembly Standing Committee resolved, on 13.3.22, to bring a proposal to the reconvened 16th Assembly meeting in May 2022.

Action Taken

1. The aforementioned proposal was considered by Assembly on 7.5.22 and, whilst the Minutes are yet to be confirmed, the Assembly resolved to:
 1. Defer any review of the Regulations that are associated with, or ancillary to, the broad strategic work done as part of the Act2 process, other than Part 5 – Church Discipline – in order to ensure that any proposals as part of the review are aligned to the strategic direction of the Assembly.
 2. Delegate, pursuant to Regulation 3.10.2(a)(ii), to the Assembly Standing Committee the authority to make Regulations under Part 5 of the Regulations (Church Discipline), subject to:
 - (a) those Regulations being generally in accordance with the amended Framework of Principles and subject to appropriate consultation on the draft regulations; and
 - (b) the approval of those Regulations by the Assembly Standing Committee on the advice of the Assembly Legal Reference Committee.
2. Attached (Attachment 1) is a copy of the amended Framework of Principles (marked-up for ease of identifying the changes).
3. The Project Officer (**PO**) sent an initial email to current members of the Regulations Review Consultation Group (**RRCG**) seeking:
 - a. The identity of any other person(s) who should be included in RRCG; and
 - b. any feedback or commentary about proposed amendments to Part 5 or the Principles
4. Some initial feedback concerning the Principles and commentary on the disciplinary regulations has been received and has been considered by the TG.

Next Steps

5. Stakeholders are encouraged to provide feedback and commentary by 8 July 2022 concerning the content of Part 5 of the Regulations to Malcolm.Hinton@ucaqld.com.au.
6. Stakeholders are also encouraged to share this information with other persons who may be interested in being included in the **RRCG**. Such interested parties can request to be included in the RRCG by emailing their interest to Malcolm.Hinton@ucaqld.com.au.

Attachment 1
Framework of Principles (amended)

1. Overarching Principles

The Regulations are to:

- (i) enshrine the principles, ideals and ethos of the Basis of Union and the Constitution, ensuring consistency with those founding documents;
- (ii) ensure consistent and comprehensive guidance in the exercise of the roles, powers and responsibilities across the different councils of the church;
- (iii) recognise and manage the interconnectedness of the different councils of the church in relation to those roles, powers and responsibilities;
- (iv) offer clarity and reflect contemporary expectations in relation to discipline, misconduct and appeal processes.
- (v) complement and dovetail with contemporary HR, WHS, industrial, privacy, safe ministry, and whistleblower policies and procedures.

2. General Principles

- 2.1 Only members, adherents and Minsters are eligible to make a complaint.
- 2.2 The process of how to make a complaint, including the form of the complaint, to be determined by the Synod.
- 2.3 The entity tasked with dealing with a complaint is empowered to engage an independent investigator when considered appropriate, though that entity remains responsible for determining the matter.
- 2.4 The continuation of the disciplinary process where the Respondent has resigned is to be at the discretion of the decision maker.

3. Complaints against Members

- 3.1 Complaints against members of the Church are:
 - (a) primarily to be dealt with by the relevant Church Council, excluding complaints of sexual misconduct (the province of Presbytery – cl.10(c) of the Constitution) which are to be dealt with in accordance with Assembly's *Member or Adherent – Sexual Abuse and Sexual Misconduct Complaints Policy*.
 - (b) Presbytery to have general oversight of Church Council's dealing with complaints and the power to deal with complaints not adequately dealt with by a Church Council or as referred by Church Council.

- (c) to be dealt with by visitation, pastoral counselling and/or guidance with a view to restoration of the effected relationships.
- (d) to be dealt with in such manner as to avoid actual, potential or perceived conflicts of interest.
- (e) Council to have the power to suspend or terminate membership and remove Councillor from Council.

3.2 Members to have right of appeal to Presbytery only where membership terminated. Appeal on the papers documents and Presbytery's decision is final.

4. Complaints against Ministers

4.1 Complaints against Ministers:

- (a) are primarily to be dealt with by the relevant Presbytery Chairperson or PRC, excluding:
 - (i) complaints of sexual misconduct; or
 - (ii) complaints alleging wilful or grave conduct unworthy of a Minister (as per Regulation 5.7.2(a)-(e)).
- (b) are primarily to be dealt with by visitation, pastoral counselling and/or guidance with a view to restoration of the effected relationships.
- (c) are to be dealt with in such manner as to avoid actual, potential or perceived conflicts of interest.
- (d) may be referred, at the discretion of Chairperson/PRC, to the Committee for Counselling or Committee for Discipline, depending upon the seriousness of the alleged conduct.

4.2 Complaints alleging sexual misconduct will be dealt with by Synod Sexual Misconduct Complaints Committee.

4.3 The Moderator, Synod or its Standing Committee to have the power to direct a complaint against a Minister to be made direct to Committee for Counselling or Committee for Discipline, depending upon the seriousness of the alleged misconduct.

5. Discipline of Ministers

The counselling and discipline of Ministers to primarily be the responsibility of the Presbytery Chairperson/PRC or, for office holders, the appointing body, for conduct not worthy of referral to the Committee for Counselling or Committee for Discipline.

6. Complaints against Office Holders

- 6.1 Where a person (Minister of Lay) is appointed to an office within the Church, then any complaint against that person acting in that capacity is to be made to, and dealt with by, the appointing body.
- 6.2 Complaints of sexual misconduct against lay person in their capacity as an office holder to be dealt with by appointing body in accordance with Assembly's *Member or Adherent – Sexual Abuse and Sexual Misconduct Complaints Policy*.
- 6.3 Complaints alleging sexual misconduct by a Minister in their capacity as an office holder to be dealt with by Synod Sexual Misconduct Complaints Committee.

7. Committee for Counselling

- 7.1 Jurisdiction to deal with complaints against Ministers but not to deal with complaints alleging:
 - (a) sexual misconduct, or
 - (b) wilful or grave conduct unworthy of a Minister (as per Regulation 5.7.2(a)-(e)).
- 7.2 Members to have appropriate skills and knowledge and undertake professional development.
- 7.3 Provisions allowing complaints to be resolved through mediation.

8. Committee for Discipline

- 8.1 Threshold for matters to be dealt with by the Committee for Discipline will be wilful or grave conduct unworthy of a Minister (as per Regulation 5.7.2(a)-(e)), including a refusal to participate in the disciplinary process.
- 8.2 Members to have appropriate skills and knowledge and undertake professional development.
- 8.3 Provisions allowing complaints to be resolved through mediation.

9. Synod Sexual Misconduct Complaints Committee

- 9.1 The jurisdiction of the SMCC be broadened by expanding the definition of sexual misconduct to include “any other conduct involving a component of sexual misbehaviour in the complaint.”
- 9.2 Will have a discretion to determine if an independent investigation is warranted.
- 9.3 Members to have appropriate skills and knowledge and undertake professional development.
- 9.4 Provisions allowing complaints to be resolved through mediation.

10 Delegations

Provisions that facilitate delegation of responsibility for complaints and discipline from one Church entity to another, including cross-jurisdictional delegations in appropriate circumstances (e.g. a complaint against a General Secretary or Moderator of one Synod being dealt with by another

Synod).

11. Conflicts of Interest

Provisions dealing with conflicts of interest.

12. Alignment with External Obligations

12.1 The Regulations to align with external obligations (e.g. matters reported to the Police, Fair Work proceedings, WHS, etc.) and provide for the provision of information to external agencies that have obligations concerning the alleged misconduct.

12.2 Subject to any contrary legal or Church requirement, disciplinary proceedings need not be held in abeyance pending determinations by external agencies (such as Police).

13 Rights of Appeal

13.1 Rights of appeal are to be limited generally to matters of substance that could have materially altered the outcome of the disciplinary process.

13.2 Any right of appeal is to be exercised within a defined time.

13.3 Appeals are to be heard on the papers documents, unless the decision maker determines otherwise.

14 Confidentiality

14.1 Provisions concerning the confidentiality of the entire disciplinary and complaint process and information gained during the process, including authorisations for release of information in appropriate circumstances (e.g. a Congregation being informed of disciplinary proceedings against their Minister).

14.2 Where a Minister is the Respondent to a complaint or a disciplinary process, the Placements Committee is to be advised of that fact, but not the substance of the proceedings.

15. Competency

Requirements for all Committee members to undertake training in complaint and disciplinary process.

16. Pastoral, Financial and other Support

16.1 Provisions providing for pastoral, spiritual and financial support for those involved in the disciplinary process and the duration of such support.

16.2 Right to legal representation to be limited to proceedings before the Committee for Discipline

17. Standing Aside of Minister

Role of Moderator is to be aligned to disciplinary process with retention of the Moderator's power to stand aside a Minister.

ATTACHMENT 3

REGULATIONS REVIEW – PART 5 STATUS REPORT No. 3 – 31.8.22

Introduction

The Assembly's Regulations Review Task Group (**TG**) is undertaking a review of Part 5 - Church Discipline – of the Regulations.

The purpose of this report is to advise of current progress against the project timetable.

Stakeholders will recall that the second Status Report was distributed on 29.6.22 and encouraged feedback and commentary by 8 July 2022 concerning the content of Part 5 of the Regulations.

Action Taken

1. As a result of the feedback received, a redraft of Part 5 has been undertaken and is **attached** for the review of the Regulations Review Consultation Group (**RRCG**). All comments and feedback is encouraged and welcomed.
2. Members of the RRCG will note that ten (10) "Issues" have been identified on the face of the redraft on which specific feedback is sought.
3. During the first stage of the consultation process, a "Proposed New Framework to deal with Complaints against Ministry Agents" was also advanced. That document is also **attached**. Again, members of the RRCG are requested to specifically advise of their support for the further development of this new framework or, alternatively, their support for the framework set out in the redraft of Part 5.
4. To assist members of the RRCG providing feedback on the ten (10) specific issues and the proposed new framework, attached is a word document that you may wish to complete and return to Malcolm.Hinton@ucaqld.com.au.

Next Steps

5. Stakeholders are encouraged to provide feedback and commentary by 1 November 2022 to Malcolm.Hinton@ucaqld.com.au.
6. Stakeholders are also encouraged to share this information with other persons who may be interested in being included in the **RRCG**. Such interested parties can request to be included in the RRCG by emailing their interest to Malcolm.Hinton@ucaqld.com.au.

5. CHURCH DISCIPLINE

5.1 DEFINITIONS

In this Part 5 of the Regulations unless the context or subject matter otherwise indicates:

Alternative dispute resolution includes mediation, conciliation, collaborative resolution or other restorative justice processes conducted by an external, independent facilitator.

Appointment, when used in reference to a person being appointed to an office, includes electing a person to an office.

Complainant means the person who is making a complaint and who is a member, adherent or a ministry agent.

Complaint means:

- (a) for Part 5.2, a complaint about the conduct of a member or adherent;
- (b) for Part 5.3, a complaint about the conduct of an office holder in their capacity as the office holder;
- (c) for Part 5.4, a complaint about the conduct, teaching or ministry of a ministry agent; and
- (d) in all cases, the complaint must be made in writing and must identify conduct that breaches the Regulations, by-laws, Code of Conduct for Lay Leaders or Code of Ethics and Ministry Practice.

For the avoidance of doubt, a complaint:

- (i) can only be made against an individual and cannot be made against a body; and
- (ii) does not need to identify any Regulation, by-law, rule, Code of Conduct provision or other direction, policy or procedure allegedly breached by the conduct complained about.

Example 1: A member feels aggrieved by the decision of a Church Council to remove their name from the roll of members and is of the belief the Council members acted in breach of the Code of Conduct for Lay Leaders. Part 5 does not permit a complaint to be lodged against the group of individuals who make up the Church Council. A complaint can only be made against a specific individual(s).

Example 2: A member makes a complaint about the conduct of another member that is in breach of a rule made by a Presbytery. The alleged conduct does not breach the Regulations, Synod by-laws or Code of Conduct for Lay Leaders. Such a complaint would not meet the criteria of a "complaint" for the purposes of Part 5 of the Regulations. It would need to be addressed through informal means.

Commented [MH1]: Issue 1:

Should any person be able to make a complaint against a member, adherent or ministry agent?

Commented [MH2]: Issue 2:

Should Part 5 be expanded to deal with "concerns"?

A definition would be required to distinguish a "concern" from a "complaint".

Commented [MH3]: Issue 3:

Should there be a benchmark for conduct to fall within the scope of Part 5?

See Example 2.

Confer includes to inquire into matters and converse with or listen to persons or bodies.

Counsel includes to provide guidance to persons or bodies.

Deal with includes:

- (a) appointing an investigator to enquire into and to report back about the matter; and
- (b) taking no further action on the complaint if it is determined the complaint is frivolous, vexatious, misconceived, does not identify any inappropriate conduct or is an inappropriate use, misuse or abuse of the complaint process.

Example 1: A Church Council receives a complaint against a member alleging a course of inappropriate conduct where the facts are in dispute. The Church Council may determine to appoint an investigator to enquire into the allegations and report back to the Church Council with findings of fact. The Church Council remains responsible for determining the matter.

Example 2: The complaint is, in substance, an attempt to set aside, review or challenge a decision of a Council where no appeal right exists. The entity responsible for dealing with the complaint may determine the complaint is an inappropriate, a misuse or abuse of the complaint process and determine to take no further action.

Example 3: A complainant has made a number of previous complaints against a particular member(s) and those complaints have previously be dealt with. The Complainant makes another complaint against the same member(s) based upon the same conduct the subject of the earlier complaints for the purpose of causing angst. The Church Council may determine the complaint is vexatious.

Entity includes an individual, Church Council, Task Group, Congregation, Presbytery, Synod, Assembly or other body.

Member means a baptised member, confirmed member, member-in-association and an adherent.

Ministry agents means a Minister as defined in Paragraph 3 of the Constitution, and also includes a Community Minister, Lay Pastor, Youth Worker, Pastor, Synod Secretary, Moderator, Assembly General Secretary, President, Presbytery Minister and a minister of another denomination serving in a placement.

Notified in writing of any such action, or a derivative thereof, when used in the context of an entity making a decision, means setting out the decision made and the material reasons for that decision.

Office holder, for the purposes of Part 5.3, means:

- (a) a member of Presbytery who holds the office of Chairperson, Secretary or Treasurer (Regulation 3.6.2);
- (b) the Moderator (Regulation 3.6.3.1);
- (c) the Secretary of the Synod (Regulation 3.6.3.3);

Commented [MH4]: Issue 4:

It has been suggested this term be removed as it has connotations of a professional service provided by a trained and registered counsellor.

The concept of “pastoral counselling” could be replaced with “pastoral care” and the “Committee for Counselling” could be renamed the “Committee of Pastoral Care” or similar.

- (d) the President of the Assembly (Regulation 3.6.4.1);
- (e) the General Secretary of the Assembly (Regulation 3.6.4.4); and
- (f) any person appointed to any other body; but
- (g) excludes a member of a Church Council, as complaints against those individuals are dealt with pursuant to Part 5.2.

Pastoral Relations Committee means the Pastoral Relations Committee of the Presbytery.

Respondent means the member, adherent, office holder or ministry agent against whom a complaint has been made.

Standing Committee means the Standing Committee of the Synod.

Support person means a person that provides emotional support to a Complainant, Respondent or a witness.

5.1.2 DISCIPLINE IN THE CHURCH

Discipline in the Church is the exercise of spiritual authority with a view to honouring Christ the Head of the Church, expressing God's gracious love for all people while achieving justice and ensuring the spiritual well-being of its members, adherents and ministry agents.

5.1.3 ENTITY RESPONSIBLE FOR DISCIPLINE

Generally, discipline is to be exercised by:

- (a) the Church Council on behalf of the Congregation in the case of members, except in the case of:
 - (i) allegations of sexual misconduct; or
 - (ii) a complaint against, or that includes, a Church Council member.
- (b) the Chairperson of the Presbytery on behalf of the Presbytery when:
 - (i) a Presbytery determines, in the exercise of its general oversight of Church Councils within its bounds, a Church Council has not adequately dealt with a discipline matter in relation to a member; or

Example: The complaint is against members who have a close friendship with members of the Church Council such as to give rise to an actual, apparent or perceived conflict of interest or an actual or reasonably apprehended bias on the part of the Church

Commented [MH5]: Issue 5:

Currently, the provision of a support person is limited to complaints of sexual misconduct dealt with in Part 5.6.

Should this requirement be included for all Committees or for the whole of Part 5?

The alternative to prescribing this as a requirement in the Regulations is to adopt a Guideline that recommends providing a support person.

Note: Prescribing such a requirement will have resource and training implications for all entities responsible for dealing with complaints.

Commented [MH6]: Issue 6:

Should there be a more detailed theological introduction which underpins Part 5?

Alternatively, should such detailed theological provision be set out in a Guideline that could be adopted throughout Australia?

Council. The Church Council determines to proceed to deal with the complaint despite these issues which impinge upon the impartiality of process. Presbytery may determine that complaint is to be dealt with by the Chairperson of the Presbytery.

- (ii) the complaint is against, or includes, a member of the Church Council.

Example: The complaint may involve allegations against a member of the Church Council, a member-in-association and an adherent, the latter two not being members of the Church Council. Such a complaint is generally to be dealt with by the Chairperson of the Presbytery.

- (c) the Chairperson of the Presbytery upon a request of a Church Council if the Church Council considers it is not able to deal with a concern due to a member's involvement in the Congregation or for any other reason considered sufficient by the Church Council.

Example: The complaint may involve allegations raising systemic or process issues (e.g. the process of recommending the sale of property) which the Church Council considers would be better dealt with by Presbytery.

- (d) the Presbytery and Synod in the case of Ministers, as considered appropriate in the particular circumstances.
- (e) in the case of office holders, the entity responsible for appointing that office holder.

GENERAL PROVISIONS

5.1.4 GENERAL PROCESSES

The entity responsible for dealing with a complaint will:

- (a) deal with the complaint in accordance with the principles of procedural fairness; and
- (b) upon receipt of a complaint, assess its substance (including enquiring into the matter for the purpose of ascertaining the facts) and determine, as is applicable:
 - (i) how the complaint will be dealt with, including having regard to the operation of other policies, procedures and process regulating the affairs of the Church (see Regulation 5.8.1);

Example: The Church is obliged to comply with laws relating to many matters, such as employment; work, health & safety; & privacy. It has in place policies, procedures and processes to deal with those matters. The substance of a particular complaint may also enliven an obligation to deal with that matter under one of those laws. Where that occurs, then as far as is possible, a complaint under this Part should be dealt with in a manner that avoids duplicating the efforts undertaken as part of that other process and may be deferred pending the outcome of that other process.

- (ii) the issues, if any, to be published to the Respondent;

- (iii) whether the alleged conduct amounts to spiritual abuse; and

Example: A Presbytery Chair receives a written complaint against a Minister that sets out a course of conduct by the Minister over a period of time, in both the Minister's personal and professional life. The Presbytery Chair assesses the conduct amounts to spiritual abuse and other forms of misconduct. The Presbytery Chair should then publish those issues to the Respondent.

- (iv) whether the complaint, as received, will or will not be published to the Respondent.

Example 1: A Presbytery receives a written complaint against a Minister that contains allegations of spiritual abuse and use of obscene and offensive language. The written complaint also contains numerous inflammatory comments which do not alleged any form of misconduct or wrongdoing. The Presbytery can determine to only publish the allegations to the Minister and refuse to publish the entire complaint as received, as publication of the entire complaint may be considered counterproductive.

Example 2: A Presbytery receives a second written complaint against a Minister that contains the same allegations made by the same Complainant after that Complainant's first complaint was finalised, but not to the Complainant's satisfaction. The Presbytery can determine to dismiss the complaint and take no further action, including not even advising the Minister of the receipt of the second complaint.

Commented [MH7]: Issue 7:

Should the Regulations prescribe that all entities that receive a complaint are required to assess whether the alleged conduct amounts to spiritual abuse?

5.1.5 SYNOD PROCESSES

The process of how to make a complaint including the form of the complaint, if any, is to be determined by Synod.

5.1.6 SUPPORT

The entity responsible for dealing with any particular complaint should make such arrangements, as it considers reasonably necessary and that are within its available resources, for the pastoral, spiritual and financial support of those directly involved with the complaint. The making of such arrangements includes referring the affected party to another service provider which may be able to provide the said support.

For the avoidance of doubt, this provision does not impose or create any duty on the said entity to make such arrangements.

Example 1: A Church Council receives a complaint against a member of its Congregation. The Congregation lacks the financial resources to financially assist a party directly involved in the complaint. That Church Council may determine to refer the affected party to the Synod's employee assistance program for relevant professional assistance or an external agency which may be able to provide such support, whilst the Minister provides pastoral and spiritual support.

Example 2: A Church Council receives a report from a complainant they have been the subject of conduct they consider to be a reprisal for making the original complaint. The Church Council should make such arrangements as is reasonably necessary to protect the complainant from further reprisals and to deal with the original alleged reprisal.

5.1.7 REPORTING OBLIGATIONS

All complaints against:

- (a) members and adherents (other than Church Councillors) are to be notified to the Presbytery and Synod;
- (b) Church Councillors, ministry agents and office holders are to be notified to the Synod; and
- (c) a ministry agent are to be notified to the Placements Committee, such notice to advise of the fact of the complaint, the ministry agent's identity but not the substance of the complaint or the identity of the Complainant.

5.1.8 MODERATOR'S DUTY AND POWERS

The provisions of Part 5 are subject to and do not derogate from the duty and power of the Moderator set out in Regulation 3.6.3.2(j).

5.2 THE DISCIPLINE OF MEMBERS AND ADHERENTS

5.2.1 PASTORAL CARE OF MEMBERS AND ADHERENTS

- (a) A complaint about a member or adherent, other than a complaint against, or which includes, such a member who is on the Church Council, must be made to the Church Council.

For the avoidance of doubt, such a complaint can be made to any member of the Church Council who shall then refer the complaint to the Church Council.

- (b) A complaint against, or which includes, a member who is on the Church Council must be made to the Chairperson of the Presbytery.

Example: A complaint is made against a member who has been elected by the Congregation to the Church Council, an Elder who is on the Church Council, two (2) ordinary members and an adherent. Such a complaint must be made to the Chairperson of the Presbytery, despite the fact the complaint includes 2 ordinary members and an adherent of the Congregation. If the complaint was made to the Church Council, the Church Council must refer that complaint to the Chairperson of the Presbytery pursuant to Regulation 5.2.1(e)(ii),

- (c) In cases where:
 - (i) in the opinion of the Church Council, any member or adherent of the Church, other than a member who is on the Church Council, appears to disregard the privileges and obligations of membership or adherents or to disregard the discipline of the Church; or
 - (ii) a complaint has been received about a member or adherent, other than a complaint against, or which includes, a member who is on the Church Council, by a member of the Church Council;

the Council must deal with the matter or complaint and, where relevant, endeavour by visitation, pastoral care or guidance to restore the relationship of the member or adherent to the life of the Church.

- (d) Any member or adherent who declines to renew a satisfactory relationship with the life of the Church must be advised of the possibility that their name may be removed from the membership or adherent's roll and must be given the opportunity either in person or in writing, at the discretion of the Church Council, to make a submission on the matter to the Church Council.

- (e) In cases where:
 - (i) in the opinion of the Church Council, a member who is on the Church Council appears to disregard the responsibilities, privileges and obligations of office or membership, or to disregard the discipline of the Church; or
 - (ii) a complaint has been received against, or which includes, a member who is on

the Church Council;

the Church Council is to refer the matter or complaint to the Chairperson of the Presbytery and, pending any determination by the Chairperson of the Presbytery that finally disposes of the complaint, the Church Council may do all or any of the following as is considered appropriate in the circumstances:

(iii) suspend that member's membership on such terms and conditions and for such time as the Council sees fit; or

(iv) suspend that member from their office as a Councillor.

The member and Chairperson of the Presbytery must be notified in writing of any action taken by the Church Council under (e)(iii) or (iv).

(f) The Chairperson of the Presbytery must deal with a complaint made under (b) or referred to the Chairperson under (e) and, where relevant, should that member, adherent or Church Council member decline to renew a satisfactory relationship with the life of the Church subsequent to visitation, pastoral care or guidance by the Chairperson of the Presbytery, the Chairperson may, after affording that person the opportunity either in person or in writing, at the discretion of Chairperson, to make a submission on the matter, determine to do all or any of the following, as is considered appropriate in the circumstances:

(i) remove that member from the Church Council;

(ii) suspend that member's or adherent's membership on such terms and conditions and for such time as the Chairperson sees fit;

(iii) require that member to cease all responsibilities associated with that position; and

(iv) direct the Church Council to remove that member's or adherent's name from the membership or adherent's roll.

(g) The Church Council and the member or adherent must be notified in writing of any such action and the Church Council must give effect to Presbytery Chairperson's determinations.

(h) For the avoidance of doubt, it is not necessary to investigate a complaint and disciplinary proceedings are not taken against members or adherents.

5.2.2 SUSPENSION OR TERMINATION OF MEMBERSHIP

- (a) Where the Church Council determines that the member or adherent has failed to respond to the visitation, pastoral care or guidance and invitation to renew a satisfactory relationship with the life of the Church, the Church Council may:
 - (i) suspend the rights and privileges of membership or the adherent on such terms and conditions and for such time as it sees fit; or
 - (ii) remove the name of the member or adherent from the membership or adherent's roll.
- (b) The member or adherent must be notified in writing of any such action and a copy of that notification must be provided to the Chairperson of the Presbytery and Synod.

5.2.3 RIGHT OF APPEAL

- (a) A person whose name has been removed from the membership or adherent's roll pursuant to Regulation 5.2.2, may within one month after receipt of the notification in writing, appeal to the Chairperson of the Presbytery by notice in writing. The Chairperson of the Presbytery must determine the matter afresh, based upon the documents before the Chairperson. The person concerned may make a submission personally or in writing to the Chairperson of the Presbytery, at the discretion of the Chairperson.

Note: There is no right of appeal against a determination by a Church Council to suspend the rights and privileges of membership or the adherent under Regulations 5.2.1(e)(iii) or (iv) or 5.2.2(a).

- (b) There is no right of further appeal.
- (c) In the event of an appeal of a member or adherent being sustained, the member's or adherent's name must be returned to the roll of members or adherents in accordance with the terms of the Presbytery Chairperson's decision.
- (d) A member or adherent against whom a determination has been made as set out in Regulation 5.2.1(f)(i), (iii) or (iv), may, within one month after receipt of the notification in writing, appeal to the Committee for Counselling by notice in writing. The Committee for Counselling must determine the matter afresh, based upon the documents before it. The member or adherent concerned may make a submission personally or in writing to the Committee for Counselling, at the discretion of that Committee.

Note: There is no right of appeal against a determination under Regulation 5.2.1(f)(ii) by a Presbytery Chairperson to suspend the rights and privileges of a member or adherent.

- (e) There is no right of further appeal.
- (f) The "notice in writing" referred to in (a) and (c) must succinctly set out:
 - (i) the decision to be appealed;

- (ii) the grounds of the appeal; and
- (iii) brief reasons in support of each ground of appeal.

5.2.4 RESTORATION OF MEMBERSHIP

- (a) A person whose name has been removed from the roll of a Congregation pursuant to these Regulations may have it reinstated by a decision of the Church Council, Presbytery Chairperson, or Committee for Counselling, dependent upon which entity determined to remove that person's name from the roll.
- (b) A person whose name has been removed from a membership or adherent's roll of a Congregation pursuant to Part 5.2 must not be enrolled as a member or adherent of any other Congregation without the prior knowledge of and advice from the council which is responsible for the maintenance of the roll from which the person's name was removed.
- (c) The advice referred to in (b) may disclose such information as that council considers relevant to the other council's determination of whether to admit that person to its membership or adherent's roll.

5.2.5 ALLEGATIONS OF SEXUAL MISCONDUCT AGAINST MEMBERS OR ADHERENTS

- (a) Where a complaint of sexual misconduct is made against a member or adherent the Assembly's *Member or Adherent Sexual Abuse and Sexual Misconduct Complaints Policy*, for the time being, applies to the exclusion of the process outlined in Regulation 5.2.1.
- (b) The Assembly's *Member or Adherent Sexual Abuse and Sexual Misconduct Complaints Policy*, is a binding document of the Church and requires that allegations of sexual misconduct against members and adherents of the Church be dealt with as sensitively and expeditiously as possible. When an allegation is made in the manner prescribed in the relevant Policy the Chairperson of the Presbytery and the Church Council must ensure adherence to the relevant policy.
- (c) **Sexual Misconduct** has the meaning as set out in the Assembly's *Member or Adherent Sexual Abuse and Sexual Misconduct Complaints Policy*.

5.3 THE DISCIPLINE OF OFFICERS

5.3.1 GENERAL ACCOUNTABILITY PROVISION

Any person appointed to hold office (an office holder or officer) within the Church will generally be accountable to the body making the appointment (the 'appointing body') for their conduct as the office holder.

5.3.2 TO WHOM COMPLAINT IS TO BE MADE

- (a) A complaint against an office holder must generally be made to the appointing body, depending upon the circumstances of the particular case.

Example 1: A complaint is made against certain members of a task group established by a Church Council pursuant to Regulation 3.7.1, but that complaint is not against a member of the Church Council. As the Church Council is the appointing body, such a complaint is generally to be dealt with by the Church Council.

Example 2: A complaint is made against certain members of a Presbytery's Property Committee. As Presbytery is the appointing body (Regulation 4.3.1(a)), such a complaint is generally to be dealt with by the Presbytery.

Example 3: A complaint is made against certain members of a Pastoral Relations Committee. As Presbytery is the appointing body (Regulations 3.7.3(a) & 3.7.4.2(a)(iii)), such a complaint is generally to be dealt with by the Presbytery.

- (b) A complaint against a number of officer holders (for whom there is more than one appointing body) is to be made to the entity best placed to deal with the complaint.

Example 4: A complaint is made against certain members of the Synod Standing Committee, namely, the Moderator, the Secretary, Synod elected members and co-opted members appointed by the Standing Committee. The complaint relates to those persons' conduct in their capacity as members of the Synod Standing Committee. The Moderator and Secretary are, by force of Regulation 3.7.4.1(a)(i), ex-officio members of the SSC. The only "appointed" persons are the co-opted members. As Synod elects the Moderator (Regulation 3.6.3.1), appoints the Secretary (Regulation 3.6.3.3(a)), and elected the members to the Standing Committee (Regulation 3.7.4.1(a)(iii)), then, despite the fact the Standing Committee appointed the co-opted members, such a complaint should be dealt with by the Synod.

- (c) The Moderator, ex-Moderator, Moderator-Elect or Secretary may, for the purpose of paragraph (b), determine which entity is best placed to deal with the complaint and that entity shall have jurisdiction to so deal with the complaint in accordance with these Regulations.
- (d) As soon as is practicable, the appointing body must advise the Synod of the complaint.

5.3.3 JURISDICTION TO DEAL WITH COMPLAINT

- (a) The appointing body has jurisdiction to deal with the complaint regardless of whether the person complained about:
 - (i) is a ministry agent or lay person; or
 - (ii) still holds the office.
- (b) Where the complaint is against a Minister and alleges conduct that does not amount to conduct as referred to in Regulation 5.7.2(a) to (e) that warrants termination of the Minister's placement or candidature or the recognition of the Minister being withdrawn, the appointing body:
 - (i) shall refer the complaint to the Synod Committee for Counselling when requested by the Respondent or Complainant; and
 - (ii) may refer the complaint to the Respondent's Presbytery Chair of Committee for Counselling when considered appropriate.
- (e) Where the complaint is against a Minister and alleges conduct as referred to in Regulation 5.7.2(a) to (e) that warrants termination of the Minister's placement or candidature or the recognition of the Minister being withdrawn, the appointing body shall refer the complaint to the Moderator.
- (f) Where the complaint alleges sexual misconduct:
 - (i) against a member, such complaint is to be dealt with by the appointing body in accordance with the *Assembly's Member or Adherent – Sexual Abuse and Sexual Misconduct Complaints Policy*;
 - (ii) against a Minister, such complaint is to be dealt by the Synod Sexual Misconduct Complaints Committee under Part 5.6.
- (g) Where the appointing body refers a complaint to the Respondent's Presbytery Chair pursuant to Regulation 5.3.3(b)(ii), the Presbytery Chair has jurisdiction to deal with the complaint in accordance with the provisions of Regulation 5.4.2.
- (h) Where the appointing body refers a complaint to the Committee for Counselling pursuant to Regulation 5.3.3(b)(i) or (ii), the Committee for Counselling has jurisdiction to deal with the complaint in accordance with the provisions of Part 5.5.
- (i) The appointing body may continue, at its discretion, to deal with a complaint notwithstanding the conclusion or termination of the placement, the resignation of a Respondent from the ministry or membership, the retirement of the Respondent or the granting to the Respondent of leave of absence.

5.3.4 HOW COMPLAINTS SHOULD BE DEALT WITH

A complaint should primarily be dealt with by visitation, pastoral counselling or guidance by the appointing body with a view to restoration of the effected relationships.

5.3.5 DETERMINATION OF COMPLAINTS

Without limiting the objective of the restoration of the effected relationships referred to in Regulation 5.3.4, the appointing body may do any one or more of the following in determining the complaint:

- (a) help the Respondent to discern and fulfil their office;
- (b) assist the Respondent in the nurturing of their gifts;
- (c) provide encouragement and guidance for the enrichment of their office;
- (d) refer the matter to alternative dispute resolution;
- (e) advise, admonish, guide, correct or assist the Respondent where they appear to require such advice, admonishment, guidance, correction or support;
- (f) assist and encourage observance of any applicable Code of Ethics;
- (g) discipline the Respondent in relation to breaches of any applicable Code of Ethics including by:
 - (i) making a written comment on any aspect of the matter in a report to, in the case of a ministry agent, the relevant Presbytery, or, in the case of a lay person, the relevant Church Council; or
 - (ii) requiring the Respondent to undergo therapeutic or pastoral care; or
 - (iii) requiring the Respondent to be subject to supervision;
 - (iv) requiring the Respondent to participate in courses of training; or
- (h) removing or suspending the office holder from office on such terms and conditions and for such time as considered appropriate.

5.3.6 NOTIFICATION OF ACTION

The appointing body must notify in writing of any such action taken to the Complainant, Respondent, any relevant Presbytery Chairperson, Church Council, the Placements Committee (?) in the case of ministry agents, and Synod.

5.3.7 DEFINITIONS

Appointing body includes the entity referred to in Regulation 5.3.2(b) and (c).

5.4 THE COUNSELLING AND DISCIPLINING OF MINISTRY AGENTS

5.4.1 COMPLAINTS

- (a) A complaint against a ministry agent may be made to the Chairperson of the Presbytery by:
- (i) any member of the Church; or
 - (ii) by the secretary of a Presbytery when so directed by the Presbytery.
- (b) Where the complaint alleges conduct as referred to in Regulation 5.7.2(a) to (e) that warrants termination of the Minister's placement or candidature or the recognition of the Minister being withdrawn, the Chairperson is to refer the complaint to the Moderator.

Note: A complaint about a ministry agent who holds the office of Chairperson, Secretary or Treasurer of a Presbytery is to be dealt with under Part 5.3 if the complaint relates to the conduct of the ministry agent in their capacity as the office holder.

- (c) made to the Synod Committee for Counselling by:
- (i) the Secretary of the Synod if so directed by the Moderator, the Synod or its Standing Committee; or
 - (ii) the Chairperson of the Presbytery when requested by the Respondent, Complainant or when considered appropriate,

provided the alleged conduct does not amount to wilful or grave conduct unworthy of a Minister as referred to in Regulation 5.7.2(a) to (e) that warrants termination of the Minister's placement or candidature or the recognition of the Minister being withdrawn.

- (d) made to the Synod Committee for Discipline by the Secretary of the Synod if so directed by the Moderator, the Synod or its Standing Committee where the alleged conduct amounts to conduct as referred to in Regulation 5.7.2(a) to (e) that warrants termination of the Minister's placement or candidature or the recognition of the Minister being withdrawn.

Note: A complaint about a ministry agent that alleges wilful or grave conduct unworthy of a Minister that warrants termination of a Minister's placement or candidature or the recognition of the Minister being withdrawn is to be dealt with by the Committee for Discipline.

- (e) referred to the Chairperson of the Presbytery by an appointing body pursuant to Regulation 5.3.5(b).
- (f) Where the complaint is against the Chairperson of the Presbytery who is a

Commented [MH8]: Issue 8:

Is this an appropriate benchmark?

Minister, but not in their capacity as the Chairperson, the complaint is to be made to the secretary of the Presbytery who shall refer the complaint to the Synod Committee for Counselling and report the referral to the Pastoral Relations Committee and Synod.

5.4.2 RESPONSIBILITIES OF THE PRESBYTERY CHAIRPERSON

Subject to these Regulations, the Chairperson of the Presbytery is primarily responsible for the pastoral care and discipline of Ministers. Complaints should be primarily dealt with by visitation, pastoral care or guidance with a view to restoration of the effected relationships and in the exercise of such responsibility the Chairperson may do any one or more of the following:

- (a) help them to discern and fulfil their vocations;
- (b) assist them in the nurturing of their gifts;
- (c) provide encouragement and guidance for the enrichment of their ministry;
- (d) refer the matter to alternative dispute resolution;
- (e) advise, admonish, guide, correct and assist them where they appear to require such advice, admonishment, guidance, correction or support;
- (f) assist and encourage observance of the Code of Ethics;
- (g) discipline Ministers in relation to breaches of the Code of Ethics including by:
 - (i) making a written comment on any aspect of the matter in a report to the Presbytery;
or
 - (ii) requiring the Respondent undergo therapeutic or pastoral care; or
 - (iii) requiring the Respondent to be subject to supervision; or
 - (iv) requiring the Respondent to participate in courses of training; and
- (h) deal with complaints made against a ministry agent including by enquiring into the complaint and finalising the complaint in such manner as the Chairperson determines; or
- (i) continue, at the Chairperson's discretion, to deal with a complaint notwithstanding the conclusion or termination of the placement, the resignation of a Respondent from the ministry, the retirement of the Respondent or the granting to the Respondent of leave of absence.

5.4.2A NOTIFICATION

The Chairperson must notify in writing of any such action taken to the Complainant, Respondent, Presbytery, the Placements Committee (?) and Synod.

5.4.2B SUPPORT PERSON

The Chairperson(s) must offer a Support Person and pastoral care to the Complainant, Respondent and any witnesses, ensuring that each party has their own Support Person.

5.4.3 RESPONSIBILITIES OF PASTORAL RELATIONS COMMITTEE

- (a) The Pastoral Relations Committee must, at such intervals as the Presbytery may determine, counsel each Minister under its oversight.
- (b) If the Pastoral Relations Committee is concerned that a Minister does not continue to hold to the affirmations and undertakings made at ordination or setting apart, the Committee may report its concerns to the Presbytery, which may take such further action by way of discipline, counselling or otherwise as it thinks fit.
- (c) The Chairperson of the Presbytery must:
 - (i) refer to the Committee any complaint which the Chairperson, in their absolute discretion, considers they are unable to deal with adequately; or
 - (ii) report to the Committee on any action taken to finalise a complaint.The exercise of the referral power in (c)(i) is not subject to Regulation 5.4.2.
- (d) The Pastoral Relations Committee may do any one or more of the following for the purpose of dealing with a complaint:
 - (i) confer with the Respondent and with the Complainant with a view to resolving the matter amicably;
 - (ii) if it thinks fit enquire into the complaint;
 - (iii) refer the matter for alternative dispute resolution;
 - (iv) to make written comment on any aspect of the matter in a report to the Presbytery;
 - (v) require the Respondent to undergo therapeutic or pastoral counselling;

Commented [MH9]: Issue 9:

Currently, the provision of a support person is limited to complaints of sexual misconduct dealt with in Part 5.6.

Should this requirement be included for all Committees or for the whole of Part 5?

The alternative to prescribing this as a requirement in the Regulations is to adopt a Guideline that recommends providing a support person.

Note: Prescribing such a requirement will have resource and training implications for all entities responsible for dealing with complaints

- (vi) require the Respondent to be subject to supervision;
- (vii) require the Respondent to participate in courses of training; or
- (viii) require the Respondent to pay financial restitution; and

is to notify in writing of any such action taken to Presbytery, the Placements Committee (?) and Synod.

- (e) At any stage after a complaint is referred to it, the Pastoral Relations Committee may determine the complaint warrants no further action. The Committee will notify in writing of such action to the Complainant, Respondent, Presbytery, the Placement Committee (?) and Synod.
- (f) Where the complaint alleges conduct that does not amount to conduct as referred to in Regulation 5.7.2(a) to (e) that warrants termination of the Minister's placement or candidature or the recognition of the Minister being withdrawn, and
 - (i) when requested by the Respondent or by the Complainant, the Pastoral Relations Committee must refer the complaint to the Synod Committee for Counselling; or
 - (ii) where it considers it is necessary to do so at any stage after a complaint is referred to it, the Pastoral Relations Committee may refer the complaint to the Synod Committee for Counselling.
- (g) Where the complaint alleges conduct as referred to in Regulation 5.7.2(a) to (e) that warrants termination of the Minister's placement or candidature or the recognition of the Minister being withdrawn, the Pastoral Relations Committee must refer the complaint to the Moderator.
- (h) The Pastoral Relations Committee may continue, at its discretion, to deal with the complaint notwithstanding the conclusion or termination of the placement, the resignation of a Respondent from the ministry, the retirement of the Respondent or the granting to the Respondent of leave of absence.

5.5 SYNOD COMMITTEE FOR COUNSELLING

- 5.5.1** (a) The Synod must establish a Committee for Counselling and appoint the members of this Committee and its chairperson.

The persons appointed to the Committee for Counselling are to possess the appropriate skills and knowledge, as determined by Synod, to fulfill the functions of the Committee.

The Moderator and the Secretary of the Synod are ineligible for membership.

- (b) Members of the Committee may hold office for a term of three years and may be eligible for reappointment.
- (c) A Synod may appoint members of the Church who are members of a Congregation beyond the bounds of the Synod as members of its Committee for Counselling.
- (d) The chairperson or the chairperson's nominee must chair the Committee, convene its meetings and appoint a panel to deal with any complaint referred to the Committee.
- (e) A quorum for a panel is two members.
- (f)
 - (i) If one of the members withdraws from the panel dealing with a complaint, the remaining members may continue to act, so long as at least three members are present and participating.
 - (ii) A person withdraws if that person is unwilling or unable to continue to participate.
 - (iii) Where the term of office of a member expires and is not renewed, such member may continue to act as a member of the panel dealing with a particular complaint.
- (g) The Committee for Counselling's jurisdiction does not extend to dealing with complaints alleging:
 - (i) sexual misconduct; or
 - (ii) conduct as referred to in Regulation 5.7.2(a)-(e) that warrants termination of a Minister's placement or candidature or the recognition as a Minister being withdrawn.
- (h) In dealing with any complaint referred or made to it the Committee may:
 - (i) confer with the Respondent and with the Complainant with a view to resolving the matter amicably;
 - (ii) if it thinks fit enquire into the complaint;
 - (iii) refer the matter for alternative dispute resolution;
 - (iv) make written comment on any aspect of the matter in a report to the Presbytery;

- (v) determine the Respondent be admonished;
- (vi) require the Respondent to undergo therapeutic or pastoral counselling;
- (vii) require the Respondent to be subject to supervision;
- (viii) require the Respondent to participate in courses of training;
- (ix) require the Respondent to pay financial restitution;
- (x) determine the Respondent be suspended from placement or candidature for such period and on such conditions as it specified;
- (xi) determine the Respondent be suspended from the exercise of all or any of the functions of a Minister for such period and on such conditions as it determines; and
- (xii) is to notify in writing of any such action taken to Presbytery, the Placements Committee (?) and Synod.

- (i) At any stage after a complaint is referred to it, the Committee may determine that the complaint warrants no further action.

Example: The Committee may form the view no further action is warranted on the grounds the complaint is frivolous, vexatious, misconceived, unable to be substantiated or resolved by counselling.

- (j) If, at any stage after a complaint is referred to it, the Committee be satisfied that the matter cannot be dealt with adequately and that the complaint warrants further action, it must refer the matter to the Committee for Discipline.

- (k) The Committee, regardless of any determination it may make concerning the merits of the complaint, may determine:

- (i) to make written comment on any aspect of the matter in a report to the Standing Committee and/or the Presbytery exercising oversight of the Respondent;
- (ii) the Respondent be required to undergo therapeutic or pastoral care;
- (iii) the Respondent be subject to supervision;
- (iv) the Respondent participate in courses of training;
- (v) the Respondent pay financial restitution; or

- (vi) the Respondent be suspended from the exercise of all or any functions of a Minister on such conditions and for such time as the Committee determines.
- (l) The Committee may continue, at its discretion, to deal with a complaint notwithstanding the conclusion or termination of the placement, the resignation of a Respondent from the ministry, the retirement of the Respondent or the granting to the Respondent of leave of absence.

5.5.2 Synod shall ensure members of the Committee undertake annual professional development of 10 hours, relevant to the discharge of the Committee's functions.

5.6 SYNOD SEXUAL MISCONDUCT COMPLAINTS COMMITTEE

5.6.1 INTRODUCTION

- (a) The Church addresses allegations of sexual misconduct through two distinct processes.
- (b) The first process is undertaken by Sexual Misconduct Complaints Committee (SSMCC). It engages with the Complainant, the person against whom the complaint is made (the Respondent) and, where necessary, affected persons and Church officers, by investigating the complaint (where considered necessary) and seeking an agreed outcome that encourages healing and maintains the integrity of ministry within the Church. Where possible, the SSMCC acts pastorally. The SSMCC is able to form opinions on issues of fact for the purpose of deciding on action which the Regulations authorise it to take. Its tools include conversation, inquiry, and the use of alternative dispute resolution processes.
- (c) Legal representation is not permitted before the SSMCC.
- (d) The second process is undertaken by the Committee for Discipline. The SSMCC may refer a complaint to the Committee for Discipline. The process undertaken by the Committee for Discipline is set out in Regulation 5.7.4.

5.6.2 DEFINITIONS

In Regulations 5.6.1 to 5.6.18, unless the context or subject matter otherwise indicates or requires:

Adviser means the person designated by the Convenor, to assist the Complainant in processing a complaint or the Respondent in facing a complaint through Church procedures;

Agreed Outcome is the document signed by the chairperson of the panel selected to deal with the complaint, the Complainant and the Respondent and any other affected person who joins in the agreement at the invitation of the Committee and which includes the actions undertaken or agreed to be undertaken by the parties to the document;

Chairperson means the chairperson of the Committee and whenever the Chairperson is unavailable, includes the Deputy Chairperson or other person acting as Chairperson;

Committee means the Synod Sexual Misconduct Complaints Committee appointed by the Synod pursuant to Regulation 5.6.4;

Complaint means a written complaint of sexual misconduct against a Minister. The complaint may be of a single incident or a series of incidents.

Convenor means the person appointed to be the Synod Convenor of Advisers;

Minister means a Minister (as that term is defined in Regulation 5.1.1) or Candidate (as that term is defined in Regulation 2.1.1) involved in field education;

Panel means the group of Committee members selected by the Chairperson to deal with a particular complaint pursuant to Regulation 5.6.3(b).

Pastoral Relationship means the relationship between a Minister and another person:

- (a) in which the Minister is providing spiritual care for the person; or
- (b) where the person has looked to the Minister for guidance, protection or care; or
- (c) where the person has made contact with the Minister in their responsibility or function as Minister;

Pastoral Strategy means the plan for the management of the affect of the complaints process upon the parties, including the care for the Congregation or faith community and how matters of confidentiality are to be addressed;

Presbytery Minister means the Presbytery Minister in placement and includes any other person appointed to act in such capacity by whatever name known;

Procedural Fairness refers to the matters set out in Regulation 5.6.11(a).

Sexual misconduct means one or more of the following:

- (a) sexual harassment: any unwelcome sexual advance, or unwelcome request for sexual favours to a person, or engagement in other unwelcome conduct of a sexual nature in relation to that person, in circumstances in which a reasonable person, having regard to all the circumstances, would have anticipated the person complaining would be offended, humiliated or intimidated;
- (b) sexual assault: any unwelcome sexual behaviour that may occur along a continuum from verbal insult to sexual intercourse, that would make a reasonable person feel threatened or afraid;
- (c) sexual conduct prohibited by criminal law;
- (d) sexualisation of a pastoral relationship: any interaction, consensual or otherwise, in which the Minister engages in sexualised behaviour with or towards a person with whom he or she is in a pastoral relationship, which is in breach of the Code of Ethics;
- (e) any other conduct amounting to sexual misbehaviour which is in breach of the Code of Ethics.

Support person means the person not otherwise involved in the complaint process who provides emotional support for either the Complainant or the Respondent.

Synod means the Synod of the Church, within the bounds of which the Presbytery, in which the Minister is enrolled, falls.

5.6.3 COMPLAINTS OF SEXUAL MISCONDUCT

- (a) Where a complaint of sexual misconduct is made against a Minister the procedures in Regulations 5.6.3 to 5.6.18 inclusive must apply to the exclusion of the procedures contained elsewhere in the Regulations.
- (b) The Chairperson must, within 7 days of receipt of a complaint, appoint a Panel to deal with the complaint.
- (c) The Panel must deal with the complaint in accordance with Regulation 5.6.8ff.
- (d) When a complaint which is determined by the Panel to be a complaint of sexual misconduct includes other matters of complaint of a non-sexual nature, the Panel may determine that the whole complaint is to be dealt with by the Panel.
- (e) The specified timeframe in (b) is only a guide, seeking to fulfil the objective of having such complaints dealt with as expeditiously as possible in the prevailing circumstances and a failure to comply with same does not give rise to any right, action, remedy, or liability in any person.

5.6.4 COMMITTEE

- (a) The Standing Committee must establish a Committee to be known as the Synod Sexual Misconduct Complaints Committee and must appoint its Chairperson. The Standing Committee may also appoint a Deputy Chairperson. Appointments may be for a term of up to three years.
- (b) Other persons may be co-opted to membership of the Committee from time to time by the Chairperson with the prior consent of the Synod Secretary where particular skills or experience are required (for example, experience in indigenous or migrant ethnic issues). They may be co-opted for a specific period not exceeding three (3) years or for the purpose of serving on a panel to deal with a particular complaint.
- (c) A Synod may transfer its power to make these appointments to another Synod by written agreements between the Synods.
- (d) The Committee must consist of not fewer than three persons and must include:
 - (i) at least one member with expertise in sexual abuse issues;

- (ii) at least one member who is considered skilled in alternative dispute resolution processes.

Note: One member may satisfy both of the above requirements.

- (e) At least one member of the Committee must be a Minister, and at least one member must be a lay person.
- (f) The members of the Committee need not be members of the Church but the number of non-Church members must be fewer than the number of members of the Church.
- (g) The majority of the Committee must be women.
- (h) The persons appointed to the Committee are to possess the appropriate skills and knowledge, as determined by Synod, to fulfill the functions of the Committee.
- (i) Synod shall ensure members of the Committee undertake annual professional development of 10 hours, relevant to the discharge of the Committee's functions.
- (j) The Chairperson must be a member of the Church and should preferably be a woman.
- (k) If a Deputy Chairperson is appointed, the Deputy Chairperson must fulfil the responsibilities of the Chairperson when the Chairperson is unavailable, unable or unwilling to act.
- (l) The quorum of a Panel selected by the Chairperson from amongst the members of the Committee to deal with a particular complaint must, subject to paragraph (m) of this Regulation, be three, of whom the majority must be members of the Church and normally the majority must be women.
- (m) Where any member withdraws the remaining members of the Panel may continue to act provided that the number of remaining members is not less than two (2).
- (n) Unless the Standing Committee considers that there are special circumstances no member must serve for more than nine years consecutively.
- (o) Neither the Moderator, the Synod Secretary nor any member of the Committee for Discipline must be a member of the Committee.
- (p) The Chairperson or the Chairperson's nominee must chair the Panel appointed to deal with a complaint and convene its meetings.
- (q) Members of the Committee may be drawn from any Synod provided written agreement has been reached between the Synods.

- (r) A Panel appointed to deal with a complaint is, and has the powers of, the Committee for the purpose of dealing with that complaint, and may agree to deal jointly with more than one complaint against the same Respondent including a separate complaint made pursuant to Regulation 5.6.10(e)(iii) or a composite complaint made pursuant to Regulation 5.6.10(e)(iv) in such manner as it may decide.

5.6.5 ADVISERS

- (a) The Standing Committee must appoint advisers. In cases of urgency the Synod Secretary, on the advice of the Convenor, may appoint advisers. The Synod must arrange training for the advisers.
- (b) To be eligible for appointment, an adviser must have appropriate skills and/or knowledge, such as:
 - (i) counselling and support skills;
 - (ii) advocacy skills;
 - (iii) knowledge of sexual misconduct issues;
 - (iv) knowledge of the processes and structures of the Church;
 - (v) knowledge of the options available to Complainants including legal and community resources.
- (c) Preferably at least one adviser must have expertise in the area of child sexual abuse and at least one adviser must have expertise in working with male victims.
- (d) The Convenor may designate an adviser to provide assistance to a person concerned about conduct which may amount to sexual misconduct before a complaint has been made.
- (e) An adviser, depending upon the assistance required, will seek to:
 - (i) listen to the person who is concerned about conduct which may amount to sexual misconduct;
 - (ii) discuss with that person whether the conduct complained of would, if substantiated, appear to be sexual misconduct as defined in these Regulations;
 - (iii) inform the person of entities they may approach for the purpose of seeking advice about their rights and responsibilities;
 - (iv) provide information about the Church's complaints and disciplinary processes and other options available to the person;

- (v) help the person to consider and choose the appropriate option for dealing with the conduct; and
 - (vi) assist a person to make a complaint.
- (f) An adviser must not be responsible for investigating or seeking to resolve a complaint.
- (g) An adviser who is designated to a Complainant or a Respondent, will seek to:
- (i) assist the Complainant in processing a complaint or the Respondent in facing a complaint through Church procedures;
 - (ii) ensure the Complainant or Respondent is adequately informed at all stages of the progress of the complaint; and
 - (iii) be available, if the Complainant or Respondent so wishes, to speak at any meeting regarding the complaint the Complainant or Respondent is required to attend.
- (h) The Standing Committee may withdraw the appointment of any adviser at any time without providing reasons for its determination, such withdrawal to become effective upon notice being provided to the adviser.

5.6.6 CONVENOR OF ADVISERS

- (a) The Synod must appoint the Convenor.
- (b) When a complaint is made, the Convenor must offer to designate an adviser to each of the Complainant and the Respondent. The designation must be made if the Complainant or Respondent concurs with the designation.
- (c) If the Convenor deems it appropriate or if requested, the Convenor must endeavour to designate an adviser to any other person affected by the alleged misconduct.

5.6.7 MAKING A COMPLAINT

- (a) Anyone who wishes to make a complaint may do so to the chairperson of the Presbytery, the Presbytery Minister, the Moderator, the Synod Secretary, or the Chairperson of the Committee.
- (b) A complaint must be put in writing.
- (c) A complaint must be referred to the Chairperson as soon as possible.
- (d) Nothing in these Regulations shall prevent a person from making an informal approach,

Commented [MH10]:

Issue 10:

Should anyone be able to make such a complaint?

Currently, the balance of Part 5 is limited to complaints by members, adherent or Ministry agent.

orally or in writing, to the Convenor for the purpose specified in Regulation 5.6.5(d) or to any of the persons referred to in (a) for advice or information with respect to sexual misconduct. Such an approach cannot become a complaint unless it is put in writing by the person making the complaint.

- (e) Where a complaint relates to a Respondent's prior service within the bounds of another Synod the complaint must be dealt with within the Synod in which the Respondent is currently serving, except where:
 - (i) the Complainant and Respondent agree that it be dealt with within the other Synod, or
 - (ii) the Synod in which the Respondent is currently serving determines to transfer to the other Synod all its powers and responsibilities in relation to discipline of the Respondent concerning the Respondent's period of service in the other Synod (refer Constitution paragraph 70(d)), in which case the other Synod must deal with the complaint.

5.6.8 RECEIVING A COMPLAINT

- (a) As soon as possible after receiving the complaint, the Panel must assess its substance and determine:
 - (i) the issues, if any, to be published to the Respondent; and
 - (ii) whether the complaint, as received, will or will not be published to the Respondent;
 - (iii) inform the Respondent of the receipt of the complaint and the issues that will be dealt with by the Panel; and
 - (iv) inform the Complainant of the action taken.
- (b) The Chairperson must give prompt confidential notice of the complaint together with a copy of the complaint and any other relevant information to the Synod Secretary, the Moderator, the chairperson of the Presbytery of the Respondent, the Convenor and, where appropriate, the chairperson of the Presbytery of the Complainant.
- (c) Upon receipt of the notice, the Presbytery Chairperson(s) (of both the Complainant and Respondent if necessary), in consultation with the Chairperson of the Committee and others as appropriate, will arrange for the development of a Pastoral Strategy to assist in managing pastoral issues in relation to the Congregation or faith community.

5.6.9 ATTENDANCE AT MEETINGS

- (a) Each of the Complainant and the Respondent, attending any meeting of or arranged by the

Panel, may be accompanied by their adviser and by a person providing emotional support.

- (b) The person providing emotional support does not have the right to speak at any meeting unless at the request and with the consent of the person supported and invited to do so by the chair of the Panel that is dealing with the complaint.
- (c) The Complainant and the Respondent must not be legally represented before the Panel.

5.6.10 INVESTIGATION AND RESPONSE TO COMPLAINTS

- (a) Where the Panel determines that allegations contained in a complaint amount to a complaint of sexual misconduct against a Minister, the complaint may be investigated and dealt with by the Panel with a view to facilitating a response that takes into account the interests of the Complainant and the Respondent and the values by which the Church lives. To that end the Panel may appoint a person or persons to investigate matters connected with the complaint and report to the Panel.
- (b) In exercising its responsibilities under these Regulations, the Panel must have regard to the following guidelines:-
 - (i) it must endeavour to act pastorally in its dealings with the Complainant, the Respondent and other affected persons;
 - (ii) it must seek an Agreed Outcome that encourages healing and maintains the integrity of ministry of the Church;
 - (iii) it may make use of the tools of conversation, enquiry, and alternative dispute resolution in seeking an Agreed Outcome; and
 - (iv) for the purpose of deciding on action to be taken pursuant to paragraph (e) of this Regulation, it may form opinions on issues of fact when considered necessary.
- (c) The nature of any investigation must be by inquiry and not be adversarial and the Panel may inform itself in such manner as it sees fit.
- (d) The Panel must inform the Complainant, the Respondent and any potential witness that their statements may be recorded and may form part of an investigation report which may accompany a referral to the Synod Committee for Discipline.
- (e) At any stage of the process the Panel may:
 - (i) determine the complaint warrants no further action and the Panel must give written notice of such determination to the Chairperson, Complainant and the Respondent within 14 days of the determination being made;

- (ii) consider allegations of, or information regarding, other conduct of the Respondent of which the Panel becomes aware and which it considers should be dealt with in conjunction with the complaint, provided the Panel informs the Respondent of the particulars of that conduct;
 - (iii) recommend to the Chairperson or to the Standing Committee that action be taken to cause a separate complaint to be made in respect of allegations or on the basis of information of which the Panel has become aware;
 - (iv) determine to proceed to deal with the initial complaint and any additional allegations or information from other persons or Complainants that has come to the Panel's attention (a composite complaint), provided the Panel informs the Respondent by written notice of the particulars of the composite complaint;
 - (v) refer the complaint or composite complaint for alternative dispute resolution;
 - (vi) refer the complaint or composite complaint to the Synod Committee for Discipline to be dealt with as a complaint under Regulation 5.7.2;
 - (vii) refer any matter arising out of the complaint or which has arisen from or during the Panel's process to the Pastoral Relations Committee or the Moderator. The referral may contain recommendations by the Panel concerning counselling, professional supervision, training or other appropriate responses arising out of the complaint and investigation; and may require reporting back to the Panel for further consideration and action by the Panel; and
 - (viii) enter into an Agreed Outcome.
- (f) An Agreed Outcome:
- (i) must be entered into as a result of negotiations or following an alternative dispute resolution process;
 - (ii) must bind the parties to it;
 - (iii) may include, but is not limited to, undertakings by the Respondent to do any one or more of the following:
 - accept the validity of the complaint, and apologise;
 - provide financial restitution or compensation;
 - undergo therapeutic or pastoral care or counselling;
 - accept supervision; and
 - participate in courses of training; and
 - (iv) must not preclude the Panel from referring the complaint to the Synod Committee for

Discipline under paragraph (e) (vi) of this Regulation.

- (g) Where the Panel determines to refer the complaint or composite complaint for alternative dispute resolution, the Panel must provide the report of its investigation, including any relevant documents, to the conciliator, mediator or person conducting the alternative dispute resolution process.
- (h) Where any of the terms of an Agreed Outcome are not fulfilled, the Panel must determine what further action must be taken including possible referral to the Committee for Discipline to be dealt with as a complaint under Regulation 5.7.2(b) or referral to another council or entity of the Church.
- (i) The Panel has jurisdiction to determine the issue of whether the terms of an Agreed Outcome have not been fulfilled and, for that purpose, may enquire into the issue of its own volition or upon receipt of information that the terms have not been fulfilled, as it sees fit.
- (j) In the event that all or any of the original Panel members are no longer members of the Committee, the Chairperson may appoint another Panel to enquire into and determine the issue of whether the terms of an Agreed Outcome have not been fulfilled.
- (k) Where the Panel makes a referral to the Synod Committee for Discipline, the Panel must provide a report of its investigation, including any relevant document received or created in the course of the investigation, including but not limited to a signed statement from any witness, to the Synod Committee for Discipline.
- (l) A copy of any Agreed Outcome and any other decisions will be provided to the Complainant, the Respondent, the Respondent's Presbytery Chair and Synod.

5.6.11 PROCEDURAL FAIRNESS

- (a) The Panel will ensure that:
 - (i) the Respondent is given sufficient information regarding the complaint to know what is being alleged;
 - (ii) the Respondent is given the opportunity and sufficient time to prepare and present a response;
 - (iii) no person who is closely associated with the Complainant or Respondent must participate as a member of the Panel in relation to that complaint; and
 - (iv) it remains impartial.
- (b) Nothing which is said in the course of discussions with any person appointed to undertake an alternative dispute resolution with any party, must be given in evidence or used in any

way in any proceedings before the Synod Committee for Discipline, or before any court or other tribunal whatsoever, except to the extent compellable by law.

- (c) The record of an Agreed Outcome must be part of the Panel's records and may be given in evidence or used in any proceedings before the Synod Committee for Discipline.

5.6.12 RESIGNATION

- (a) A Respondent, whose placement has been concluded, must normally remain under the pastoral and administrative oversight of the Presbytery in which the Respondent was enrolled at the time of the complaint and, subject to these Regulations, that Presbytery must be responsible for the counselling and discipline of the Respondent with reference to the complaint and for the processing thereof.
- (b) A Presbytery must not accept the resignation from the ministry by a Respondent before the conclusion of all processes relating to a complaint under Regulations 5.5.1ff and, in the case of a complaint referred under Regulation 5.6.10(e)(vi), the conclusion of all processes relating to the complaint under Regulations 5.7.1ff, unless the Presbytery determines that there are special circumstances which are approved by the Chairperson.
- (c) A complaint may continue to be processed under these Regulations, notwithstanding the conclusion or termination of the placement, the resignation of a Respondent from the ministry, the retirement of the Respondent or the granting to the Respondent of leave of absence.

5.6.13 THERAPY EXPENSES

- (a) The Panel may at any time where it feels it is appropriate, recommend to the Moderator and the Synod Secretary that the Synod meet the expenses of therapy for the Complainant and/or the Respondent which relate to the circumstances of the complaint.
- (b) Synod will determine whether it will meet such expenses, either in whole or in part, or whether such expenses should be borne by the Complainant and/or Respondent.

5.6.14 CONFIDENTIALITY AND PRIVACY

- (a) Subject to these Regulations confidentiality must be observed by all parties involved in the process of dealing with a complaint under Part 5.6.
- (b) The Panel meetings must be held in private but the Panel may permit such persons as it thinks fit to attend its meetings.
- (c) Unless otherwise authorised by the Chairperson or otherwise determined by the Panel, no member of the Panel or any person attending a meeting thereof or otherwise involved in the process must divulge outside the Panel any information concerning the complaint or the

meeting.

- (d) The Panel may make reports to such persons as it thinks fit, at any time, but must consider carefully whether it is at that time appropriate in all the circumstances and in the best interests of the Church to make such report.
- (e) The Chairperson may, after consulting with the Complainant and the Chairperson of the Respondent's Presbytery, make such public statement concerning the proceedings as the Chairperson considers appropriate.
- (f) Appropriate information may, with the approval of the Chairperson, be made available to a Congregation regarding the handling of any complaint.
- (g) A breach of this Regulation by the Respondent may be referred to the Committee for Discipline under Regulation 5.7.2 (b).
- (h) A breach of this Regulation by the Complainant may be taken into account by the Panel in its resolution of the Complaint.

5.6.15 APPEAL

- (a) The Complainant or the Respondent may lodge an appeal:
 - (i) against a determination by the Panel made pursuant to Regulation 5.6.10(e)(i); or
 - (ii) on the grounds that the Panel has acted contrary to procedural fairness.
- (b) An appeal on the grounds of a breach of procedural fairness may be lodged at any time but no later than 14 days after the signing of an Agreed Outcome or the receipt of communication of a decision of the Panel under Regulation 5.6.10.(e)(iv).
- (c) The appeal must be made to the Moderator who must appoint an appeal committee of three persons to consider it. At least one member of the appeal committee must have legal expertise.

The appeal committee must either dismiss the appeal or, if it upholds the appeal, remit the complaint to the Panel for its reconsideration. The appeal committee may make a recommendation to the Chairperson whether the panel that dealt with the complaint or a new panel should undertake the reconsideration.

- (d) Upon receipt of an appeal the Moderator must inform the committees, councils and individuals involved of the pending appeal.
- (e) Appeals will be dealt with expeditiously by the parties to the appeal. Should a party not deal with the appeal in an expeditious manner, the Appeal Committee may:

- (i) in case of an Appellant, strike the appeal out; or
 - (ii) in the case of a Respondent, proceed to determine the matter on the material before it.
- (f) Legal representation before the Appeal Committee is permitted only by leave of the Appeal Committee.
- (g) For the purposes of this Regulation, the parties to the appeal are the Appellant (that is, the original Complainant or Respondent) and, where the Appellant is the original Complainant, the original Respondent will be the Respondent to the appeal and, where the Appellant is the original Respondent, the Respondent to the appeal will be the Panel.

5.6.16 PUTATIVE ABUSE

- (a) Where the Moderator, the Synod Secretary, the chairperson of a Presbytery or the Chairperson receives information which provides reasonable grounds for suspecting that there has been sexual misconduct by a Minister but no complaint has been made, that person must seek to take whatever steps are reasonable to clarify the matter.
- (b) If, thereafter, that person considers that there are reasonable grounds for believing that sexual misconduct has occurred, that person must seek to ensure that a complaint is made.

5.6.17 NEW PLACEMENT

Except in special circumstances approved by the Chairperson a new placement of a Respondent must not be made nor must a call to a Respondent be sustained, while the complaint has not been resolved or determined.

5.7 SYNOD COMMITTEE FOR DISCIPLINE

5.7.1 APPOINTMENT

- (a) The Synod must establish a committee to be known as the Committee for Discipline.
- (b) The Committee must consist of not less than five persons appointed by the Synod and have terms of at least 3 years.

The persons appointed to the Committee are to possess the appropriate skills and knowledge, as determined by Synod, to fulfill the functions of the Committee.

- (c) Not less than two members of the Committee must be Ministers and not less than two must be lay persons.
- (d) The Committee must elect its own chairperson and the Standing Committee must appoint a person (not being a member of either the Committee for Counselling or the Synod Sexual Misconduct Complaints Committee) to convene the Committee and act as the secretary thereof.
- (e) The chairperson of the Committee must be entitled to exercise a deliberative but not a casting vote.
- (f) The Moderator, Synod Secretary and any person who is a member of the Committee for Counselling or the Synod Sexual Misconduct Complaints Committee must not be a member of the Committee for Discipline.
- (g) A Synod may appoint members of the Church who are members of a Congregation beyond the bounds of the Synod as members of the Committee for Discipline.
- (h) Any casual vacancy on the Committee must be filled by a person appointed by the Standing Committee or, where time does not permit, by the Moderator.
- (i) Synod shall ensure members of the Committee undertake annual professional development of 10 hours, relevant to the discharge of the Committee's functions.

5.7.2 COMPLAINTS

The Committee must consider any complaint to the effect that a Minister has:

- (a) wilfully and persistently neglected the duties of a Minister;
- (b) wilfully failed to:

- (i) comply with any provision of the Constitution, of any Regulation, rule or resolution of the Church or any body of the Church, or
 - (ii) any terms of an outcome reached through an alternative dispute resolution process or Agreed Outcome under Regulation 5.6.10, or
 - (iii) any lawful direction of the Moderator made pursuant to Regulation 3.6.3.2(i), or
 - (iv) participate in the disciplinary process;
- (c) advocated doctrine contrary to that which the Church has determined essential to the faith;
- (d) engaged in grave conduct unworthy of a Minister; or
- (e) wilfully failed to comply with the principles contained in any Code of Ethics approved by the Assembly or the Assembly Standing Committee;

which has been:

- (i) referred to it by the Committee for Counselling or the Synod Sexual Misconduct Complaints Committee; or
- (ii) made to it by a member of the Church at the direction of the Standing Committee.

No other complaint must be considered by the Committee.

5.7.3 PROCEEDINGS

- (a) A quorum of the Committee must be three members present during the whole of the proceedings.
- (b) Where at any stage after the hearing of the proceedings before the Committee have actually commenced and before the Committee's report on the proceedings has been presented to the Standing Committee, a member of the Committee, engaged in considering the complaint, withdraws from the proceedings for any reason, the remaining members of the Committee may continue to act, so long as at least three members are present and participating. Unless the Respondent agrees, there must be at least one member of the Committee hearing the matter who is a Minister and at least one who is a lay person.

The proceedings before the Committee are taken to have commenced upon the date of receipt of the complaint by the committee convened to hear a matter.

- (c) A person must be taken to have withdrawn, if that person, for any reason, is unwilling or unable to continue to participate.
- (d) Where the term of office of a member of the Committee expires and is not renewed, such member may continue to act as a member in any proceedings in which the member is participating.

- (e) The members of the Committee who must constitute the panel dealing with a particular complaint must be determined by the chairperson of the Committee.

5.7.4 PROCESS

- (a) The Moderator must for the purposes of a proceeding before the Committee appoint a person as advocate who must be responsible for the presentation of the case in support of the complaint and the Moderator may from time to time appoint a substitute as required.
- (b) The complaint with which the Committee is required to deal must be particularised by the advocate in writing to the secretary of the Committee who must deliver a copy of the particularised complaint to the chairperson of the Committee, the Respondent, the Moderator, the Synod Secretary and the chairperson of the Presbytery which has oversight of the Respondent and Complainant.

Upon receipt of the said complaint, the Presbytery Chairperson(s) (of both the Complainant and Respondent if necessary), in consultation with others as appropriate, will arrange for the development of a Pastoral Strategy to assist in managing pastoral issues in relation to the Congregation or faith community.

- (c) The chairperson of the Committee may require the advocate to furnish fuller particulars of the complaint. Such further particulars are to be distributed to the office holders in (b).
- (d) Prior to the proceedings before the Committee, the Standing Committee (or, in cases of urgency, the Moderator) must appoint or engage a legal assistant to the Committee to attend the proceedings and provide the Committee with advice on procedure and other legal matters.
- (e) The legal assistant must be a barrister or solicitor.
- (g) The Committee must act in accordance with the rules of natural justice and as expeditiously as possible. In its procedure and its decisions, it must be governed by equity and good conscience and it may inform itself in such manner, as it thinks fit in the circumstances and is not bound by the rules of evidence.
- (h) Any challenges to the jurisdiction of the Committee to hear the complaint, or the validity of the proceedings, or any application to stay the proceedings, are to be determined by the Committee before it proceeds to hearing the complaint. The Committee may make such determination as it considers warranted in the circumstances.

Example: A Respondent takes issue with the alleged conduct particularised in the complaint and argues that due to inordinate and unexplained delay, the destruction of material documents and the passing of the only material witness, they are prejudiced in their defence such that they cannot receive a fair hearing. The Committee may determine the proceedings should be stayed.

- (i) The Committee may receive into evidence any report of the investigation of the Synod Sexual Misconduct Complaints Committee provided that a copy of the report has been made available to the Respondent, the person who made the complaint to the Synod Sexual Misconduct Complaints Committee and the advocate.
- (j) The Committee must hear the advocate and the Respondent and must consider such material as they desire to present so long as the Committee considers it to be sufficiently relevant to the issues in dispute. The Committee may give such weight as it thinks appropriate to the contents of any report received into evidence pursuant to (i). It must permit the advocate and the Respondent to call such persons to testify before it on such matters as are appropriate provided such testimony is sufficiently relevant to the issues in dispute. Such persons may be cross-examined by the other party but unless leave has been given by the Committee such cross-examination must only be for the purpose of clarifying or amplifying the testimony or of testing the recollection of the person with regard to the facts concerning which testimony has been given concerning an issue in dispute.
- (k) The advocate and the Respondent may appear personally before the Committee or be represented legally or by another member of the Church. If the Respondent does not appear, the Committee may proceed in the absence of the Respondent.
- (l) The proceedings before the Committee must be recorded either manually or mechanically.
- (m)
 - (i) The Committee may determine that the record of evidence must be transcribed.
 - (ii) If the Committee so determines, the transcript must be made available for examination by the advocate and by the Respondent (or by their representatives) and either may obtain a copy upon payment of the charge therefore.
 - (iii) If the Committee determines that the record must not be transcribed, either the advocate or the Respondent may require a transcript to be made and provided on payment of the transcript cost.
- (n) Proceedings before the Committee must be held in private and, unless otherwise determined by it, no member of the Committee nor any other person who has been involved in the proceedings must divulge any information obtained as a result of such involvement concerning the proceedings to any person except:
 - (i) to the extent compellable by law; or
 - (ii) as permitted or required by these Regulations.
- (o) The Committee may at any time:
 - (i) refer all or any of those concerned for counselling in such manner as it thinks fit; or

- (ii) require all or any of those involved in the proceedings to attend a compulsory conference or alternative dispute resolution.
- (p) The Committee must consider the substantial merits of the case and must record such findings of fact and other conclusions as it thinks necessary in the circumstances and decide whether or not the complaint has been made out in full or in part. Those findings and conclusions are not limited to those matters set out in the complaint.

Example: Should a Respondent act in an unreasonably combative manner or deny the allegations ultimately proven, the Committee may take such conduct into account when determining the appropriate disciplinary action to be taken.

- (q) The complaint must only be held to be made out, in full or in part, if the majority of the members of the Committee who dealt with the matter be so satisfied on the balance of probabilities.
- (r) Proceedings may continue under these Regulations, at the discretion of the Committee, notwithstanding the conclusion or termination of the placement, the resignation of a Respondent from the ministry, the retirement of the Respondent or the granting to the Respondent of leave of absence.
- (s) As soon as practicable after the conclusion of the proceedings the Committee must notify the advocate, the Complainant and the Respondent:
 - (i) whether it has dismissed the complaint;
 - (ii) found the complaint made out in full or in part;
 - (iii) finalised the proceedings due to the Respondent's resignation; or
 - (iv) finalised the proceedings as a result of a determination under (h);

and must supply each of them with a copy of its findings of fact and other conclusions.

- (t) Where the Committee finds the complaint made out in full or in part it must, after giving the Respondent and, if it thinks fit, the advocate, an opportunity to be heard on the question of any disciplinary action to be taken, determine that:
 - (i) no action be taken;
 - (ii) the Respondent be admonished;
 - (iii) the Respondent be suspended from placement or candidature for such period and on such conditions as it specifies;
 - (iv) the Respondent's placement or candidature be terminated;

- (v) the Respondent be suspended from the exercise of all or any of the functions of a ministry agent for such period and on such conditions as it determines;
 - (vi) the recognition of the Respondent as a ministry agent be withdrawn.
- (u) The Committee must take into account the Respondent's antecedents including any prior disciplinary action which it considers sufficiently relevant to the question of determining the appropriate disciplinary action.
- (v) The Committee, whether it has dismissed the complaint or has found it made out in full or in part, may determine:
- (i) to make written comment on any aspect of the proceedings in a report to the Standing Committee and/or the Presbytery exercising oversight of the Respondent;
 - (ii) the respondent be required to undergo therapeutic or pastoral counselling;
 - (iii) the Respondent be subject to supervision;
 - (iv) the Respondent participate in courses of training;
 - (v) the Respondent pay financial restitution;
 - (vi) the Respondent be stood aside from the exercise of all or any functions of a Minister on such conditions as the Committee determines.
- (w) The secretary of the Committee must present to the Standing Committee a report of the proceedings.
- (x) The report must contain the complaint and particulars, the findings and decisions of the Committee, including the action taken under (t) and under (v). The report must include such other material as the Committee considers appropriate.
- (y) The Secretary of the Synod must send a copy of the report to the Moderator, the Complainant, the advocate, the Respondent and the chairperson of the Presbytery which has oversight of the Respondent. Each party is to keep that report confidential, not disclose it or any of its content to any other person (unless legally authorised or obliged to do so) and only use it for the purpose for which it was provided.
- (z) After consulting the chairperson or secretary of the Committee for Discipline, the Complainant, and the chairperson of the Presbytery which has oversight of the Respondent, the Moderator (or the Secretary of the Synod on the Moderator's behalf) may make such public statement concerning the proceedings as the Moderator (or Secretary) considers appropriate.

- (aa) The Moderator (or the Secretary of the Synod on the Moderator's behalf) or the chairperson of Presbytery may make a statement to a congregation and/or to relevant bodies about proceedings where appropriate and must ensure appropriate pastoral support for such Congregations and/or bodies.
- (bb) The Standing Committee must take such action as is necessary to implement the decision of the Committee for Discipline and must advise the Respondent and the Presbytery.
- (cc) The expenses properly incurred by the advocate must be paid by the Church. The Committee may certify that it is reasonable in the circumstances that the expenses of the Respondent be paid in whole, or in part, or to a specified amount, by the Church. The Standing Committee must determine the funds from which such expenses must be paid.

5.7.5 MODERATOR'S POWERS AND ROLE

- (a) The Moderator, in the exercise of the duties and responsibilities of the Moderator under Regulation 3.6.3.2(i) may, at any time following the making of a complaint and upon such terms as the Moderator sees fit, stand aside a Respondent from the performance of ministerial duties pending the conclusion of all process relating to the complaint under Part 5 of the Regulations if such action be considered necessary for the well-being of the Church. The Moderator may inform such people of this action and the reasons for taking such action as the Moderator considers necessary in all the circumstances.

The Moderator may terminate the standing aside at any time.

- (b) Such standing aside must not deprive the Respondent of stipend, allowances and the use of any residence occupied by the Respondent, who must properly assist any person responsible for the carrying on in the meantime of the duties attaching to the Respondent's placement.
- (c) The Moderator, upon receipt of a complaint referred under Regulations 5.3.6, 5.4.1(b), or 5.4.3(i), may determine how the complaint should be dealt with, including, but not limited to, whether:
 - (i) the complaint is to be referred back to the Presbytery Chairperson to be dealt with, including by way of further enquiry to ascertain the facts;
 - (ii) the complaint is to be referred to the Committee for Counselling to be dealt with; or
 - (iii) to direct the Secretary to make a complaint to the Committee for Discipline.

5.7.6 WITHDRAWAL OF RECOGNITION OF A MINISTRY AGENT

- (a) If the recognition of the Respondent is withdrawn the stipend and other allowances of the Respondent must continue to accrue for 30 days after the meeting of the Standing Committee at which the report under Regulation 5.7.4(v) is presented, and any housing then occupied by the Respondent must be vacated as soon as possible but in any case within such 30 days.
- (b) Payments made from other funds of the Church must be determined in accordance with the Regulations governing such funds but any period during which a Respondent is stood aside pursuant to Regulation 5.7.5(a) must not be included in the determination of the length of ministerial service.
- (c) The Moderator (or the Secretary of the Synod on the Moderator's behalf) may make such public statement concerning the Minister's withdrawal of recognition as the Moderator (or Secretary) considers appropriate.

5.7.7 APPEAL FROM THE COMMITTEE FOR DISCIPLINE

The advocate, Complainant or Respondent may appeal from the decision of the Committee for Discipline to the Synod which must refer the matter to the Convenor of the Standing Appeal Panel to be dealt with under Part 6 of these Regulations.

5.7.8 STAY OF PROCEEDINGS

Where the Standing Committee has referred an appeal in accordance with Regulation 5.7.7, the Standing Committee may determine that the operation of any decisions made or actions taken pursuant to Regulations 5.7.4(s) or (u) be suspended on such conditions as it thinks fit until the appeal is determined.

5.8. ALIGNMENT WITH OTHER PROCESSES AND EXTERNAL OBLIGATIONS

5.8.1 Where the substance of a complaint is also being dealt with in accordance with another process, the entity responsible for dealing with the complaint may, at its discretion:

- (a) hold the complaint in abeyance pending the outcome of that other process;
- (b) have regard to the outcome of that other process, if considered relevant; or
- (c) proceed to deal with the complaint, regardless of the other process or its outcome.

Example 1: The substance of the complaint may also be the subject of a HR grievance, a WHS investigation, a civil action, an application to the Fair Work Commission, or the subject of a whistle-blower investigation. If, for the purposes of this example, the substance of the complaint was also the subject of a whistle-blower investigation, the entity responsible for dealing with the complaint may determine to hold the complaint in abeyance pending the outcome of the whistle-blower investigation and any action taken against a Respondent arising out of that investigation.

Example 2: The substance of the complaint is also the subject of a complaint to the Police. The entity responsible for dealing with the complaint can ask the Police about any concerns they may have about the continuation of the Church's complaint and disciplinary process upon the police investigation and any subsequent prosecution and can take such concerns into account in determining what to do.

5.8.2 The entity responsible for dealing with a complaint may provide such information that has come into its possession as it considers relevant, to an external agency that has an obligation under its governing law to deal with the substance of the alleged conduct.

Example 3: The substance of the complaint is also the subject of a complaint to the Police. The entity responsible for dealing with the complaint can provide information to the Police for the purpose of assisting the police investigation and any subsequent prosecution.

5.9 CONFLICTS OF INTEREST

5.9.1 All persons who constitute the entity that has jurisdiction to deal with a complaint will take all reasonable steps to avoid any:

- (a) actual, potential or perceived conflict of interest; or
- (b) actual or reasonable appearance of bias.

Example: The Presbytery Chairperson should not be involved in any deliberative process or determination about a complaint the Chairperson has referred to the PRC.

5.9.2 A failure by any person to comply with Regulation 5.9.1 vitiates the decision and the matter may be considered afresh by the entity that has jurisdiction to deal with that complaint, absent the conflicted or biased person.

5.9.3 Where a Complainant or Respondent is of the view that a person has an actual, potential or perceived conflict of interest or actual or reasonable appearance of bias, they are to notify the entity that has jurisdiction to deal with the complaint of the alleged conflict or bias and the grounds thereof.

5.9.4 That entity is to consider the matter and determine whether the person in question has or had an actual, potential or perceived conflict of interest or actual or reasonable appearance of bias and will inform the Complainant or Respondent of its determination and the proposed remedial action, if any.

5.10 REFFERALS, TRANSFERS AND DELEGATIONS

5.10.1 Pursuant to clause 70 of the Constitution, each of a Church Council, Presbytery and Synod may refer, delegate or transfer its powers and responsibilities, as the case may be, to deal with a complaint to another body in accordance with the provisions of clause 70.

Example 1: The powers and responsibilities of a Synod to deal with a complaint against its Moderator may be transferred to another Synod with the consent of the other Synod pursuant to clause 70(d) of the Constitution.

Example 2: A Presbytery responsible for dealing with a complaint may refer its powers and responsibilities to deal with the complaint to the Synod or to another Presbytery with the consent of the Synod or Presbytery concerned pursuant to clause 70(a) of the Constitution.

5.10.2 A body of the Church not specified in 5.10.1 which is responsible for dealing with a complaint may delegate its powers and responsibilities to deal with the complaint to such other body as it shall approve and on such terms and conditions as it shall approve.

5.10.3 The Referee's, Delegate's or Transferee's decision will be taken to be the decision of the Referrer, Delegator or Transferor.

5.11 VEXATIOIUS COMPLAINANTS

5.11.1 The Synod Standing Committee may determine, on such terms and conditions as it thinks fit, that an individual is a vexatious complainant where it is satisfied:

- (a) (i) that individual; or
- (ii) someone acting on that individual's behalf;
- (b) has frequently made a number of complaints that have been determined by the entity responsible for dealing with the complaint, to warrant no action, or no further action, on a ground that includes the complaint was:
 - (i) an inappropriate use, misuse or abuse of the complaint process; or
 - (ii) made to harass or annoy, to cause delay or detriment, or for another wrongful purpose; or
 - (iii) made without reasonable ground; or
 - (iv) frivolous, vexatious, or misconceived.

5.11.2 The Synod Standing Committee must:

- (a) advise the individual:
 - (i) that it is considering the issue of whether to determine that individual is a vexatious complainant;
 - (ii) the ground upon which it is relying; and
 - (iii) of the material it will be considering; and
- (b) afford that individual an opportunity to make written submissions to it on the matter.

5.11.3 The determination referred to in 5.11.1 has the effect, subject to its terms and conditions, that any current or future complaint made by that individual need not be dealt with by the entity responsible for dealing with the complaint and that entity need not take any action, or any further action, in relation to such complaint other than to inform the individual that it will not be taking any action, or any further action, in relation to the complaint.

5.11.4 The determination referred to in 5.11.1 may be on such terms and conditions as considered appropriate by the Synod Standing Committee including, but not limited to, that its determination will only operate in one or more of the following ways:

- (a) in relation to complaints in relation to a particular matter;
- (b) in relation to complaints against a particular person;
- (c) in relation to complaints made during a specified period of time; or
- (d) from a specified date.

5.11.5 Where an individual is determined to be a vexatious complainant by a Synod Standing Committee, that Committee must give a notice to the individual setting out:

- (a) its determination;
- (b) the ground of its determination;
- (c) set out its findings on material questions of facts; and
- (d) the date from which the determination will become operative.

5.11.6 No appeal shall lie from the decision of the Synod Standing Committee.

5.11.7 To remove any doubt, a Synod Standing Committee may consider all complaints made by the individual in question, or by someone acting on that individual's behalf, regardless of the jurisdiction in which the complaint was made or the subject matter of the complaint.

APPENDIX 1

Overarching Principles

The Regulations are to:

- (i) enshrine the principles, ideals and ethos of the Basis of Union and the Constitution, ensuring consistency with those founding documents;
- (ii) ensure consistent and comprehensive guidance in the exercise of the roles, powers and responsibilities across the different councils of the church;
- (iii) recognise and manage the interconnectedness of the different councils of the church in relation to those roles, powers and responsibilities;
- (iv) offer clarity and reflect contemporary expectations in relation to discipline, misconduct and appeal processes.
- (v) complement and dovetail with contemporary HR, WHS, industrial, privacy, safe ministry, and whistle-blower policies and procedures.

1. General Principles

- 1.1 Only members, adherents and Minsters are eligible to make a complaint.
- 1.2 The process of how to make a complaint, including the form of the complaint, to be determined by the Synod.
- 1.3 The entity tasked with dealing with a complaint is empowered to engage an independent investigator when considered appropriate, though that entity remains responsible for determining the matter.
- 1.4 The continuation of the disciplinary process where the Respondent has resigned is to be at the discretion of the decision maker.

2. Complaints against Members

- 2.1 Complaints against members of the Church are:
 - (a) primarily to be dealt with by the relevant Church Council, excluding complaints of sexual misconduct (the province of Presbytery – cl.10(c) of the Constitution) which are to be dealt with in accordance with Assembly's *Member or Adherent – Sexual Abuse and Sexual Misconduct Complaints Policy*.
 - (b) Presbytery to have general oversight of Church Council's dealing with complaints and the power to deal with complaints not adequately dealt with by a Church Council or as referred by Church Council.
 - (c) to be dealt with by visitation, pastoral counselling and/or guidance with a view to restoration of the effected relationships.
 - (d) to be dealt with in such manner as to avoid actual, potential or perceived conflicts of interest.
 - (e) Council to have the power to suspend or terminate membership and remove Councillor from Council.

2.2 Members to have right of appeal to Presbytery only where membership terminated. Appeal on the documents and Presbytery's decision is final.

3. Complaints against Ministers

3.1 Complaints against Ministers:

- (a) are primarily to be dealt with by the relevant Presbytery Chairperson or PRC, excluding:
 - (i) complaints of sexual misconduct; or
 - (ii) complaints alleging willful or grave conduct unworthy of a Minister (as per Regulation 5.7.2(a)-(e)).
- (b) are primarily to be dealt with by visitation, pastoral counselling and/or guidance with a view to restoration of the effected relationships.
- (c) are to be dealt with in such manner as to avoid actual, potential or perceived conflicts of interest.
- (d) may be referred, at the discretion of Chairperson/PRC, to the Committee for Counselling or Committee for Discipline, depending upon the seriousness of the alleged conduct.

3.2 Complaints alleging sexual misconduct will be dealt with by Synod Sexual Misconduct Complaints Committee.

3.3 The Moderator, Synod or its Standing Committee to have the power to direct a complaint against a Minister to be made direct to Committee for Counselling or Committee for Discipline, depending upon the seriousness of the alleged misconduct.

4 Discipline of Ministers

The counselling and discipline of Ministers to primarily be the responsibility of the Presbytery Chairperson/PRC or, for office holders, the appointing body for conduct not worthy of referral to the Committee for Counselling or Committee for Discipline.

5 Complaints against Office Holders

5.1 Where a person (Minister of Lay) is appointed to an office within the Church, then any complaint against that person acting in that capacity is to be made to, and dealt with by, the appointing body.

5.2 Complaints of sexual misconduct against lay person in their capacity as an office holder is to be dealt with by appointing body in accordance with Assembly's *Member or Adherent – Sexual Abuse and Sexual Misconduct Complaints Policy*.

5.3 Complaints alleging sexual misconduct by a Minister in their capacity as an office holder is to be dealt with by Synod Sexual Misconduct Complaints Committee.

6 Committee for Counselling

6.1 Jurisdiction to deal with complaints against Ministers but not to deal with complaints alleging:

- (a) sexual misconduct, or
- (b) willful or grave conduct unworthy of a Minister (as per Regulation 5.7.2(a)-(e)).

- 6.2 Members to have appropriate skills and knowledge and undertake professional development.
- 6.3 Provisions allowing complaints to be resolved through mediation.

7 Committee for Discipline

- 7.1 Threshold for matters to be dealt with by the Committee for Discipline will be wilful or grave conduct unworthy of a Minister (as per Regulation 5.7.2(a)-(e)), including a refusal to participate in the disciplinary process.
- 7.2 Members to have appropriate skills and knowledge and undertake professional development.
- 7.3 Provisions allowing complaints to be resolved through mediation.

8 Synod Sexual Misconduct Complaints Committee

- 8.1 The jurisdiction of the SMCC be broadened by expanding the definition of sexual misconduct to include “any other conduct involving a component of sexual misbehaviour in the complaint.”
- 8.1 Will have a discretion to determine if an independent investigation is warranted.
- 8.2 Members to have appropriate skills and knowledge and undertake professional development.
- 8.3 Provisions allowing complaints to be resolved through mediation.

9 Delegations

Provisions that facilitate delegation of responsibility for complaints and discipline from one Church entity to another, including cross-jurisdictional delegations in appropriate circumstances (e.g. a complaint against a General Secretary or Moderator of one Synod being dealt with by another Synod).

10 Conflicts of Interest

Provisions dealing with conflicts of interest.

11 Alignment with External Obligations

- 11.1 The Regulations to align with external obligations (e.g. matters reported to the Police, Fair Work proceedings, WHS, etc.) and provide for the provision of information to external agencies that have obligations concerning the alleged misconduct.
- 11.2 Subject to any contrary legal or Church requirement, disciplinary proceedings need not be held in abeyance pending determinations by external agencies (such as Police).

12 Rights of Appeal

- 12.1 Rights of appeal are to be limited generally to matters of substance that could have materially altered the outcome of the disciplinary process.
- 12.2 Any right of appeal is to be exercised within a defined time.
- 12.3 Appeals are to be heard on the documents, unless the decision maker determines otherwise.

13 Confidentiality

- 13.1 Provisions concerning the confidentiality of the entire disciplinary and complaint process and information gained during the process, including authorisations for release of information in appropriate circumstances (e.g. a Congregation being informed of disciplinary proceedings against their Minister).
- 13.2 Where a Minister is the Respondent to a complaint or a disciplinary process, the Placements Committee is to be advised of that fact, but not the substance of the proceedings.

14. Competency

Requirements for Committee members to undertake training in complaint and disciplinary process.

15. Pastoral, Financial and other Support

15.1 Provisions providing for pastoral, spiritual and financial support for those involved in the disciplinary process and the duration of such support.

15.2 Right to legal representation to be limited to proceedings before the Committee for Discipline

16. Standing Aside of Minister

Role of Moderator is to be aligned to disciplinary process with retention of the Moderator's power to stand aside a Minister.

PROPOSED NEW FRAMEWORK TO DEAL WITH COMPLAINTS AGAINST MINISTRY AGENTS

Instead of having separate processes for ministry agents dependent on whether the allegation is of a sexual nature or not, it is proposed there be only one Synod-appointed Complaints Unit (or similarly named entity) for dealing with complaints against ministry agents.

A framework for this unit could be built around the following principles, which basically uses the framework for the current Synod Sexual Misconduct Complaints Committee as set out in Part 5.6 of the Regulations.

The Regulations around the Committee for Discipline (**CFD**) and Committee for Counselling (**CFC**) are not part of this proposal.

Principle	Comment
Any complaint (which must be in writing) made against a ministry agent would be made to and dealt with by the Complaints Unit.	The Complaints Unit would need to have about 15 people from across the Synod, with 3-5 people forming a Panel for the purpose of dealing with a complaint. (see 5.6.4)
Parties with a legitimate interest in the complaint to be notified (e.g. Pres Chair, Gen Sec, Mod, etc.)	People part of other Synod Complaints Units could be co-opted for a complaint.
If a Presbytery/Moderator/Gen Sec receives a complaint that is not written, then the complainant is directed to the Convenor of Advisors who facilitates the complaint being reduced into a written format.	Needs to be an Advisors group with a Convenor. An advisor assists the complainant not only to write the complaint (if necessary) but also journeys through the complaints process with them, advising them of how the processes work etc (see 5.6.5).
An 'executive' group of the Complaints Unit would identify the first steps required in dealing with the complaint.	Respondent advised complaint has been made.
Pastoral Strategy developed.	Gen Sec (or rep) Presbytery Chair/Min of Respondent, Advisor Convenor. To manage pastoral issues. Moderator advised of Pastoral Strategy.
Complaints Panel appointed and identify processes for dealing with the particular complaint. (see 5.6.10)	
Complaints Panel determines outcomes (at any stage of dealing with the particular complaint)	Vexatious Not substantiated No further action Mediation

	Send to CFC/CFD
Process is confidential, is conducted with procedural fairness etc (as expected).	

In the current Regulations a non-sexual complaint is, in the first instance, handled by the Presbytery Chair (5.4.3) who seeks to counsel the minister. Whilst the process outlined above is more intimidating (as any complaint goes to the Complaints Unit), this could be ameliorated by having 2 members of the Complaints Unit.