

Candidates' Health Policy

MC/23/67

Date of meeting	19-20 October 2023
Contact name and details	Laura Kent, Legal Counsel KentL@methodistchurch.org.uk Claire Potter, Ministerial Coordinator for the Oversight of Ordained Ministries PotterC@methodistchurch.org.uk
Action required	For adoption
Resolutions	67/1. The Council receives the report. 67/2. The Council adopts the Candidates' Health Policy as contained in the report.
Any alternative options to consider	none

Summary of content

Subject of aims	This Policy sets out the intrinsic characteristics and requirements which are necessary in a candidate in order for them to be able to carry out the role of an ordained minister.
Main points	Intrinsic aspects of physical health, emotional and mental health are listed. Once agreed, MCPOC will be responsible for applying the policy when the Occupational Health report on any recommended candidate or recommended applicant for transfer to Full Connexion indicates that there are adjustments needed to enable them to study or to operate as a minister.
Background context and relevant documents (with function)	Internal guidance document for Candidates' Health Policy
Consultations	MCPOC, Law and Polity Committee, Ministries Committee External lawyer

Summary of impact

Standing Orders	SO 715
Financial	Occupational Health reports cost between £280 and £350 per report, though a more basic assessment is possible at a lower cost, and this is possible for the applicants who are recommended for transfer. The Medical Committee formerly volunteered their time.
Risk	This is to replace the medical reports previously obtained. The Medical Committee was not indemnified which made it difficult for them to make full assessments. The risk now is that a committee of the church (MCPOC) is now tasked with assessing adjustments recommended by our Occupational Health supplier. This policy is needed in order to enable those assessments to be made as objectively and professionally as possible.

Introduction

Previously, medical reports were obtained for candidates for ordained ministry which were then assessed by the Medical Committee. The Medical Committee was not indemnified which made it difficult for it to make full assessments. The new Standing Orders which provide for the revised candidating process require the Methodist Council to adopt and publish the Candidates Health Policy to be applied by the Ministerial Candidates and Probationers Oversight Committee (MCPOC) when making a determination consequent upon the outcome of the Occupational Health assessment. This policy is therefore required so that the assessments of any adjustments recommended by the Occupational Health provider can be made as objectively and professionally as possible.

The policy sets out the intrinsic characteristics and requirements which are necessary in a candidate in order for them to be able to carry out the role of an ordained minister. An internal guidance document to assist with applying the policy is also included below.

The Council is therefore asked to adopt the policy as set out below, to comply with SO 715.

***RESOLUTIONS

67/1. The Council receives the report.

67/2. The Council adopts the Candidates Health Policy as set out in the report.

Candidates Health Policy

For Internal use by MCPOC and the external Occupational Health Assessors.

Policy name	Candidates Health Policy
Version	V1
Authorisation committee	MCPOC
Date of ratification	
Author's role	
Review date	

Change log

Version	Who	Date	Change	Reason

Policy Aims

This Policy sets out the intrinsic characteristics and requirements which are necessary in a Candidate in

order for them to be able to carry out the role of an ordained Minister. If it transpires that the below requirements cannot be fulfilled, a Candidate may still proceed with their offer for ordained ministry. In this situation, they are advised to have a conversation with their accompanist and Superintendent at an early stage in order to ascertain the adjustments that may be needed for them to meet the requirements of this policy. These elements will be assessed in the Occupational Health assessments for recommended Candidates which will be considered by MCPOC.

The list is to assist MCPOC when reviewing the Occupational Health Reports that they receive and making a decision as to whether to progress and recommend a Candidate for ordained Ministry.

INTRINSIC ASPECTS LIST

PHYSICAL HEALTH	
	Ability to travel independently or with assistance around a circuit and further afield.
	Having the physical capacity to lead an act of worship for a sustained period of time. This means standing or sitting appropriately in a way which allows the minister to be seen and communicate clearly.
	Ability to remain attentive within a church meeting or event (which could be up to 4 hours duration) and sustain participation.
	Ability to access churches, community buildings, private houses and manses independently or with assistance or to find appropriate alternatives if access is not possible.
	Ability to respond to emergencies immediately and travel as necessary.
	Ability to speak (in English) with assistance if necessary clearly and appropriately for preaching, leading worship, teaching, chairing meetings and in conversation.
	Ability to write and type (in English) with assistance if necessary accurately and appropriately for correspondence, publications, notices, agenda, papers, essays.
	Ability to manage and communicate appropriately any new diagnosis of any physical health issues that emerge during the course of training or ministry which may affect their ability to carry out the role.
	Ability appropriately to manage the known side effects or impact of any long term medication so that it does not impact on their training or ministry negatively.
	Ability to manage a long-term or chronic physical health condition and/or severe physical challenge(s) appropriately in order to carry out the role.
EMOTIONAL AND MENTAL HEALTH	
	Ability to hear of traumatic events in pastoral conversations and respond appropriately and professionally.
	Ability to manage the impact of personal past trauma and experiences when experiences of ministry unexpectedly trigger the memories.
	Ability to keep focused and have sufficient concentration through full or part time training and a full or part time working week (as is appropriate to the appointment).
	Ability to take appropriate actions to restore their physical and mental health, when needed.
	Ability to recognise their own responsibilities to balance care for themselves with care for others.
	Ability to manage a long-term or chronic mental health condition appropriately in order to carry out the role.
	Ability to accept the support that is needed to carry out the role where there is a specific learning need and a willingness to communicate this appropriately.
	Ability to manage and communicate appropriately any new diagnosis of any mental health issues that emerge during the course of training or ministry which may affect their ability to carry out the role.

Internal guidance and helpful information when deciding whether to accept a candidate based on an OH report/assessment

Process overview for candidates

- Candidates complete forms DOV 1 and DOV 2 which both ask if there are any health conditions or disabilities which may require us to make adjustments during the candidating process.
- Candidates who are recommended are sent for an Occupational Health (OH) assessment to assess any health issues/disabilities and then an OH report is provided.
- MCPOC will be sent the OH report if something is flagged and the reports are graded either yellow or red depending on the issue that has been picked up. The report will be green if nothing is flagged up and the report for this candidate will not need to be reviewed.
- MCPOC will review the report and recommendations within the same in terms of reasonable adjustments needed in line with the Candidates Health Policy to decide if a candidate can proceed based on the issue raised, to include considering if reasonable adjustments can be made to assist the candidate in being capable of fulfilling the role.

Q. Can the Church ask about a candidate's health after the candidating process has finished, but before approving and making an offer of candidacy?

A. YES as although the Equal Opportunities Act (paraphrasing) states *[The Church] must not ask about the health of an applicant for work before offering work to that applicant – EqA s60(1)(a)*

They can do if:

*the reason for asking about the health of an applicant is that it is **necessary** to ascertain whether the applicant will be able to carry out a function that is **intrinsic** to the work that is being applied for and which the candidate might then be offered – EqA s60(6)(b).*

Therefore, the word **necessary** is important. It means more than desirable. The word **intrinsic** is also important. It equates to that part of the role that is **essential** rather than **desirable** in what would (in an employment situation) be a person specification.

It means that a question is essential to ask so that a candidate:

- has a level playing field within the requirements of the remainder of the candidating process; and
- will be able to satisfy the requirements of being an ordained minister.

The Eligibility criteria as set out in the policy will therefore be helpful in deciding the qualities which could helpfully be identified (and confirmed as having been consciously identified in this way) in terms of whether they are intrinsic and necessary. Falling into the intrinsic category would assist in justifying questions in relation to particular qualities.

Helpful ways to pose any potential questions regarding this point:

Ask: do you have any medical conditions or health issues that might prevent or hinder you from satisfying the necessary requirements identified in the Candidates Health Policy during the remainder of the candidating process and as a minister?

Don't ask: which physical or mental medical conditions do you suffer from (or have you had) that might prevent or hinder you from satisfying the necessary requirements identified in the Candidates Health Policy during the remainder of the candidating process and as a minister?

Q. Can the Church recommend that a candidacy should progress, but that doing so is subject to receiving satisfactory responses to pre-commencement disability or health enquiries, satisfactory health checks and/or satisfactory medical report?

A. Yes. The EqA (paraphrasing) states: *An offer of work can be subject to conditions – EqA s60(10).*

A condition to progressing a candidacy can be a satisfactory pre-appointment medical/OH report and/or satisfactory responses to a pre-appointment medical questionnaire.

It is, in any event, justifiable to ask for this so as to avoid the risk of appointing someone who may be or may become unable to carry out the functions of the role because of such things as:

- ill health;
- admission to a health insurance scheme;
- pension scheme membership or funding;
- fitness requirements for a strenuous role; or
- general health needs for a senior role.

The important issue is that the functions of the role that are highlighted are those that are **intrinsic** to the role (essential not only desirable). Additionally (in relation to each element that might be labelled “amber” or “red” in the Church’s current report format:

Helpful questions to ask and not ask Candidates regarding this point:

Ask: do the [amber/red] results of this questionnaire / report affect the **intrinsic** and so therefore essential requirements of the role?

Ask: which requirements of the role would be affected by the [amber/red] results of this questionnaire / report?

Ask: are those [amber/red] requirements **intrinsic** and so therefore essential requirements of the role?

Ask: would those **intrinsic** and so therefore essential requirements of the role still be affected if adjustments were made to accommodate the [amber/red] results of this questionnaire / report?

Don’t ask: should this even candidate go ahead, given that there are so many [amber/red] issues arising in the results of this questionnaire / report?

Don’t: have a quota (eg 4+ out of “x” criteria) of [amber/red] results, above which a candidate should not proceed. Instead, ask the “reasonable adjustments” question above and then consider whether in fact it would be reasonable to make any adjustments.

What makes an adjustment “reasonable”?

It is impossible to be categorical about whether an adjustment is reasonable (and therefore required) to make. However, the legal duty to make reasonable adjustments arises:

- where a disabled person is placed at a **substantial disadvantage** by a **provision, criterion or practice (PCP)** of the Church or a **physical feature** of the Church’s premises;

You do not have to make reasonable adjustments:

- unless the Church **knows or ought reasonably to know** that the individual in question is disabled and likely to be placed at a substantial disadvantage because of their disability; or
- if making an adjustment would impose a disproportionate burden on the Church.

The legal position is that it is the Church that has to make a decision as to whether any proposed adjustment is **reasonable** (**factoring in**, though **not relying on**, any occupational health or other medical report). It is for the Church (not the provider of occupational health or other medical evidence) to decide **whether** to make an adjustment.

If challenged, it is for a Tribunal to determine objectively whether a particular adjustment would have been **reasonable to make in the circumstances**. It will take into account matters such as:

- whether the adjustment would have ameliorated the disabled person's disadvantage;
- the cost of the adjustment in the light of the Church’s financial resources;
- the disruption that the adjustment would have had on the Church’s activities.

Helpful info:

A **non-exhaustive** list of adjustments that might be reasonable to make can be found in the Equality and Human Rights Commission (“**EHRC**”) statutory code of Practice and is summarised below:

- the extent to which the adjustment would have ameliorated the disadvantage;
- the extent to which the adjustment was practicable;
- the financial and other costs of making the adjustment;
- the extent to which the step would have disrupted the Church’s activities;
- the extent to which the step would have disrupted the remainder of the workforce;
- the financial and other resources available to the Church;
- the availability of external financial or other assistance;
- the nature of the Church’s activities and the size of the undertaking.

Is the cost of / budget for reasonable adjustments a relevant factor if adjustments are required?

The cost of the possible adjustments, together with the financial and other resources available to the Church, will be relevant to whether any adjustments will be reasonable.

However, the EHRC code warns that:

- *“even if an adjustment has a significant cost associated with it, it may still be cost-effective in overall terms - for example, compared with the costs of recruiting and training a new member of staff - and so may still be a reasonable adjustment to have to make”.*

The Church should not conclude from this that an adjustment needs to be “cost effective” to be reasonable. Large (and particularly public sector) organisations might well, given their resources, be expected to make adjustments that are not, strictly, cost effective. The reasonable adjustments duty anticipates that organisations might have to incur reasonable additional costs in order to alleviate disadvantages suffered by disabled staff.

Nevertheless, even an organisation with substantial resources will not necessarily be required to make very expensive adjustments. Money is not limitless, even in large organisations, and balancing a disabled person’s need for adjustments against other spending priorities will always involve difficult judgements.

Factors to consider will include:

- the size of any budget dedicated to reasonable adjustments (though this cannot be conclusive because the size of the budget is determined by the organisation);
- what the organisation has chosen to spend in what might be thought to be comparable situations;
- what other organisations are prepared to spend;
- any collective agreement or other indication of what level of expenditure is regarded as appropriate by representative organisations.

That said, there is no particular rule and it is a fact-specific exercise to determine whether a particular

potential adjustment in a particular situation would be reasonable in those particular circumstances. The OH report will assist you in making this decision. It is reasonable for ministers to be responsible for their own reasonable adjustments, though ultimately it is the Church that has to make and fund the cost of an adjustment that is reasonable to make in the context of a statutory disability.

Other questions and answers which may be helpful to know

Q. What should be the approach if a minister retires through ill health and needs expensive funding?

A. There is no clear legal position in relation to this issue. To some extent this depends on a number of factors that could include the following:

- whether an obligation to make reasonable adjustments continues after someone ceases to be actively involved in what they were originally appointed to do in the first place. There is no clear legal authority on this, but the answer is “probably not”. Some comparable situations could be:
 - if an individual ceases to be employed (though there is no comparable situation for a minister) there would be no need to continue to make reasonable adjustments; but
 - if an individual ceases to be actively at work, but is still employed, there might be an obligation to (continue to) make adjustments, but only a slight one, because the Equalities Act imposes the obligation to make reasonable adjustments only “while working”.
- whether the Church had put in place arrangements for ministers that resemble Permanent Health Insurance / Long Term Disability Insurance of the type that the Church has in place for certain lay employees (if they are even possible to arrange for clergy). Even then, however, such insurance policies have a (legitimate) age-related cut-off point that might be sooner than the age when a minister might still need support.
- the Church’s willingness to fund someone throughout their ministry.

The concept of “expensive funding” is also relevant in the context of what is “reasonable” - see above reasonableness section.

Q. Can an unconditional (eg green coded) recommendation be revisited and be subject to a further assessment?

A. Yes. But when doing so the reason should be linked to necessity of an intrinsic element of the role.

Q. How can Occupational Health reports be interpreted in a way that enables the degree of potential support to be known in advance?

A. In situations where a person’s requirements can change, this is an impossible position to have certainty.

Q. Can individuals be approached “early” if there is a suspicion that they may have health-related issues that may affect their candidacy?

A. Yes but this should be in the context of whether adjustments are needed as part of the candidating process.