

Part 11 Review

MC/23/44

Date of meeting	25-27 March 2023
Contact name and details	The Revd Dr Jonathan Hustler, Secretary of the Conference soc@methodistchurch.org.uk Mrs Joanne Anderton, Conference Officer for Legal and Constitutional Practice lcp@methodistchurch.org.uk
Action required	For note
Resolutions	44/1. The Council receives the report. 44/2. The Council directs that an interim report is made to the 2023 Conference, and that a final report is made to the 2024 Conference. 44/3. The Council directs the Secretary of the Conference to appoint a Task Group to assist the external consultant and to recommend the final report to the Conference, comprised as follows: The Conference Officer for Legal and Constitutional Practice, or their representative Up to two representatives of the Law and Polity Committee and/or the Complaints and Discipline Sub-Committee A representative of the Justice, Dignity and Solidarity Committee A presbyter or deacon with appropriate pastoral experience A representative of the Safeguarding Committee Up to two other persons with particular, relevant expertise

Summary of content

Subject of aims	To update the Council on progress with the review of the Church's complaints and discipline process (the Review).
Main points	A summary of progress on the Part 11 review directed by the Conference in 2019 Outline of the work still to be done Plan to complete the work for the 2024 Conference with the assistance of an external consultant.
Background context and relevant documents (with function)	MC/22/20 – January 2022: https://www.methodist.org.uk/media/24295/counc_jan_22-mc22-20-part-11-review_jrh-jb.pdf
Consultations	A specially-convened scoping group comprising: the Secretary of the Conference, the connexional Complaints Worker, the Conference Officer for Legal and Constitutional Practice, the Legal Counsel in the Connexional Team, a representative from the JDS Committee, a representative from the Complaints and Discipline Sub-Committee, and a barrister with a background in safeguarding and complaints management for self-regulating bodies The Law and Polity Committee The Complaints and Discipline Sub-Committee

Summary of impact

Standing Orders	SO 013 (suspension), SO 232-237 (safeguarding) and Part 11 of Standing Orders are to be reviewed as part of the Review; consequential amendments to other provisions in CPD may also be required.
Risk	Reputational risk if the Review is not completed in an effective manner

1. In 2019, the Conference committed to undertaking a review of Part 11 of Standing Orders, having adopted Notice of Motion 2019/202 which stated:
Reviewing Part 11 of Standing Orders: In the light of the significant changes, both in UK society and for the Methodist Church of Great Britain since our Standing Orders regarding complaints and discipline were drawn up, the Conference directs the Methodist Council to set the terms of reference for, and facilitate the work of a thorough review of Part 11 of our Standing Orders. This review should include and address how processes of Safeguarding, Complaints and Discipline, and Connexional Team Grievances, can best relate to each other.
The Conference seeks a set of processes that are able to be enacted in timescales that are fair for all concerned and that are appropriate to the capacity, resources and size of the Methodist Church of Great Britain as it is today.
2. The Council agreed the terms of reference for the Review in October 2019 (see Appendix A). However, staff changes and the disruption caused by COVID-19 from March 2020 onwards delayed the start of intense work on the Review.
3. The Church's subsequent participation in the Independent Inquiry into Child Sexual Abuse (**IICSA**) in 2020 also highlighted a need to re-examine the working of our complaints and discipline processes, which was partly criticised in evidence given to the Inquiry and reproduced in IICSA's interim report on religious organisations and settings in September 2021.
4. The former Interim General Counsel in the Connexional Team took responsibility for the work in 2020. After initial consultation in December 2020 to obtain input from a wide cross-section of people across the Church, a stakeholder event was held in January 2021, which helped to clarify and provide focus on the specific issues that needed to be addressed. Once these had been identified, the project progressed through work-streams, each of which had the task of looking at a particular aspect of the Review.
5. A report was drafted by the Interim General Counsel in October 2021 detailing the work undertaken by the workstreams, and offering suggestions for improvements to the Part 11 process. The report highlighted some notable positives.
6. The report noted firstly that progress in improving the process has already been made. The *Place for Hope* mediation pilot has aided early resolution of complaints at local level before they escalate disproportionately and there has been improved communication and co-ordination between those handling safeguarding matters and those handling complaints and discipline matters.
7. The report also argued that the process largely works well, but needs refinement. Opinions are divided between those who consider that Part 11 should simply be replaced, and those who think that Part 11 actually works quite well in practice but needs some refinement. The report concluded that the current Part 11 process should be retained, but made to work better.
8. The report outlined a number of areas to which attention needed to be given if the processes were to work better including:
 - 8.1 The need for a clear distinction between what is a "complaint" and what might be classed as a "grievance", and for clarification of the different processes for dealing with them.
 - 8.2 The need for the early (or earlier) resolution of complaints and for an initial 'triage system' to assess each complaint and how best it can be resolved (e.g. by referring to mediation or local reconciliation rather than initiating the formal complaints process), with the aim of avoiding unnecessary escalation,
 - 8.3 The need to review roles (eg, the appropriateness of the Local Complaints Officer (LCO) role being held by Circuit Superintendents and District Chairs)
 - 8.4 The possibility of ways to streamline the current process to reduce delays and perceived complexity (eg by reducing the number of levels within the disciplinary process and/or fast tracking some cases straight to the disciplinary stage).
 - 8.5 The need to take into account IICSA's recommendations, particularly the desire for transparency in the investigation of complaints.
 - 8.6 The possibility of entering into agreements with other denominations to determine each other's complaints, or establishing an "Ecumenical Ombudsman" to maintain impartiality and objectivity when assessing complaints.

- 8.7 The need to review the types of sanction that can be imposed and how they can be enforced.
 - 8.8 The need to review the terminology used in the process (which is perceived to be legalistic and not user-friendly).
 - 8.9 The need for detailed work to align the Part 11 process with the Church's Justice, Dignity and Solidarity (JDS) strategy as it was adopted at the 2021 Conference.
 - 8.10 The importance of ensuring care for survivors of abuse.
 - 8.11 The need for regular, obligatory training for all involved in managing the process.
 - 8.12 Noting that the current process relies heavily on volunteers (and recognising delays caused by volunteers' lack of availability), the need to review the resources available to manage the process.
 - 8.13 The need to consider enabling complaints panels to meet online rather than in person by default (as meetings can be convened more quickly if held online), and consider other ways in which technology can be used to support the overall process, integrating practices that were adopted out of necessity during lockdown.
- 9.** The report was considered by the Complaints and Discipline Sub-committee of the Law and Polity Committee in November 2021, who concluded that more work was required and referred the report to a small group for further consideration. The small group met once and concluded there was too much outstanding to enable a full report to be produced for the 2022 Conference and that it would be confusing to share the report more widely as it was. The Council was therefore informed that more work was needed and reported to the 2022 Conference that the Review would benefit from a further year's work, not least because:
- 9.1 Not all the workstreams had reported and it was hoped there might be further material to be incorporated into the final document.
 - 9.2 IICSA's final report was expected to be published in Autumn 2022 and, bearing in mind the criticism in IICSA's interim report (see 3.2 above), it was appropriate to wait to see whether IICSA made further recommendations about how the complaints of victims/survivors are addressed in Church processes.
 - 9.3 The 2021 Conference adopted the Strategy for Justice, Dignity and Solidarity (JDS) and more work was needed to integrate the recommendations in that strategy into a proposed revision of Part 11.
- 10.** The Council also indicated its intention to bring a full report on the Review to the 2023 Conference, with recommendations on improvements and changes to the process.
- 11.** There has also been a number of Memorials which the Conference has referred to those responsible for this review (see Appendix B), namely:
- 11.1 M28, M29 (2019) – Streamlining Discipline Processes with regard to Safeguarding Panel Outcomes following Risk Assessments
 - 11.2 M21 (2021) – Equality, Diversity and Inclusion
 - 11.3 M15 (2022) – “Positive Working Together”
 - 11.4 M20 (2022) – Safeguarding
- 12.** A number of other factors have demanded consideration in relation to this area of work, namely:
- 12.1 IICSA's final report was published in October 2022, containing 20 recommendations. HM Government is yet to respond to these and any implications (eg, around mandatory reporting) would need to be taken into account in the review.
 - 12.2 A number of difficult cases has served to highlight issues around the effect and operation of SO 013 (Suspension) in both the Safeguarding and the Part 11 processes.
 - 12.3 The 2022 Conference adopted the Commitments and Expectations under the Covenant Relationship between the Church and its Ministers. The language of “expectation” carries with it the possibility of implications for the Church's disciplinary processes, if and when it is alleged that those expectations have not been met and raises the question of how, therefore, should the Commitments and Expectations be treated under Part 11.
- 13.** The Secretary of the Conference sought the guidance of the Law and Polity Committee in October 2022 regarding how to progress the work that was still required. The Committee identified the need to appoint an external consultant to advise on the process, following which a detailed scoping paper was prepared and a specially-convened scoping group met on 24 January 2023 to agree the way forward.
- 14.** The scoping group agreed that approximately another 12 months' work was required, and endorsed the Law and Polity Committee's proposal that an external consultant be appointed. The Complaints and Discipline Sub-committee met on 30 January 2023 and also endorsed this approach.

15. Work is now in progress to advertise for an external consultant, ideally someone with a legal, rather than management consultancy, background.
16. The Council is therefore asked to make an interim report to the Conference, detailing the work that has been done and the areas that still (or newly) need consideration and proposing to report finally, with draft Standing Orders, to the 2024 Conference.

*****RESOLUTIONS**

44/1. The Council receives the report.

44/2. The Council directs that an interim report is made to the 2023 Conference, and that a final report is made to the 2024 Conference.

44/3. The Council directs the Secretary of the Conference to appoint a Task Group to assist the external consultant and to recommend the final report to the Conference, comprised as follows:

- The Conference Officer for Legal and Constitutional Practice, or their representative**
- Up to two representatives of the Law and Polity Committee and/or the Complaints and Discipline Sub-Committee**
- A representative of the Justice, Dignity and Solidarity Committee**
- A presbyter or deacon with appropriate pastoral experience**
- A representative of the Safeguarding Committee**
- Up to two other persons with particular, relevant expertise**

APPENDIX A Part 11 Review Terms of Reference

The Terms of Reference for the Review of the Complaints and Discipline procedure were adopted by the Methodist Council in October 2019 (Resolution 66/2) as follows:

- To clarify the purpose of the complaints and discipline process;
- To clarify what the complaints and discipline process is not to be utilised for and what it cannot be expected to achieve as an outcome;
- To make recommendation as to whether there is a need to narrow the definition of complaint as currently set out in SO 1101;
- To consider whether there is a need to clarify or alter the scope of the role of the local complaints officer and who fulfils this role for the purposes of SO 1121. To make recommendations as to any change or clarification that is required in Part 11 in respect of role of the local complaints officer;
- To review the ability of complainants to refer a complaint that a local complaints officer refuses to refer to the Connexional Complaints Panel and make recommendations as to whether the right of a complainant to refer themselves in such a situation should continue, and to consider whether there should be alternative means by which the decision of a local complaints officer can be reconsidered and if so, how such alternative means would work;
- To make recommendations as to how the consideration of complaints can be undertaken in a more efficient and effective way which ensures uniformity as to the process followed and that the consideration of the complaint and drawing of conclusions takes into account the nature, context and background to the complaint;
- To make recommendations as to any amendments required to the courses of action open to a complaints team either at the initial stages (SO 1123) or after full consideration (SO 1124);
- To make any recommendations as to whom a complaint should be capable of being made against with a particular view to clarifying whether or not officeholders who are not members of the Church should be subject to Part 11;
- To clarify the alternative dispute resolutions that can be utilised as part of the complaints process and to make recommendations as to how and when alternative methods of dispute resolution are best utilised and those circumstances where such methods are not appropriate;
- To make recommendations as to the implication that not being willing to participate in alternative method of dispute resolution, when deemed appropriate, would have on the conclusion of a complaint;
- To consider whether there is a need to expand the right to appeal against the conclusions of a complaints team and, if such an expansion is considered appropriate, to make recommendations to address this;
- To consider the reasons for delays occurring within the Part 11 process and make recommendations that seek to reduce these delays and in particular to consider whether there are “types” of complaints or complaints in certain circumstances that should be dealt with in a reduced time period, and to make recommendations as to how this might be achieved;
- To make recommendations as to the further work that needs to be undertaken more effectively to link the complaints and discipline, safeguarding, competence, and stationing procedures as well as the Connexional Team grievance procedure.

APPENDIX B

M28 Streamlining Discipline Processes with regard to Safeguarding Panel Outcomes following Risk Assessments

The Newcastle upon Tyne District Synod, Representative Session (Present: 144; Voting: 143 for, 1 against), asks the Conference to review the process and relevant Standing Orders connected to the failure of a member or minister of the Methodist Church to comply with the outcomes of a safeguarding panel following a risk assessment.

Where a person who has been subject to a risk assessment and consideration of that assessment by the Safeguarding Committee under SO 232 but declines to comply with the direction of the Committee, a complaint can be brought against that person. However, the Complaints Process, which has at its heart healing and reconciliation, seems manifestly unsuitable for a safeguarding process which is designed to ensure compliance and the management in light of the decision of the Safeguarding Committee.

Therefore, the Synod asks the Conference to consider a more streamlined process, which enables the discipline of the Methodist Church, as exercised by the Safeguarding Committee, to be more easily upheld by reference to a Connexional Discipline Committee, in cases where a person refuses to comply with the discipline of the Church.

Reply

The Conference thanks the Newcastle upon Tyne District for its memorial and for drawing the attention of the Conference to some of the difficulties inherent in the Church's processes for complaints and discipline where safeguarding matters are concerned. The Synod is right to note that there can be a tension between the aims of our complaints process (which is to achieve reconciliation so that God's people can experience healing and go on together to follow our calling) and safeguarding (which aims to ensure that all God's people are protected from harm) though the two are complementary rather than contradictory.

In other cases, a complaint can be brought against an individual of the Church if they refuse to comply with recommendations following a risk assessment. It would be then be for the local complaint officers to decide how best to proceed. The Standing Orders allow for the appropriate use of the power of suspension in Standing Order 013 if the necessary delay means that the risk is still to be addressed.

Nevertheless the Conference accepts that it may be possible to streamline the process and directs the Law and Polity Committee to consider the inclusion of a provision for immediate referral to the Connexional Complaints Panel in such circumstances. The Conference also directs Law and Polity Committee to review Standing Order 1120(4) and (5) and to consider making additional provision for a direct referral to the Connexional Complaints Panel where the complaint is about non-compliance with a direction under SO 232(2)(i).

The Conference accepts the memorial.

M29 Streamlining Discipline Processes with regard to Safeguarding Panel Outcomes following Risk Assessments

The Darlington District Synod, Representative Session (Present: 85; Voting: 83 for, 2 against) asks the Conference to review the process and relevant Standing Orders connected to the failure of a member or minister of the Methodist Church to comply with the outcomes of a safeguarding panel following a risk assessment.

Where a person who has been subject to a risk assessment and consideration of that assessment by the Safeguarding Committee under SO 232 but declines to comply with the direction of the Committee, a complaint can be brought against that person. However, the complaints process, which has at its heart healing and reconciliation, seems manifestly unsuitable for a safeguarding process which is designed to ensure compliance and management in light of the decision of the Safeguarding Committee.

Therefore, the Synod asks the Conference to consider a more streamlined process which enables the discipline of the Methodist Church as exercised by the Safeguarding Committee to be more easily upheld by reference to a Connexional Discipline Committee, in cases where a person refuses to comply with the discipline of the Church.

Reply

The Conference adopts the same reply as to M28.

M21 Equality, Diversity and Inclusion

The Birmingham (5/1) Circuit Assembly (Present: 86; Voting: 85 for, 0 against) believes that Methodism needs a more robust process for hearing and processing reported cases of inequality, discrimination, or exclusion, in a parallel way to that which is in place for safeguarding.

Whilst we welcome all the work already done by the Equality, Diversity and Inclusion Committee and Task Group centrally, and wanting to build upon the report from Methodist Council last year, item 22/8a part (v), we believe more is needed. We propose a central robust process to deal with complaints about inequality, discrimination and exclusion within our churches and church structures.

This will require clear and comprehensive guidelines for hearing and dealing with such complaints, against,

- a) robust criteria
- b) a central policy
- c) clear procedures which can be applied to every situation.

We believe that such a framework would enable a higher level of trust in our denomination from those facing discrimination and give those who are fighting these injustices a firm platform from which to act.

This memorial comes as a direct reaction to the racial discrimination faced by members of our Circuit which has emerged as we have responded to the Black Lives Matter movement and during our engagement with the EDI agenda set by the Conference, including the wider issues of discrimination raised.

Reply

The Conference thanks the Birmingham Circuit for its memorial and recognises, with huge sadness, the experience of racial discrimination reported in this memorial.

The Conference appreciates the call in this memorial for more robust processes for hearing and processing reported cases of inequality, discrimination, or exclusion, and agrees that this needs to be in a parallel way to that which is in place for safeguarding.

The Birmingham Circuit is thanked for its support of the work already done by the Equality, Diversity and Inclusion Committee and for the ongoing work of the Inclusive Church Implementation Group.

The Conference refers the Circuit to the *Strategy for Justice, Dignity and Inclusion* (Agenda item 56) which agrees with the urgent need for the building of a higher level of trust in our denomination from those facing discrimination. The recommendations R3 a), R3 b) and R3c) are intended to explore ways of giving those who are fighting injustices a firm platform from which to act.

Acknowledging that the review of the Complaints Process (Part 11 of the Standing Orders) is underway and will report to the 2022 Conference, the Conference agrees that a robust process to deal with complaints about inequality, discrimination and exclusion within our churches and church structures must be assured, including:

- a) robust criteria
- b) a central policy
- c) clear procedures which can be applied to every situation.

The Conference therefore accepts the memorial and directs the group reviewing Part 11 to include it in its work.

M15 Positive Working Together

The Birmingham (5/1) Circuit Meeting (Present: 60; Voting: unanimous), draws the Conference's attention to both Positive Working Together and the 2015 Methodist Conference *Report to Conference 40. Positive Working Together* and asks the Conference to take the following action:

- 1) To signpost people to the anti-bullying policy in the current Safeguarding policy. To ensure there is work done to include anti-harassment in Policy (as indicated in Positive Working Together and in the Conference 2015 Report).
- 2) To revisit the layout of Positive Working Together and make clearer the Shared Commitment to ensure it is distinct and easy to access and use (it is currently among other text on pages 11-12 of the Positive Working Together booklet).

- 3) To change the status of The Shared Commitment from being 'guidance' to being the expected behaviour of every person in Methodist Church life.
- 4) To make accessible resources more easily available and for it to be clear that every person in church life can be enabled to use Positive Working Together to help create a safe and more inclusive church community.
- 5) For the Shared Commitment to be recognised by every Church Council, to be part of Role Descriptions, and used alongside/integrated with Safeguarding training and documentation.
- 6) To integrate the Shared Commitment from Positive Working Together into other Conflict Resolution courses being used in the Methodist Church.
- 7) To include Positive Working Together in the Standing Orders of the Methodist Church.

Reply

The Conference thanks the Birmingham Circuit Meeting for drawing attention to the work on Positive Working Together and the 2015 Methodist Conference Report *Positive Working Together* (Agenda Item 40).

The memorial highlights the need for ongoing work as the church continues to encourage and develop engagement with Positive Working Together so as to enable all those who are part of the church community to live well with difference.

The Birmingham Circuit is thanked for its support and its local implementation of Positive Working Together and in particular commends its work around The Shared Commitment.

The Conference is aware that work is already underway within the Learning Network to offer a regular pattern of Positive Working Together training opportunities, across the Connexion, through Growing through Change and Conflict, Responding to Bullying and Harassment and Spirituality, Scripture and Conflict alongside Faith in Change and Conflict, which is run in partnership with Place for Hope and Cliff College and offered as a Cliff Certificate course. It is believed that this approach will offer greater accessibility to resources. The Shared Commitment will be produced as a standalone document, from the full report, made available on the Methodist Church website and directly referred to within these training resources.

The Conference believes that the work of the group reviewing Section 11 Complaints and Discipline of CPD will be able to incorporate the inclusion of Positive Working Together within Standing Orders as part of its ongoing work. The Conference believes that the incorporation of Positive Working Together in Standing Orders together with the Commitments and Expectations proposed in Agenda Item 19 of the 2022 Conference *The Covenant Relationship between the Church and its Ministers: Commitments and Expectations* will change the status of The Shared Commitment from 'guidance' to being the expected behaviour of every person in Methodist Church life.

The Conference strongly encourages Churches and Circuits to adopt The Shared Commitment and to consider inclusion within Role Descriptions and its use alongside Safeguarding training and documentation.

The Conference recognises the existing work undertaken by the Safeguarding team to incorporate the anti-bullying policy within the overall Safeguarding Policy. The Safeguarding team is due to review the policy later this year and at that point will seek to include anti-harassment within the overall Policy.

The Conference recognises that further work is required to enable a greater engagement with Positive Working Together and therefore accepts the overall direction of the memorial and directs the Methodist Council to arrange how best to take this work forward.

M20 Safeguarding

The Cornwall and Isles of Scilly District Synod (Present: 94 for: 43 against: 32) expresses its disquiet that when a safeguarding complaint is lodged this is addressed by a panel of the Connexional Safeguarding Committee. It is not clear, however, from Standing Orders 232-237, that its processes are sufficiently robust and transparent to ensure fairness to all concerned. With only limited grounds for later appeal, the panel appears generally to comprise only three people. Yet it has authority based on an adjudged 'risk', to implement a Safeguarding Contract with severe restrictions upon a person's life and work. It thus has powers that can be devastating for someone and their family. Yet it is unclear that these powers are properly accountable, neither is it clear that the trust and confidence of the church is being maintained.

A model of best practice is found in our Complaints and Discipline procedures, based on a commitment to fairness and natural justice. (Standing Orders 1100(3)(v) and 1102(1)) This commitment is expressed through rigorously defined 'due process', the appointment of those with legal expertise as chairs, and through proper scrutiny of evidence. It also seeks initially a facilitated reconciliation between complainant and

respondent.

This memorial proposes that a task group be set up to explore how 'Safeguarding Panels' may better model such best practice. We urge at least that membership of such panels be augmented by some appointed by the Conference to address Complaints and Discipline (pages 61-3 of the 2021 *Minutes*), including for all panels someone with legal expertise. The further option should also be explored, namely that complaints deemed to concern 'safeguarding', but not referred to the police, should be addressed directly through our Complaints and Discipline procedures, members of Connexional Safeguarding Committee being co-opted or consulted so as to contribute their expertise. This is indeed already envisaged in Standing Orders 1111(1) (ii) and 1112(2). For such an option those with specific 'safeguarding' expertise may 'advise', but the wider court of competent jurisdiction will 'decide'.

The Church must of course be vigilant to ensure it be a 'safe place' and that those acting on the church's behalf must be 'safe'. But the church must also be a place of justice, fairness, and grace. And the Methodist people must have confidence in, and trust, the church's processes. Justice must be 'seen to be done'. That trust and confidence is precious, and the church must constantly watch lest it be endangered. This memorial is proposed in the interests of justice and fairness to all, both complainants and respondents, and in the interest of maintaining confidence and trust in our processes.

Reply

The Conference thanks the Cornwall and Isles of Scilly District Synod for the memorial and for raising the concerns it contains.

The Conference agrees that it is vital that confidence and trust in our processes are maintained and that the way in which those processes operate affords justice and fairness to all and that these principles should be consistently applied. It notes, however, that the relationship between the Safeguarding and Complaints and Discipline processes is one that has been the subject of much discussion and has been considered within the ongoing review of Part 11 of CPD which the Council now intends to report to the Conference in 2023. Rather than establish a separate task group to consider the District's proposal, the Conference refers this memorial to the Council to be considered by those working on the review of Part 11.