CODE OF DISCIPLINE

GENERAL ASSEMBLY
OF THE
PRESBYTERIAN CHURCH OF AUSTRALIA
2026

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CODE OF DISCIPLINE

1. Authority for this Code

1.1 The General Assembly of Australia (GAA), under article 2.1(c) of the Articles of Agreement of the Presbyterian Church of Australia (PCA or the Church), has supreme powers legislative, administrative and judicial with respect to discipline of the Church.

1.2 The GAA has enacted this Code to give effect to its powers under Article 2.1(c). All persons who are members of the Church by their act of becoming such a member agree to submit to, respect and abide by the application of this Code, its processes and decisions made under it.

1.3 Under Article 10.1, the autonomy of the State General Assemblies is not further interfered with than is necessary to give effect to the Basis of Union of the Church.

2. Purpose of discipline within the Church

The object of the discipline processes in this Code is the exercise of Christian love and service to the following ends:

a) the glory of God;

b) the purity of the Church;

c) the spiritual good of the respondent;

d) the protection of people within the Church from abuse;

e) the just and faithful resolution of disputes arising from conduct or any matter to which this Code applies;

f) the just and faithful oversight and correction (including by admonition or appropriate sanction) of the conduct of members of the Church;

g) the support of parties during and after discipline processes, including any victim of abuse within the Church;

h) the potential restoration of a person subject to sanction after repentance and/or compliance with any sanction.

3. Conduct and other matters to which this Code applies (in earlier Codes of Discipline called "Offences" and in this Code called "discipline matters")

3.1 Alleged conduct and other matters to which this Code applies are:

a) anything in the doctrines or practices of a member of the Church which is contrary to:

i) the Word of God as the Supreme Standard of the Church as understood in accordance with the Westminster Confession of Faith as the Subordinate Standard of the Church read in the light of the Declaratory Statement as provided for in Clause II of the Basis of Union, or

ii) an obligation imposed on a member of the Church by a law of the Church; and

b) any form of abuse (abuse is expressly within (a) but is specifically mentioned for removal of any doubt).

3.2 This Code applies to such alleged conduct or matter and to the resolution of any dispute arising from such alleged conduct or matter.

4. Duty of natural justice (also called procedural fairness)

Courts and their members must in a manner appropriate to the subject matter:

a) hear the evidence and arguments of each party participating in the process;

b) not permit a member of the Court to participate in deciding an outcome of the process if to a reasonable observer that member (even if not the sole decision-maker) appears to be biased towards or against a party.

5. Duty to disclose material interest in outcome and other potential conflicts

5.1 A member of a Court must disclose, before a discipline process begins or as soon as the member becomes aware, any facts which to a reasonable observer would give that member an interest (personal, family, financial or otherwise) in the outcome of the process or any other situation which creates a real or sensible possibility for that member of a conflict between duties or a conflict between duty and interest.

5.2 If a member of a Court does not choose to withdraw from the process, then the Court will determine, after hearing from the parties to the process, whether or not and, if so, how that member will continue in the process.

6. Duties on all participants in a disciplinary process

All parties, parties' representatives and decision-makers participating in a discipline process must:

a) conduct themselves so as to achieve a just, quick and economical outcome to the process; and
b) show Christian love in administering the process and determining its outcome.

7. Representation and costs

7.1 Parties in a discipline process are entitled to be represented by a person (lawyer or non-lawyer, male or female) of the party's choosing at that party's cost unless the Court decides that a different responsibility for costs should be decided.

7.2 Each party and the Court are entitled to seek advice from the relevant Law Officers of the PCA or a State Church on procedural aspects of the discipline process.

7.3 Additionally, the Court is entitled, at the cost of the PCA or State Church as appropriate, to advice from the relevant Law Officers on aspects of the evidence or the law to be considered in that Court reaching its decision. The Law Officers' roles in advising the Church in other situations is not affected by this rule.

8. Relationship with secular laws and courts

8.1 The provisions of this Code and processes and decisions under this Code may in certain circumstances overlap with secular laws and processes and decisions under secular laws including of secular courts and authorities.

8.2 Subject to and consistent with the Declaration on the Spiritual Freedom of the Church (as reproduced in the GAA Constitution, Practice and Procedure), the Church in administering this Code shall respect and comply with secular laws and decisions under secular laws including of secular courts and authorities; in particular, discipline processes and decisions:

a) will be made independently of processes in and decisions of secular courts and authorities, but may take into account those secular processes and decisions and must observe any mandatory specific requirements of secular laws, processes and decisions, including a stay of discipline proceedings; and

b) must not prejudice or interfere with investigation and prosecution processes under secular law.

9. Relationship with State Church administrative procedures

9.1 Administrative procedures, of the types listed in this rule as examples, in the rules of State Churches operate to the extent that they are not inconsistent with this Code.

9.2 There will be such an inconsistency when conduct to which this Code applies is a materially contributing reason to the exercise of the administrative procedure.

9.3 Non-exhaustive examples of administrative procedures are:

a) revision of communicant rolls including removal for habitual absence without satisfactory explanation; termination of membership of a church court by reason of the member's habitual absence without satisfactory explanation or physical or mental impairment;

b) dissolution of the pastoral tie by a presbytery (being the dissolution by the presbytery of the relationship established by a minister's induction into a charge) or the termination of a minister's appointment for the physical or mental impairment of an inducted or appointed minister;

c) dissolution of the pastoral tie or termination of the appointment of a minister or dissolution of a session or board or committee of management (or members thereof) for a congregation adjudged to be in an unsatisfactory state irrespective of the reason for that unsatisfactory state having arisen.

The circumstances described in (b) and (c) do not of themselves constitute a sanction.

10. Discipline processes are private and confidential

(a) Except to the extent that disclosure is required by law, all discipline processes, including records of them and communications concerning them, except communication of the outcome, are private and confidential and to be kept in a record apart unless determined otherwise by the Court after hearing from the parties to the process.

(b) The outcome of the discipline process and the reasons for that outcome are to be communicated as required by law and, further, as the Court determines after hearing from the parties to the process. Subsequent access to and use of the material in the record apart, except to the extent required by law, is to be determined by the Court after hearing from the parties to the extent that they can be notified.

11. Procedural control

The Court:

a) has control over conduct of a discipline process, including determining how to deal with any matter of procedure that is not clear or fully provided for, but is subject to the requirements of the rules in this Code and observance of the duties in such rules; and

b) is also subject to the laws, rules, regulations and standing orders of the Church and a State Church to which the decision-making body is generally subject where those are not inconsistent with the rules in this Code.

12. Application to existing discipline processes

These rules govern all aspects of discipline processes begun or continuing after these rules come into operation by enactment of the GAA (including in any period for which these rules are given interim authority).

13. Definitions

Some terms are defined at the time of their first use in this Code, in parentheses after that use. Others are defined below:

a) **Court** means the Church Court (session, presbytery, State Assembly, GAA) which under these rules has authority to decide (known as jurisdiction over) the particular type of discipline matter and includes any Commission of that body which is established and empowered under the rules relating to that body to decide discipline matters (whether or not that is the only role of that Commission or is one of its roles and whether or not the Commission is established on a standing basis or for a special purpose), but does not include a committee of that body (the role of a committee is established and defined separately in these rules).

b) **decision-maker** means a member of the Court.

c) **discipline matter** means conduct and other matters to which this Code applies.

d) **complaint** means a complaint about a discipline matter.

e) **complainant** means the person or body initiating a complaint about a discipline matter.
f) **respondent** means the person against whom a complaint is made.
g) **discipline process** or **discipline processes** means a process under this Code.
h) **this Code** means the Code of Discipline set out herein.
i) **State Assembly** and **State Church** mean respectively the general assembly of a State Church and a part of the national church, the Presbyterian Church of Australia, that joined together to form the PCA under the Basis of Union.

j) **member** or **member of the Church** includes, unless a specific distinction is drawn, a communicant, adherent or office-holder of or in the Church.

k) **abuse** means any:

i) abuse or misuse of authority or of a position of power or authority within the Church, whether or not it constitutes child abuse; and/or

ii) abuse within a domestic situation whether or not it constitutes child abuse; and/or

iii) sexual abuse, whether or not it constitutes child abuse; and/or

iv) child abuse within the meaning of relevant secular law and/or the child protection policies of the Church and the State Churches.

Other terms including descriptions of office-holders have their meanings set out in the laws of the Church or the laws of State Churches.

14. Time limit

A discipline matter must be alleged no later than five years after the date on which the facts alleged to constitute the basis for the discipline matter first became reasonably discoverable by the person or Court who initiates the complaint, except for any discipline matter constituting alleged abuse, where there is no time limit on the bringing of such discipline matter.

15. Which Court hears and decides (has jurisdiction over) the discipline matter?

15.1 **Session**

15.1.1 a) A session is the usual Court for a discipline matter concerning a member other than a minister or licentiate.

b) The session continues to have authority to hear and decide the discipline matter if the person who is the subject of the discipline matter leaves the bounds of the charge and shall report the decision in the discipline matter to the session of the charge where the subject of the discipline matter is attending.

c) A transfer certificate is not granted to the person until a discipline matter is decided.

15.1.2 A session which considers it necessary (because of the apparent complexity or seriousness or importance of the discipline matter) may at any point in a discipline process report the discipline matter to the presbytery. The presbytery may assume responsibility for hearing and deciding the matter, or leave the matter with the session with or without appointing an assessor or assessors from outside the session to act as part of the Court, although usually assessors will be appointed in a discipline process concerning an elder.

15.2 **Presbytery**

15.2.1 A presbytery is the usual Court for a discipline matter concerning a minister within the membership or under the jurisdiction of the presbytery including licentiates and ministers without charges whose certificates of status the presbytery holds or is entitled to hold.

15.2.2 A minister whose demission or resignation has been accepted by a presbytery remains under that presbytery's jurisdiction until the minister has been transferred to another presbytery.

15.2.3 A licentiate is under the jurisdiction of the presbytery which granted the licence until the licentiate is regularly transferred to another presbytery.

15.2.4 In the case of a missionary serving outside Australia, if the missionary is not a member of a presbytery within a State or is a licentiate then the presbytery with jurisdiction over the minister or licentiate has authority to hear and decide the discipline matter.

15.2.5 If the alleged conduct which is the subject of the discipline matter allegedly occurred in another presbytery, then it is the duty of that other presbytery to report it to the presbytery which is the appropriate Court when the alleged occurrence becomes known.

15.2.6 A presbytery may at any point in a discipline process request another presbytery to hear and decide the discipline matter with stated reasons for doing so, such as the residence of parties or where the discipline matter is alleged to have occurred. The other presbytery may agree to or decline the transfer request.

15.2.7 A presbytery may request the assistance of assessors in accordance with the procedure in Article 13 of the Articles of Agreement of the PCA after making an investigative inquiry and deciding to proceed further with the discipline matter. Such assessors have the rights of members of presbytery but without the power to move or second a motion or to vote upon any motion.

15.3 **State Assembly**

15.3.1 A State Assembly may:

a) exercise decision-making power over any discipline matter within its presbyteries.;

b) at any point in a discipline process agree to the transfer to it of a discipline matter at the request of a session or presbytery;

c) assume control over a discipline matter at any point in a discipline process and return the discipline matter to the appropriate lower Court at any point in a discipline process. If the State Assembly has not decided the discipline matter, it has authority to decide an appeal, reference or dissent and complaint in respect of any discipline matter.

15.3.2 A State Assembly may request the assistance of assessors in accordance with the procedure in Article 13 of the Articles of Agreement of the PCA after making an investigative inquiry and deciding to proceed further with the discipline matter. Such assessors have the rights of members of the State Assembly but without the power to move or second a motion or to vote upon any motion.

15.4 **General Assembly of Australia**

15.4.1 The GAA may:

a) exercise decision-making power over any discipline matter;

b) agree to the transfer to it of a discipline matter at the request of a session or presbytery or State Assembly; or

c) assume control over a discipline matter at any point in a discipline process, and

d) return a discipline matter to the appropriate lower Court at any point in a discipline process.

15.4.2 The GAA has authority to decide an appeal, reference or dissent and complaint in respect of any discipline matter from a State Assembly including where the State Assembly has decided the discipline matter on transfer, unless GAA itself has assumed the power to decide the discipline matter. Any decision of the GAA on a discipline matter is final.

15.4.3 **Nobile officium**

In addition to the procedural control described in rule 11, the GAA as the supreme judicial court of the Church claims and possesses the extraordinary (equitable) jurisdiction inherent in every supreme governing authority, historically known as the **nobile officium**, to afford relief and to resolve difficulties.

15.5 **Referral to a committee**

15.5.1 A Court may at any point in a discipline process refer the entirety or a specific aspect of a discipline matter to a committee (whether a standing committee or a special purpose committee) established under the

rules relating to that body for inquiry into the referred aspect within the terms of reference given to the committee for that task and report to the Court.

15.5.2 A Court cannot delegate decision-making power on the matter referred to the committee and any decision on a discipline matter must be the decision of the Court itself.

16. How is a discipline process in respect of a discipline matter begun? Who are proper parties to the process? Summary dismissal of a complaint

16.1 Initiated by a person

16.1.1 A discipline process can begin with a person, who need not be a member, lodging a complaint with the clerk of the Court that usually hears and decides a discipline matter against the type of person against whom the complaint is made. There may be more than one complainant in a discipline process.

16.1.2 The complaint must:

a) be in writing signed by the complainant and identifying the complainant;

b) state the grounds of the complaint and that the complainant will seek to prove the allegations in the complaint, and

c) be accompanied by whatever supporting evidence the complainant at that point has, such as a signed witness statement or statutory declaration made by the complainant and if available from other persons that set out relevant conversations, acts and events, together with other documents.

16.2 Initiated by a Court

16.2.1 A discipline process may also begin where the Court, that usually hears and decides a discipline matter against the type of person against whom the complaint is made, itself decides to initiate the complaint against such person (who becomes the respondent to such complaint). Such may be decided, as an example only, because there is such a serious rumour of alleged conduct that the Court decides it is necessary to investigate to substantiate or quell the rumour for the good of the Church and all parties the subject of the rumour, or the Court considers the person has made a false or unsubstantiated allegation against another person.

16.2.2 The initiation must:

a) be in writing signed on behalf of the Court;

b) specify the respondent who is the subject of the complaint;

c) state the grounds of the complaint, and

d) be accompanied by whatever supporting evidence the Court at that point has, such as signed witness statements or statutory declarations that set out relevant conversations, acts and events, together with other documents.

16.3 Initiated by a minister or member

16.3.1 A discipline process may also begin where a minister or other member seeks to have investigated a report of conduct or other matter that is circulating about the minister or other member.

16.3.2 The initiation must:

a) be in writing signed by the minister or other member;

b) state the grounds of the complaint, and

c) be accompanied by whatever supporting evidence the minister or other member at that point has, such as signed witness statements or statutory declarations that set out relevant conversations, acts and events, together with other documents.

16.3.3 The minister or member may specify a person who should be the respondent to the complaint and should so specify the respondent if that is reasonably possible.

16.4 **Additional respondents**

A Court can at any point in the discipline process specify additional respondents including if no respondent has been specified under rule 16.3.

16.5 **Notice to be given to a respondent**

Notice in writing of the complaint or initiation with the material lodged with it must be given or reasonably attempted to be given to a respondent by the clerk receiving the complaint within seven days after receipt of the complaint or the specification of a particular respondent.

16.6 **Proper basis for complaint required**

16.6.1 A complainant must not make a complaint unless there is a proper basis for doing so.

16.6.2 A Court can, of its own resolution or on the application of a respondent, dismiss a complaint at any time if it determines there is no proper basis for the complaint (but, in the case of a complaint alleging abuse, not without hearing the complainant) and if it so determines can order that the complainant pay the costs of another party and of the Court and impose any other sanction in this Code on the complainant.

17. First steps after a complaint begins a discipline process

17.1 **Attempts to resolve the matter**

17.1.1 a) In accord with Matthew 18:15-17 and 5:23-26 and Luke 6:31-37, the usual starting point for discipline processes begun under rule 16.1 is for the Court by its moderator or clerk to encourage the complainant and the respondent(s) to endeavour in confidential private meetings or other attempts to resolve the discipline matter.

b) This process:

i) may, with the agreement of each party, be with the voluntary assistance of a member or members of the Court or another person or persons agreed to by each party;

ii) may also be conciliation or mediation or other formal assisted dispute resolution process such as early neutral evaluation, but not a reference that delegates to a person the decision of the dispute.

17.1.2 The parties must agree to the terms, including any remuneration, of appointment and conduct of any assisted dispute resolution process.

17.1.3 If a party does not agree to endeavour to resolve the discipline matter or otherwise does not engage in timely participation in a process under this rule 17.1, or the matter does not resolve, then the clerk of the Court must table the complaint before the Court accompanied by a written statement signed by the moderator or clerk that the signing party considers that it is inappropriate further to proceed with processes under rule 17.1. There is no right of appeal from or right of review of that decision.

17.2 **Process in cases of alleged abuse or where it is otherwise inappropriate for private resolution under rule 17.1**

In all cases of alleged abuse, and also in any other discipline process begun under rule 16.1 where the Court by its moderator or clerk considers that it is inappropriate to follow a process in rule 17.1, the clerk of the Court must table the complaint before the Court accompanied by a written statement signed by the moderator or clerk that the process concerns alleged abuse or, in other matters, the signing party considers that it is inappropriate to require the parties to follow a process in rule 17.1. Such process in rule 17.1 may be considered to be inappropriate where it could reasonably be seen to create or heighten the risk of further trauma or suffering to a person. There is no right of appeal from or right of review of that decision.

17.3 **Process begun under rules 16.2 or 16.3**

A discipline process begun under rules 16.2 or 16.3 is not required to engage in confidential private attempts to resolve the discipline matter but may seek to do so if the parties agree.

18. Investigative inquiry

18.1 If the Court does not dismiss the complaint for absence of proper basis under rule 16.6 or the complaint is not resolved by agreement, the Court must engage in an inquiry (the investigative inquiry) into the discipline matter.

18.2 The investigative inquiry may:

a) be conducted in any manner that the Court considers reasonable in the circumstances of the discipline matter, but the Court must observe the duties set out in this Code in conducting the inquiry, including that it must provide the respondent(s) with a reasonable opportunity to respond in writing signed by the relevant respondent with whatever evidence and submissions the relevant respondent wishes to place before the investigative inquiry.

b) The Court may conduct an abbreviated hearing as part of the investigative inquiry but need not do so. Any such hearing may proceed in the absence of a respondent if the respondent is established to have been properly notified of the hearing.

18.3 At the conclusion of the investigative inquiry the Court must make one of the following decisions, for which it must provide written reasons to the parties:

a) dismiss the complaint;

b) decide to conduct a full formal hearing and determination of the complaint;

c) in the case of a complaint under rule 16.3 where no respondent has been specified, decide that the complaint is made out (that is, established) without further process and proceed to impose a sanction.

18.4 A complainant has a right to appeal the decision after an investigative inquiry to dismiss the complaint.

19. Confession or offer to submit to sanction by respondent

At any point in a discipline process a respondent may confess to the alleged conduct in a complaint. The Court then proceeds to impose a sanction (or, where appropriate, deliver an admonition) after receiving written submissions from the parties on the appropriate sanction or admonition. As part of a confession a respondent may offer to submit to a specified sanction but the confession is not conditional on that sanction being chosen as the one to be imposed and the Court may impose any appropriate sanction for the discipline matter and in so doing take into account if it considers appropriate the timing and circumstances of the confession.

20. Full formal hearing and determination

20.1 **Settling of the formal complaint**

20.1.1 The Court must deliver the grounds of complaint, in the form substantially of a draft formal complaint set out in Schedule 1, to the Law Officers for settling. The Procurator (or in the absence of a Procurator the Law Agent) may settle the formal complaint and return it to the clerk of the Court, who will then serve the formal complaint on the respondent(s) together with the evidence in chief relied upon to establish the formal complaint and the name and communication details of the complainant's legal or other representative.

20.1.2 If the Procurator or Law Agent settling the formal complaint reports to the Court that in his or her opinion there is no proper basis for the complaint, then the Court may dismiss the complaint or resolve to proceed on the complaint on the basis that, if the complaint is not made out, then the Court will pay the reasonable costs of the full formal hearing of the respondent(s).

20.2 **Appointed representative**

20.2.1 If the complainant under rule 16.1 or 16.3 does not have an appointed representative, the Court may, but need not, appoint one of its members to represent the complainant if the complainant agrees, and such appointee shall not participate in the Court's discussions or decisions in respect of the complaint.

20.2.2 If the Court making a complaint under rule 16.2 does not appoint a legal or other representative, then the Court will appoint one of its members to present the complaint, and such appointee shall not participate in the Court's discussions or decisions in respect of the complaint.

20.2.3 The preceding rules in 20.2 are not intended to restrict a complainant from appointing under rule 7.1 a representative, male or female, of the complainant's choice. The respondent likewise may appoint a representative, male or female, of the respondent's choice.

20.3 **Lodging and serving of evidence**

The Court must give directions for a reasonable time for the respondent(s) to lodge and serve all evidence in response relied upon by the respondent(s) and for the complainant to lodge and serve all evidence strictly in reply to the evidence relied upon by the respondent(s). The respondent(s) must include with such evidence the name and communication details of any legal or other representative of the respondent(s). Witness statements must be signed by the maker or be in the form of a statutory declaration.

20.4 **Procedural directions for a full formal hearing**

The Court must make any further procedural directions necessary or convenient to prepare the discipline matter for full formal hearing, including any extension of time that is justified on the evidence submitted for and against that extension, setting a period of reasonable notice to the other party if any witness is required for questioning, notifying a hearing date and specifying any permitted or required use of video or audio conferencing technology including for the conduct of the full formal hearing.

20.5 **Evidence**

20.5.1 In addition to bringing forward further evidence, parties may rely upon, as all or part of their evidence in chief or (for the respondent(s)) in response and without need for further lodgement or service, the evidence already filed and served for the investigative inquiry. To be relied upon, witness statements in such evidence must be signed by the maker or be in the form of a statutory declaration if not already so.

20.5.2 Any witness giving oral evidence must attest by oath or affirmation to the truth of the facts in his or her evidence to the best of the witness's knowledge, information or belief.

20.6 **Issuing of notices to produce documents or attend hearings**

20.6.1 Parties may request the Court to issue a notice to the other party or parties, or to members of the Church or to non-members:

a) to produce documents specified in the notice (subject to any just claims for non-production and to any claims for privilege, immunity or confidentiality); and/or

b) to attend the hearing to give evidence.

20.6.2 Non-compliance with such a notice by a party or a member of the Church may be subject to a discipline process and potential sanction (for what is formally called contumacy or contempt).

20.6.3 The party who seeks that a notice to attend the hearing to give evidence be issued to a person must endeavour to serve on other parties a reasonable period before the hearing an outline of the evidence that the person notified to attend is expected to give.

20.7 **Admission and weight of evidence**

20.7.1 At the full formal hearing the formal rules of evidence required to be followed in a secular court will not apply to written evidence served in accord with directions except for matters of confidentiality, immunity and privilege which will be determined by the relevant law including the law of client-legal privilege for some communications between a lawyer and a client, without prejudice settlement negotiation privilege for some attempts to resolve a matter by agreement, self-incrimination privilege and any other relevant privilege.

20.7.2 The Court will give appropriate weight to what is included in the evidence by distinguishing between and giving greater weight to direct evidence of what a person said or saw or what was said to that person (particularly if the person alleged to have said something to a person gives direct evidence of what that person said), to properly-qualified expert evidence and to documents contemporary to the matters in dispute that were not prepared for the dominant purpose of the proceedings, compared with lesser weight

for argument or submissions or similar comment, or evidence such as second or third hand reports of conversations or statements.

20.8 **Course of full formal hearing**

At the full formal hearing:

a) The complainant will present his or her evidence including evidence in reply and the witnesses who were notified to attend can be asked questions by the other party and any member of the Court.

b) The respondent(s) then present evidence and the witnesses who were notified to attend can be asked questions by the other party and any member of the Court.

c) After being asked questions a witness can be asked further questions by the party who called the witness to clarify or explain any answer to the other party's or any member of the Court's questions, but the question must not seek an answer beyond clarification or explanation and must not suggest the answer.

d) The Court will rule on any objections made to evidence given orally and to evidence that is presented late and cannot properly be responded to in time by the other party, including permitting use of such evidence with or without conditions on such use.

e) A witness may be recalled to give further evidence with the permission of the Court or at the request of the Court.

f) After the close of evidence the complainant will present submissions followed by the respondents and then the complainant in reply.

g) The Court may give the opportunity for written submissions.

h) The parties may, if the Court agrees, defer submissions on any sanction until after the decision is delivered on whether the complaint is made out and may, if the body agrees, defer submission on any costs orders until after the decision is delivered on sanction.

20.9 **Procedure at and conduct of the full formal hearing**

The procedure at and conduct of the full formal hearing is under the control of the Court, including dealing with any request by a party that the matter be heard in whole or part on the papers, but the Court must observe the duties and rules set out in this Code in conducting the full formal hearing and the following:

a) No witness apart from a party is allowed in the full formal hearing except while giving evidence.

b) A witness who is a member of the Court cannot participate in discussing and deciding the disciplinary matter unless the witness simply produces documents in response to a notice to do so.

c) Provision must be made for accurate and fail-safe recording of evidence and, if possible, submissions.

20.10 **Proceeding in the absence of a respondent**

The full formal hearing may proceed in the absence of a respondent if it is established that the respondent has been properly notified or attempted to be notified of the full formal hearing.

20.11 **Standard of proof required to make out a complaint**

The complaint, in order to be made out (that is, established), must be proved to the civil standard of proof, which is that it is more probable than not that the facts alleged to support the complaint are established and that the facts so established constitute, more probably than not, a doctrine or practice of the relevant member of the Church contrary to either or both of rule 3(1)(a) or (b). Although the civil standard of proof does not change, the nature and weight of evidence required to establish it will vary with the nature and seriousness of the complaint.

20.12 **Delivery of decisions**

The Court delivers its decision on whether the complaint is made out, the appropriate sanction and any costs orders and must give written reasons for such decisions. Such decisions and reasons can be delivered in a hearing or by email or other communication to the parties.

20.13 **Respondent not subject to repeated discipline process**

A respondent cannot be the subject of discipline process for the same circumstances alleged in a discipline matter but the same type of complaint may be alleged in different circumstances.

21. Admonition

A Court may, in place of or in addition to imposing a sanction, in an appropriate case deliver an admonition. Admonition is a solemn address to a respondent which sets out the established discipline matter and exhorts the offender to watchfulness. This is usually the mode of dealing with discipline matters which have arisen from error of judgement. In resolving to admonish it is desirable that the resolution contain the following words: "Without prejudice to adjudicating upon similar conduct or matter in the future if it is later alleged."

22. Available sanctions

The available sanctions depend on the nature and seriousness of the complaint that is made out. They are set out in succeeding paragraphs in ascending order of severity. More than one sanction may be imposed and an appropriate sanction (other than a rebuke) may be combined with an admonition. Sanctions may be imposed for a period of time and subject to other conditions that the Court decides are reasonable after hearing from the parties on potential conditions.

22.1 **Rebuke**

Rebuke is a solemn reproof and is administered to persons guilty of serious offences as confessed or as proven in formal hearing.

22.2 **Suspension**

22.2.1 Suspension is a temporary prohibition preventing the respondent from exercising the functions of office or the rights and privileges of membership in the Church, or both. It may be combined with an admonition if the Court considers that the person needs time for consideration and reflection.

22.2.2 Suspension is resorted to when the conduct constituting the discipline matter has been repeated after rebuke or when the continued exercise of office or of rights or privileges by the respondent would be injurious to Christianity and the reputation of the Church.

22.2.3 Suspension may be for a specified period or indefinitely according to the gravity of the offence and the circumstances of the case.

22.2.4 For a minister suspension dissolves the pastoral tie or terminates the minister's appointment if imposed for an indefinite time, and also if imposed for a fixed time longer than six months unless the Court or an appellate Court otherwise directs. A minister suspended indefinitely is not eligible for election to the office of elder.

22.2.5 For other office-holders suspension vacates that office if indefinite, and also if imposed for a fixed time longer than six months unless the Court or an appellate Court otherwise directs.

22.2.6 For suspension less than six months of a minister or other person receiving stipend or remuneration the presbytery or other appointing organisation may, subject to any contrary legislation, withhold up to and including half the remuneration for alternative supply of the remunerated position (the same applies for a minister suspended for longer than six months but whose office is not thereby vacated).

22.2.7 This sanction of suspension is to be distinguished from suspension during discipline processes under rule 25.2.

22.3 **Deposition**

22.3.1 Deposition consists of depriving a minister or office-bearer of office and of every right enjoyed as an office-bearer and is inflicted on account of some very grave offence or of heresy. It is pronounced by the Moderator, after prayer, in the name of the Lord Jesus Christ and is reported to the State Assembly.

22.3.2 A minister or other officer deposed from office is not eligible for election to the office of elder or deacon.

22.4 **Excommunication**

Excommunication is a declaration by a Court that a respondent is no longer a member and consequently an office-bearer of the Church. Such a declaration may be made in cases of:

a) contumacious resistance to the authority of the Courts of the Church;

b) flight from discipline; or

c) peculiar aggravation where the discipline matter, although fully established, is obstinately denied, or if acknowledged is justified, and the respondent continues unrepentant,

and the respondent's name is removed from the roll or rolls accordingly.

22.5 **Deprivation of licence**

A licentiate against whom is established a very grave offence or heresy is deprived of licence.

23. Supervision of persons under or following sanction

Members under or following sanction are supervised by sessions. Ministers and licentiates under or following sanction (including those subject to deposition or deprived of licence) are supervised by presbyteries. Such supervision should be pastoral, kind and helpful.

24. Removal of sanctions

24.1 Subject to specific provision in this rule, sanctions are removed by the Court or appellate Court which imposed the sanction in final form or cease by expiration of the specified period of sanction.

24.2 A sanction may be removed if the Court considers the object of discipline has been achieved as evidenced by repentance and consistent conduct and removal is otherwise appropriate given the nature and effect of the conduct that gave rise to the sentence. Deposition of a minister may be removed only with the authority of the GAA or a State Assembly. Deposition of an elder may be removed only with the authority of the GAA, a State Assembly or a presbytery. Restoration to office respectively depends on a call or election under the rules of the Church. A licentiate may have the licence restored, after repentance and consistent conduct, by the presbytery who deprived the licentiate of licence with the consent of GAA or a State Assembly.

25. Interim relief and suspension

25.1 At any point in a disciplinary process the Court may grant, including on conditions or the giving of undertakings, interim relief of any type permitted by law (such as a requirement that a person do an act or refrain from doing an activity) if it considers that the circumstances, including of urgency, safety or preservation of rights, require such relief.

25.2 At any point in a disciplinary process the Court may suspend, including on conditions or the giving of undertakings, a person the subject of a complaint from all or part of the person's normal responsibilities or privileges (such as participation in the Lord's Supper) within the Church including as an office-holder, but without prejudice to the continuation of the person's usual remuneration entitlements.

25.3 A person subject to interim relief granted under rule 25.1 or a suspension under rule 25.2 has a right to appeal that decision.

25.4 In the case of a suspension of a minister from inducted office of a charge or a suspension of a person from other forms of appointment the presbytery appoints an interim moderator to the charge and notifies the session clerk of such appointment.

26. Appeals

26.1 An appeal against a decision of a Court under rules 18.3 and 18.4 must be lodged with the clerk of the Court within 14 days after written notice of the decision that can be appealed under those rules is received by the person seeking to appeal.

26.2 An appeal against a decision of a Court under rules 25.1 and/or 25.2 must be lodged with the clerk of the Court within 14 days after written notice of the decision that can be appealed under those rules is received by the person seeking to appeal.

26.3 An appeal lodged under rules 26.1 or 26.2 does not stay the disciplinary process unless and to the extent that the Court decides otherwise.

26.4 An appeal against a decision after final hearing of a Court must be lodged with the clerk of the Court within 28 days after written notice of such decision is received by the person seeking to appeal.

26.5 An appeal lodged under rule 26.4 does not stay the operation of any sanction or other outcome in the disciplinary process unless and to the extent that the Court or the body to whom the appeal is made (the appellate Court) decides otherwise.

26.6 The Court or the appellate Court may extend the times in rules 26.1, 26.2 and 26.4 at any time, including after the time sought to be extended has expired.

26.7 An appeal is decided by way of re-hearing: that is, it is decided afresh as to the complaint being made out and as to sanction, on the evidence before the original Court and (if applicable) any intermediate Court and on any further evidence not reasonably available at earlier hearings or reasonably available but considered by the appellate Court appropriate to be admitted into evidence with the opportunity for the other party to respond to it, together with the applicable law (secular and Church) at the time of the appeal.

26.8 Subject to the rules in this Code, the appeal is otherwise governed by the rules governing appeals to the appellate Court. Any further appeal from the appellate Court is governed by the rules governing such appeals to the next superior appellate Court.

SCHEDULE 1 – Form of complaint

The Presbyterian Church of Australia (PCA)

[Court]

To [respondent] of [last-known address and email address], being under the authority in discipline processes of [Court] and a member of the PCA.

I, [name], being a person directed by the [Court], set out the complaint against you which is alleged to constitute conduct or other matter that is contrary to the Word of God as the Supreme Standard of the Church as understood in accordance with the Westminster Confession of Faith as the Subordinate Standard of the Church read in the light of the Declaratory Statement as provided for in Clause II of the Basis of Union, or an obligation imposed on a member of the Church by a law of the Church:

[set out facts and circumstances constituting the charge, indicating if it includes an allegation of heresy or abuse].