

Dispute Resolution

October 2016



The United Church of Canada
L'Église Unie du Canada

Dispute Resolution (October 2016)



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L'Église Unie du Canada



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About This Resource

This resource contains

- policies and procedures that must be followed
- further information, guidance, and advice, which you are encouraged but not required to follow

This resource sets out the policy referred to in Section J.6.3 of *The Manual*. Please refer to the current edition.

Annotated Dispute Resolution Policy

This annotated version of the Dispute Resolution Policy contains both (i) policies and procedures and (ii) best practices. The policies and procedures are set out in regular typeface. They are mandatory and must be followed. The best practices (in smaller type) contain information, guidance, and advice on the best ways to live out mandatory policies and procedures. You are encouraged but not required to follow them.

1. Starting the Process

1.1 The complaint is made, in writing, to the appropriate court of the church.

Best practices: To determine which court is the “appropriate court,” see Section J.7 of *The Manual*, Courts of Accountability.

1.2 The complaint is sent to the officer or committee of the appropriate court, as follows:

(a) a complaint to the governing body of the pastoral charge, or to the presbytery, is sent to the chair or secretary of that body;

Best practices: A complaint about the chair of the court should be sent to the secretary. A complaint about the secretary should be sent to the chair. If the complaint is about someone else, it can be sent to either the chair or the secretary.

(b) a complaint to the Conference is sent to the executive secretary of the Conference; and

Best practices: However, a complaint about the Conference executive secretary should be sent to the body to whom they are accountable. If the Conference executive secretary is a member of the order of ministry, they are accountable to a presbytery, and the complaint should be sent to the chair or secretary of that presbytery. If the Conference executive secretary is a lay member, they are accountable to the governing body of a pastoral charge, and the complaint should be sent to the chair or secretary of that body.

(c) a complaint to the General Council is sent to the General Secretary of the General Council, with one exception. If the complaint is made about the General Secretary, the complaint is sent to the Supervision and Oversight Committee for the General Secretary.

Best practices: If the complaint is sent in error to the wrong officer or the wrong court, that officer should forward the complaint to the correct officer, respecting confidentiality around the complaint.

1.3 The complaint must name the party against whom it is made, give brief details of the conflict, the names of persons involved in it, and the date or dates on which it occurred. The complaint must be signed by the complainant. (The party making the complaint is referred to in this policy as “the complainant,” and the party responding to the complaint as “the respondent.”)

Best practices: A person or church body that complains in writing about another person or a church body may not be making a complaint under Section J.11 of *The Manual* that would trigger the dispute resolution process. They may be seeking informal assistance with a conflict, or they may simply wish to have their complaint received by an officer of the court. If the intent of the complainant is unclear, it would be helpful for the officer to contact them to verify whether a complaint is being made under Section J.11 of *The Manual*, or whether another kind of assistance is being sought.

If the complainant does not intend to make a complaint under Section J.11 of *The Manual*, the court may still consider appointing a conflict resolution facilitator to attempt to resolve the dispute. The officer should also consider which

alternative ways of responding might be appropriate. For example, the presbytery Pastoral Relations Committee is available to members of a pastoral charge and to ministry personnel for consultation and advice regarding the pastoral relationship. The Ministry and Personnel Committee of the pastoral charge is available for consultation and support for pastoral charge staff and congregational members and adherents. There may be other committees or people in the church structure whom it would be appropriate to approach. The officer should inform the complainant of these alternatives.

If the complaint is being made under Section J.11 of *The Manual*, the process under the policy is mandatory. The officer of the court should provide the complainant with a copy of this resource.

If the complainant has not already sent a Dispute Resolution Policy Complaint Form to the appropriate court, the officer of the court should ask for a completed complaint form. The officer should assign an identification number to the case.

The officer should consider the pastoral needs of the parties during the period prior to the meeting of the executive of the court to deal with the complaint, and should arrange for those pastoral needs to be met on an interim basis.

- 1.4 The court officer who receives the complaint from the complainant must provide the respondent with a copy of the complaint as soon as possible.
- 1.5 The complainant is entitled to withdraw the complaint at any stage of the process upon written notice to the court to which the complaint was made. The notice is sent to the following officer or committee of the court:
 - (a) if the complaint was made to the governing body of the pastoral charge, or to the presbytery, to the chair or secretary of that body;
 - (b) if the complaint was made to the Conference, to the executive secretary of the Conference; and
 - (c) if the complaint was made to the General Council, to the General Secretary of the General Council, with one exception. If the complaint was made about the General Secretary, the notice is sent to the Supervision and Oversight Committee for the General Secretary of the General Council.

As soon as possible, the court officer who receives the written notice notifies the respondent that the complaint has been withdrawn.

2. Appointment of Conflict Resolution Facilitator

- 2.1 The officer who receives the complaint reports to the executive of the court that a complaint has been made. The executive must keep the matter in complete confidence.

Best practices: The officer should inform the executive only that a complaint has been received, not of the names of the parties to the complaint or the subject matter of the complaint.

- 2.2 The minutes of the executive meeting record that a complaint has been made, name the appointed conflict resolution facilitator, and specify the date by which the facilitator is to report to the executive, without disclosing any names or other information about the complaint.

- 2.3 The executive of the court

- (a) ensures that appropriate pastoral care is immediately made available to the complainant and the respondent, including an appropriate support person for each of them;

Best practices: This action is taken on behalf of the executive by the officer of the court, since no one else would know the names of the parties. It is the executive's responsibility to "ensure" that pastoral care is provided; that is accomplished by checking that the officer who received the complaint had also arranged for pastoral care for both parties. It does not have to be an onerous task. The officer could approach it by asking each party these questions: Do you have pastoral care? Do you want the names of some people who could provide you with pastoral care? Do you want me to find someone to provide pastoral care for you?

- (b) appoints a conflict resolution facilitator, after ascertaining that neither of the parties has any objections to the appointment of that particular facilitator; and

Best practices: The officer first contacts the conflict resolution facilitator to ascertain that person's availability and whether they are aware of any potential conflict of interest that would preclude their participation. Then the officer asks the complainant and respondent if they have any objections based on conflict of interest.

Once a conflict resolution facilitator has been located to whom neither party has any objection based on conflict of interest, and has been appointed for the complaint by the court, the officer forwards them a completed Appointment Form, a copy of the complaint, information about the pastoral care that has been arranged for each party, and any relevant information from the minutes of the court. The officer should also ensure that the facilitator has a blank Participation Agreement and Conflict Resolution Facilitator Preliminary Diagnosis Report.

- (c) specifies a date by which the conflict resolution facilitator is to report to the executive. Normally, that date is no later than 30 days after the facilitator is appointed.

Best practices: The report referred to here is described in section 3.2 of the policy, below. That preliminary report is the conclusion of a diagnostic process in which the conflict resolution facilitator provides information to and gathers information from the parties and decides whether there should be some form of alternative dispute resolution process with respect to the complaint and, if so, specifies which form.

- 2.4 In selecting the conflict resolution facilitator, care must be taken not to select anyone whose judgment or objectivity might be impaired because of a relationship with or knowledge of any of the parties or witnesses to the conflict. If the complaint was made to the governing body of a pastoral charge, to a presbytery, or to a Conference, the conflict resolution facilitator should (where practicable) be from a court other than the one to which the complaint was made.

Best practices: It is quite acceptable if, for reasons of cost, the conflict resolution facilitator is from the same presbytery as long as there are no conflict of interest concerns that would affect the facilitator's ability to be neutral.

- 2.5 In some cases, multiple complaints may be pending: more than one complaint against the same respondent or more than one complaint by the same complainant against different respondents. When there are multiple complaints pending and it appears to the court officer that the complaints relate to the same subject matter, the court officer should ensure that there is appropriate coordination of the dispute resolution processes for all of the complaints and that, wherever possible, the same conflict resolution facilitator is appointed.

3. Conflict Resolution Facilitator—Preliminary Role: Determining whether there should be an alternative dispute resolution process for the complaint

3.1 The conflict resolution facilitator

- (a) ensures that pastoral care is continued for both the complainant and the respondent, that it is appropriate in the circumstances, and if they consider it advisable, makes recommendations to the executive of the court for other appropriate pastoral care;

- (b) explains the conflict resolution process to the parties;
- (c) arranges to have the parties sign an agreement acknowledging the terms of the conflict resolution process, including confidentiality of information given and received by the parties in the process; and

Best practices: The concept of confidentiality extends to the actual conflict resolution process. There is no prohibition against the respondent contacting the complainant under the Dispute Resolution Policy, as there is in the case of complaints under the church's Sexual Abuse Prevention and Response Policy. Under the Dispute Resolution Policy, the parties should be encouraged to resolve conflicts themselves, and contact between them may facilitate a resolution.

The agreement mentioned in paragraph (c) is the Participation Agreement—see page 20.

Although sexual abuse complaints are excluded from the Dispute Resolution Policy, concerns about safety, power imbalance, and so on should still be considered. When conducting the initial interviews of the parties, the conflict resolution facilitator should check if either party has these concerns and consider what might be required to address them. Any conditions mutually agreed upon by the complainant and the respondent around contact may be included in the parties' Participation Agreement in the conflict resolution process. For example, they might agree that there is to be no communication between them regarding the subject matter of the complaint except with the conflict resolution facilitator present.

- (d) conducts a preliminary meeting with each of the parties individually.

Best practices: The meeting may take place in person or by telephone.

3.2 After completing the steps in section 3.1 above, the conflict resolution facilitator reports to the executive of the court and to the parties that, in the facilitator's opinion, either

- (a) there should be some form of alternative dispute resolution process with respect to the complaint. In this case, the conflict resolution facilitator specifies the appropriate form of alternative dispute resolution and a date to report to the executive of the court, and continues as outlined in section 4.1 and following below;

or

- (b) there should not be some form of alternative dispute resolution process with respect to the complaint. In this case,
 - (i) before reporting to the executive of the court, the conflict resolution facilitator advises the parties of further possibilities for action on the complaint as outlined in section 5.4 below; and
 - (ii) the executive of the court deals with the complaint as outlined in section 5.5 below.

In either case, the conflict resolution facilitator includes with the report any recommendations for further pastoral care, if appropriate. The executive ensures that appropriate pastoral care is arranged or continued.

Best practices: In most cases, the conflict resolution facilitator is expected to decide that there should be some form of alternative dispute resolution process. If, however, the facilitator is of the opinion that an alternative dispute resolution process is inappropriate with respect to the complaint, they would respond using the Preliminary Diagnosis form. No reasons are to be given by the conflict resolution facilitator. Appropriate pastoral care should be arranged or continued.

That report is the decision of the court that appointed the conflict resolution facilitator, and is not subject to debate or appeal.

4. Conflict Resolution Facilitator—Continuing Role

- 4.1 The continuing role of the conflict resolution facilitator is to act as facilitator of the alternative dispute resolution process and to report to the executive of the court by the specified date on the status of that process.

Best practices: This does not mean that the appointed conflict resolution facilitator must facilitate the dispute resolution process personally, but that they should ensure that the facilitation is done, perhaps by another facilitator with more appropriate skill or experience, or through co-facilitation with another facilitator. If the dispute involves more than two parties, the conflict resolution facilitator facilitating the process must be capable of facilitating an appropriate multi-party dispute resolution process.

- 4.2 All parties are required to participate in good faith in the alternative dispute resolution process.

Best practices: To act in good faith includes appreciating the potential of the dispute resolution process for resolving the dispute, putting forth an honest effort to co-operate with all the parties involved, and not frustrating the process.

5. Possible Outcomes of the Alternative Dispute Resolution Process

- 5.1 At any time prior to the specified report date, if the conflict resolution facilitator is of the opinion that either of the parties is not participating in the dispute resolution process in good faith, the facilitator terminates the process and reports to the executive of the court that there has not been resolution of the complaint through the alternative dispute resolution process. In that case, the executive deals with the complaint as outlined in section 5.5 below.

Best practices: When the parties do not resolve the matter, the conflict resolution facilitator reports to the executive simply the fact that the matter has not been resolved through the conflict resolution process. No reasons or details are provided, in the interests of preserving confidentiality.

- 5.2 If, by the specified report date, the alternative dispute resolution process results in a written memorandum of understanding agreed to by all parties, or other resolution agreed to by all parties, then

- (a) the conflict resolution facilitator reports this fact to the executive of the court;
- (b) the executive of the court arranges for appropriate monitoring of the parties' agreement other than by the conflict resolution facilitator; and

Best practices: If there are portions of the parties' memorandum of understanding that need to be monitored, the conflict resolution facilitator should ensure that the parties have also included directions for doing so. In the memorandum of understanding, the parties should also address the cost of monitoring the agreement, and they should not assume that the court will fund that cost. The person doing the monitoring does not need to be given a copy of the entire memorandum of understanding, only the portions that need monitoring.

- (c) the parties' agreement remains confidential unless the parties all agree otherwise.

Best practices: The parties may agree that their memorandum of understanding is to be public. They may agree that certain portions are to be public. They may agree that the agreement or certain portions of it may be disclosed to certain individuals in order to have portions of the agreement monitored, or because the parties wish to share the agreement with their family members or other specific individuals.

5.3 If, by the specified report date, the alternative dispute resolution process does not result in a written memorandum of understanding or other resolution agreed to by all parties, and the conflict resolution facilitator is of the opinion that the process should be continued for an additional specified period of time, the facilitator makes this recommendation to the executive of the court. Based on the conflict resolution facilitator's recommendation, the executive may direct that the facilitator continue the alternative dispute resolution process for the recommended additional period of time.

5.4 If, by the specified report date, the alternative dispute resolution process does not result in a written memorandum of understanding or other resolution agreed to by all parties, and the conflict resolution facilitator is not of the opinion that the process should be continued for an additional period of time, before reporting to the executive of the court, the conflict resolution facilitator will advise the parties of further possibilities for action on the complaint, as follows:

- (a) either party may request a formal hearing, which will be held if the Formal Hearing Committee decides to proceed with a formal hearing under Section J.12 of *The Manual*;

Best practices: If the governing body of the pastoral charge is the appropriate court of accountability, it may hold a formal hearing.

- (b) the complainant may withdraw the complaint as provided in section 1.5 above; or

- (c) upon receipt of the conflict resolution facilitator's report, the executive of the court may take such other action as it considers appropriate.

5.5 If, by the specified report date, the alternative dispute resolution process does not result in a written memorandum of understanding or other resolution agreed to by all parties,

- (a) the conflict resolution facilitator reports this fact to the executive of the court;
- (b) the court officer who received the complaint provides a copy of it to the executive of the court; and
- (c) the executive of the court takes such action as it considers appropriate with respect to the complaint.

Best practices: The action that an executive of the court "considers appropriate" could be any action that is within the power of that court. Here are some examples:

- The executive could order a formal hearing of the complaint.
- The executive could refer the complaint for further consideration/action to a committee of that court or of another court that had expertise or a mandate over the subject matter of the complaint.
- The executive could decide that a dispute resolution process should be attempted again between the parties after a "cooling off" period of some specified weeks or months.
- The executive could decide that the complaint between two individuals signalled concern about the health of an entire church body (e.g., a congregation) that needs to be addressed through a resolution process involving a larger circle of participants.

- If the court is the presbytery and one of the parties to the complaint is ministry personnel, the executive could decide that the complaint raised a question about the effectiveness of the ministry personnel. In that case, the executive could order a ministry personnel review under Section J.9.3 of *The Manual*.
- The executive could take no further action on the complaint, except for ensuring that pastoral care remains available to the parties.

The executive could also consider any other option within its power.

6. Fee

The conflict resolution facilitator is entitled to a fee for the services performed under this policy. For situations where a complaint has been made, the fee is set from time to time by the Executive of the General Council. For situations where a complaint has not been made, the fee will be as negotiated between the conflict resolution facilitator and the appointing court. In either case, in addition, the facilitator is entitled to be reimbursed for out-of-pocket expenses (e.g., travel, photocopying) in accordance with church policy.

7. Advocates and Lawyers

If a party is accompanied or represented by an advocate or legal counsel at any stage of the resolution process, that party is responsible for the cost of the advocate or legal counsel. It is intended that participants will, under usual circumstances, participate in the conflict resolution process on their own behalf without representation by advocates or lawyers.

8. Alternative Dispute Resolution for Situations Other Than a Complaint

In circumstances where a complaint has not been made but there has been a written or oral request to a court for conflict resolution assistance, the court may appoint a conflict resolution facilitator to assist the parties involved in the conflict through facilitation of an alternative resolution process. Participation in this process does not prevent a party to the conflict from making a complaint in relation to the conflict if the process does not result in resolution of the conflict.

Best practices: There is an important benefit to the parties and to the church in resolving conflict at the lowest level of escalation possible, before a complaint is made under Section J.11 of *The Manual*. The use of conflict resolution facilitators—and other resources in the church—should be encouraged in all conflict situations.

Questions and Answers

This section provides information and guidance regarding the Dispute Resolution Policy. You are encouraged but not required to follow the best practices described here.

Could there be a single point of contact for those making a complaint—i.e., one Conference officer?

The policy clearly provides that a specific officer of the relevant court is to receive and deal with the complaint. Under the existing policy, it would not be permissible to have all complaints within a Conference (congregation, presbytery, and Conference) dealt with by a single officer.

It is preferable for the court of accountability to handle a particular complaint, and for the complaint to be dealt with only on a need-to-know basis. In this respect, the policy operates in the same way as the Sexual Abuse Prevention and Response Policy has been operating for a number of years.

It is hoped that involvement of the officers of different courts of the church will help to familiarize these officers (and the executives of the various courts of the church) with the policy, since they will have specific administrative tasks under it.

Who will answer questions regarding the interpretation of the policy?

Questions on interpretation of the policy should be directed to the General Council Office, to the attention of the General Secretary, General Council. Information about the proper procedure under the policy may also be obtained from one of the General Council staff lawyers. If the question involves another policy, the question should be directed to the appropriate place, for example, questions regarding the Sexual Abuse Prevention and Response Policy or ministry personnel policy would be directed to the Conference personnel minister or to the Ministry and Employment Unit of the General Council Office, as appropriate.

How should conflict resolution facilitators prioritize requests to handle complaints under the policy, and conflict resolution work in the church outside the policy?

It is inevitable that conflict resolution facilitators will be approached to handle situations in which there is no complaint made under Section J.11 of *The Manual*. In fact, this is in keeping with the overall intention to have conflict resolved within the church at the earliest possible opportunity. Conflict resolution facilitators should treat both types of requests (i.e., where complaint has been made, and where a court requests their involvement in a situation without a complaint) equally. Neither should be given preference in terms of priority simply on the basis of there being—or not being—a complaint made.

What records should be kept by conflict resolution facilitators?

After the conflict resolution facilitator has made a final report to the appointing court, they should retain only the following documents:

- Conflict Resolution Facilitator Appointment (Preliminary Diagnosis)
- Conflict Resolution Facilitator Preliminary Diagnosis Report
- Conflict Resolution Facilitator Appointment Form (Delivery of Facilitation)
- Conflict Resolution Facilitator Final Report
- Participation Agreement

In addition, if there has been a resolution of the complaint, the conflict resolution facilitator may retain a copy of any written agreement with details of the resolution.

In either case, no other records or papers or materials from either of the parties should be retained, and should be destroyed at the following times, as applicable:

- when the conflict resolution facilitator has reported back to the court that an alternative dispute resolution process is not appropriate for the complaint;
- when the conflict resolution facilitator has reported back to the court that an alternative dispute resolution process is appropriate for the complaint, but the conflict resolution facilitator will not be the facilitator of that process; or
- when the conflict resolution facilitator has reported back to the court that an alternative dispute resolution process is appropriate for the complaint, that the conflict resolution facilitator has facilitated the dispute resolution process, and the process has been concluded.

If the conflict resolution facilitator wishes to keep any other information, they may do so only with the written consent of the parties.

If arbitration is the appropriate dispute resolution process, who finds the arbitrator?

In cases where a conflict resolution facilitator specifies arbitration as the appropriate form of dispute resolution, they have no obligation to recommend an arbitrator. It is up to the executive of the court that appointed the conflict resolution facilitator to retain an arbitrator in any particular situation. The executive may consult with the facilitator or outside sources to locate an arbitrator.

Forms

Standardized Forms for Conflict Resolution Facilitators

Dispute Resolution Policy Complaint Form

This form may be used by a complainant in order to make a complain in writing under section 1.0 of the Dispute Resolution Policy. It identifies all of the information required for a complaint under section 1.3 of the Dispute Resolution Policy.

Conflict Resolution Facilitator Appointment Form (Preliminary Diagnosis)

This form deals with the appointment of the conflict resolution facilitator to do the preliminary diagnosis work required under sections 3.1 and 3.2 of the Dispute Resolution Policy, including deciding whether or not an alternative dispute resolution process is appropriate for the complaint.

Conflict Resolution Facilitator Preliminary Diagnosis Report

With this form, the conflict resolution facilitator reports their opinion as to whether an alternative dispute resolution process is appropriate for the complaint with recommendations for further pastoral care, if appropriate. No other information is required from the conflict resolution facilitator as part of this report.

Conflict Resolution Facilitator Appointment Form (Delivery of Facilitation)

This form documents the appointment of the conflict resolution facilitator to do the conflict resolution facilitation work required under section 4.1 of the Dispute Resolution Policy.

Conflict Resolution Facilitator Final Report

With this form, the conflict resolution facilitator makes a final report on the conflict resolution process to the appointing court. No other information is required from the conflict resolution facilitator as part of this report.

Participation Agreement

This document records the parties' agreement to engage in the conflict resolution process.

Dispute Resolution Policy Complaint Form

The United Church has a Dispute Resolution Policy. It involves a process guided by a conflict resolution facilitator that provides the opportunity for parties in conflict to discuss their differences openly and clearly with the hope of achieving a greater understanding of one another's interests.

A conflict resolution facilitator will be appointed when the officer of the appropriate church court has received a signed Complaint Form.

A copy of the Complaint Form will be provided to the conflict resolution facilitator and to the other person(s) or church body identified below as being involved in the conflict.

Otherwise, the Complaint Form will be kept in confidence by the limited number of church personnel who must know of the conflict in order to ensure that the process under the Dispute Resolution Policy is followed.

Complainant's name: _____

Address: _____

Telephone number: (day) _____ (evening) _____

E-mail: _____

If complainant is United Church member, indicate name of congregation: _____

If complainant is ministry personnel, indicate name of presbytery: _____

Please provide a very brief description of the nature of the conflict. This information will be used to assist in appointing the most appropriate conflict resolution facilitator. Please also indicate the (approximate) dates when these events occurred.

Name of other person(s) or church body involved in the conflict (the "respondent"):

Address(es) of respondent(s)

Telephone number(s) of respondent(s):

What steps have you (the complainant) already taken to try and resolve this conflict?

Is your complaint, or any matter related to your complaint, already being dealt with or has it been dealt with by the United Church in another place (at Church Board, Council, Session, formal hearing process, presbytery review, etc.)? If so, please describe briefly.

Do you have any special needs that are to be considered? For example, wheelchair access, interpreter, child care (indicate times), visual/hearing disability, etc.

Signed: _____ Date: _____

For church court officer to complete:

Received by the officer of the church court on: _____

Referred by the officer of the church court to a CRF on: _____

Signed: _____

Church Court Officer

Conflict Resolution Facilitator Appointment Form (Preliminary Diagnosis)

You (*insert name*) have been appointed by (*insert name of appointing court*) to fulfill the preliminary “diagnostic” duties of a conflict resolution facilitator, under sections 3.1 and 3.2 of the Dispute Resolution Policy of The United Church of Canada, in the matter of the conflict set out in the Request for Conflict Resolution Assistance file X (*insert the File # assigned the case*).

In accepting this appointment, you are volunteering your services in the conflict resolution facilitator role. An honorarium in the amount of _____ [not to exceed \$200.00] will be paid to you on completion of your functions. Reasonable and necessary expenses incurred by you in performing this role will be reimbursed.

In accepting this appointment you declare that, in good faith, you are not aware of any conflict of interest, real or perceived, between you and any of the parties in this matter. Should you become aware of such a conflict during the course of performing your functions as a conflict resolution facilitator in this matter you will immediately report this development to the executive of the appointing court.

As required by section 2.3(c) of the Dispute Resolution Policy, you will report your opinion in the matter to (*insert name of executive of the appointing court*) by (*insert date*).

Signed this _____ day of _____ 20_____

Officer on behalf of
Executive of the Appointing Court

Conflict Resolution Facilitator

Conflict Resolution Facilitator Preliminary Diagnosis Report

File # _____ Date: _____

Conflict Resolution Facilitator Preliminary Diagnosis Report submitted by

I was appointed conflict resolution facilitator in this matter on _____

After conducting preliminary meetings and discussions with the parties it is my opinion that: (check one)

- There should be some form of alternative dispute resolution with respect to the complaint.

I propose that the type of alternative dispute resolution be:

consensus building

mediation

community conferencing

other: _____

I propose that the facilitation be delivered by:

myself

myself and another conflict resolution facilitator

(namely _____)

the following type of facilitation: _____

In my view, the proposed facilitation will require _____ (amount of time)

- There should not be some form of alternative dispute resolution process with respect to the complaint.

I further recommend that the pastoral care being provided be:

continued

adjusted as follows: _____

I understand that this report has the effect of a decision of the appointing court and is not subject to debate or appeal.

Conflict Resolution Facilitator

Conflict Resolution Facilitator Appointment Form (Delivery of Facilitation)

You (*insert name*) have been appointed by (*insert name of appointing court*) to deliver the conflict resolution facilitation, under sections 4.1 and 5 of the Dispute Resolution Policy as adopted by The United Church of Canada, and in the manner identified as appropriate by (*insert your name/name of other CRF completing preliminary diagnosis*) in the matter of the conflict set out in the Request for Conflict Resolution Assistance file X (*insert the ID# assigned to the case*). In performing the conflict resolution facilitator functions in this matter you will be working by yourself/in a team with (*insert name of other conflict resolution facilitator*) who is appointed separately to this matter).

In accepting this appointment you are volunteering your services in the conflict resolution facilitator role. An honorarium in the amount of \$ _____ [not to exceed \$300.00] will be paid to you on the completion of your functions. Reasonable and necessary expenses incurred by you in performing this role will be reimbursed.

In accepting this appointment you declare that, in good faith, you are not aware of any conflict of interest, real or perceived, between you and any of the applicants and/or respondents in the matter. Should you become aware of such a conflict during the course of performing your functions as a conflict resolution facilitator in this matter you will immediately report this development to the executive of the appointing court.

The "specified report date" in this matter is (*insert date*).

Signed this _____ day of _____ 20 _____

Officer on behalf of
Executive of the Appointing Court

Conflict Resolution Facilitator

Conflict Resolution Facilitator Final Report

File # _____ Date: _____

Conflict Resolution Facilitator Report submitted by

_____ and _____
(Co-Conflict Resolution Facilitator)

I was appointed conflict resolution facilitator in this matter on _____

After meeting with the parties involved I have determined that : (circle one)

- A. A resolution to the conflict has been achieved and this matter can be closed. Attached to this report are details of the resolution that the parties have agreed can be shared and that I am authorized by the parties to include with this report.
- B. I have reached the "specified report date" and have not been able to bring about a resolution to the conflict. I am requesting an extension of the report date to _____ because I am of the opinion that with this extra time a reasonable chance exists for a successful outcome. Please indicate to me in writing the concurrence of the executive of the court with this extension, which letter will constitute an amendment of the report date in the Conflict Resolution Facilitator Appointment Form.
- C. I have not been able to bring about a resolution to the conflict. Therefore, under section 5.5 of the Dispute Resolution Policy:
- the court officer who received the complaint will provide a copy of it to the executive of the court; and
 - the executive of the court will take such action as it considers appropriate with respect to the complaint.

Statistical information

Type of conflict resolution intervention used:

- mediation
- consensus building
- community conferencing
- other (describe: _____)

Number of hours spent with parties: _____ separately

_____ together

Other resources used by the CRF:

Process issues raised by this conflict that can be shared for learning and for development of the Dispute Resolution Policy:

Participation Agreement

We, the participants, aspire to resolve our conflict through a dispute resolution process. The conflict resolution facilitator will guide this process. We agree with and promise to respect the conflict resolution guidelines set out in this agreement.

As participants, we enter into this conflict resolution process voluntarily and agree to respect the following rules:

- to participate in the process in good faith
- to provide willingly all information that will help the discussion to be open and productive
- to participate in the problem-solving process by generating ideas and options
- to participate in the formulation of mutually acceptable solutions
- each participant and the conflict resolution facilitator have the power to end the process at any time, but each participant agrees to make a genuine effort to make the process work
- each participant is responsible for obtaining their own legal advice or representation if they so wish during this conflict resolution process or in connection with a settlement reached as a result of this process
- no participant will ask the conflict resolution facilitator to testify for any purpose with respect to any information disclosed during this process

We, the participants, understand and agree that

- our willingness to participate in this process will not bind us or prejudice us in any way in the future
- all written and oral communication exchanged in this process is considered confidential unless we, the participants, agree otherwise
- no information or other communication made by any participant during this process can be used in any way by anyone in any future proceedings
- any written resolution/understanding arising out of this process will remain confidential unless we, the participants, agree otherwise
- the conflict resolution facilitator cannot disclose any written or oral communication except that which is required under the Dispute Resolution Policy of The United Church of Canada or as agreed to by the participants
- the notes and information recorded by the conflict resolution facilitator cannot be subpoenaed for use in any future proceeding
- out of all the information recorded by the conflict resolution facilitator during this process, only the information that is required to be reported under the Dispute Resolution Policy of The United Church of Canada will be disclosed to the court of The United Church of Canada
- the conflict resolution facilitator will have the same immunity from liability as a judge
- the conflict resolution facilitator is neither a lawyer nor a representative for any of the participants in this process. The role of the facilitator is not to adjudicate (resolve) our conflict, but is instead to act as an impartial third party who will assist us in reaching our own solution

Each of us has read and understood the contents of this pact. We also acknowledge the receipt of a copy of the Dispute Resolution Policy of The United Church of Canada.

This agreement is made on _____

between _____

Conflict Resolution Process

Complaint is made

- Complainant has the right to withdraw the complaint at any stage

Officer of the Court

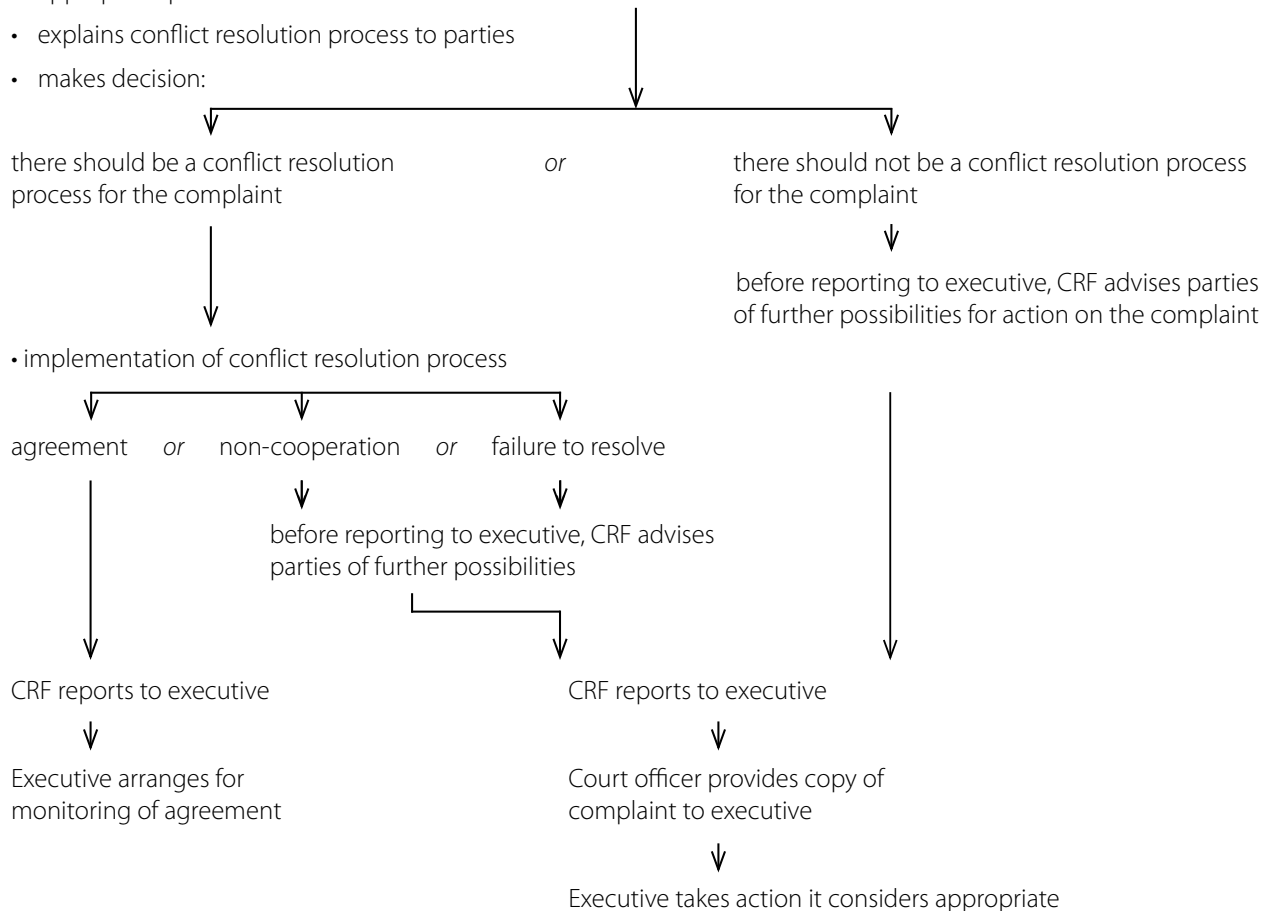
- informs respondent
- informs complainant of process
- explores need for and arranges pastoral care for parties

Executive of Court

- names a conflict resolution facilitator (CRF)
- sets timeline and deadline for report back

Conflict Resolution Facilitator

- conducts preliminary meeting with each of the parties separately
- ensures appropriate pastoral care is being continued/makes recommendations to the Executive for other appropriate pastoral care
- explains conflict resolution process to parties
- makes decision:





www.united-church.ca/handbooks