



**GUIDELINES FOR
NOMINATING COMMITTEES**

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Ministries Council**

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Church of Scotland

These notes are provided by the Ministries Council to help the Nominating Committee and Interim Moderator in their task. They are not exhaustive but may be helpful for those who find themselves, perhaps for the first time, involved in looking for a minister for their congregation and parish. If you wish to depart from these guidelines, you may do so only if you are otherwise complying with the appropriate legislation, and have first sought the advice of the Presbytery's Advisory Committee.

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I. THE VACANCY IN THE CONGREGATION

You have been chosen by your congregation to serve on the Nominating Committee. This is a very important task in the life of any congregation. You have been asked to discern where God is leading your congregation, and to identify the minister that God is calling to serve his people in your community.

Irrespective of the cause of the vacancy and the past history of the congregation, the vacancy should be regarded positively and seen as an opportunity to take stock of what the congregation has done, is doing and, most importantly, should be doing in the future. This time should be seen as a time of challenge, as a time of new beginning and of renewed commitment and vigour. Unless there is some 'vision' of what the congregation is, where it is going and what it hopes to do, then the task of finding the 'right' minister will be much more difficult.

The Nominating Committee (formerly known as the Vacancy Committee) should make itself well informed on all aspects of the life and work of the congregation – membership, attendance, finance, organisations, activities, difficulties, future plans, etc. To this end, therefore, it could be of great help to hold a meeting with the relevant people so that the Committee can be briefed on these matters.

2. THE NOMINATING COMMITTEE

The Nominating Committee has been elected to look for and recommend one person deemed to be suitable to be the minister of the congregation and parish. No doubt members of the Committee will feel a sense of inadequacy about undertaking such a responsibility; nonetheless, the task should be approached with a mixture of humility and confidence.

a) Prayer: Prayerful support is essential and some Committees have begun their work with the Sacrament of Holy Communion. Individually and collectively, the Committee should regularly seek the guidance of the Holy Spirit in all its endeavours. It should encourage the congregation to pray regularly, in public and in private, for the work it is doing in their name. All meetings of the Committee should be opened and closed in prayer, and it may be helpful to stop and pray whenever key or contentious decisions are approached.

b) Interim Moderator: The Committee will have the advice, guidance and help of the Interim Moderator at all times during the Vacancy. It is important that the Interim Moderator is present at critical meetings of the Committee. However, even if s/he is asked to chair the Committee, it is highly recommended that s/he is not present at interviews conducted by the Committee. This is to avoid any conflict of interest that may arise for the Interim Moderator.

c) Presbytery Advisory Committee: The Presbytery Advisory Committee consists of three people, appointed by the Presbytery, to advise the congregation through the time of vacancy. The Nominating Committee shall meet with the Advisory Committee to receive guidance prior to beginning its work and it may ask for additional meetings at any other time it feels advice would be beneficial. The Presbytery Advisory Committee can also insist on a meeting with the Nominating Committee at any time it thinks such a meeting would be

desirable. The Nominating Committee must also consult with the Presbytery Advisory Committee before it reports to the Kirk Session and Presbytery regarding the identity of the nominee.

d) Ministers and Deacons in Civil Partnerships and Same Sex Marriages – Act I, 2015

The 2015 Ministers and Deacons in Civil Partnerships and Same Sex Marriages Act affirmed the historic and current practice of the Church in relation to human sexuality and its application to ministers and deacons in civil partnerships and same sex marriages, but it also allowed Kirk Sessions to depart from this position and to permit consideration of ministers in civil partnerships and same sex marriages.

If your Kirk Session has decided to depart, that decision will have been made prior to the election of the Nominating Committee, and only in such cases may the Nominating Committee consider applications from ministers in civil partnerships and same sex marriages. If your Kirk Session has departed, it should have informed the Nominating Committee of this fact, and it should also be noted in the Parish Profile for the information of any applicant.

e) Office Bearers

The Committee at its first meeting should appoint a Convener, Vice-Convener and Clerk. Only in exceptional circumstances, such as potential divisions within the Committee, should the Interim Moderator be asked to be Convener or Clerk of the Committee. While the Interim Moderator may attend meetings of the Committee as adviser and assessor, the Interim Moderator must, on no account, seek to influence the choice of the Nominating Committee. Applicants should be allowed to deal directly with the Committee.

The Convener should open and close all meetings with prayer and ensure that all matters brought before the Committee are dealt with in a business-like manner. The Clerk will be responsible for keeping minutes of all proceedings and for correspondence with all those interested in the vacancy. It would be helpful if the Clerk had access to email and printing facilities. The Clerk need not be a member of the Committee. The Convener, if s/he is not the Interim Moderator, shall have a deliberative vote, but not a casting vote. If the Interim Moderator is Convener, he or she will **not** have a vote in any debate; it is for the Clerk to the Nominating Committee, or other appointed member, to update the Ministries Council on closing dates; preaching dates where a nominee has been invited; and the eventual induction date when known. If closing dates no longer apply, please notify the Ministries Council so that the vacancy list on the Church of Scotland website may be kept up to date.

f) Timescales

The Nomination Committee has a maximum of two years in which to bring the name of a Nominee to the congregation. Please be aware that while many vacancies are filled in a much shorter time, recently it has taken many congregations significant time before finding the right minister. You should not let this discourage you.

The two year period is calculated from the date on which Presbytery gave your congregation leave to call a minister and not from the date that the Nominating Committee was elected. If you find that you are coming towards the end of this time, you should request a meeting with the Advisory Committee who will explore options – including an extension of time – with you and with the Kirk Session.

3. CONFIDENTIALITY

It should be fully understood from the very beginning that the work of the Committee is confidential at all times. It should not be discussed with other members of the congregation or with others outside the congregation, including family members. However, if the congregation also has other people ministering as part of a team, ie associate minister, deacon, etc, they will be involved in the process in accordance with the procedure in Appendix I; they too must understand any information they may be party to is confidential. If the Clerk has to have assistance, the confidentiality of the information should be observed by whoever is assisting.

a) Confidentiality and Undue Influence

It is the Nominating Committee which is chosen by the congregation and is responsible for finding and recommending a suitable person to be minister – and this should be done in an unbiased manner and without any outside pressure or influence, no matter how well-meaning. Committee members should not seek the advice of others in the congregation with regard to who is nominated. No confidential information – and this includes how votes were cast – should be given to anyone, including spouses and family members of the Nominating Committee. The only report that the Committee will make will be to report the name of the Nominee at the end of the process – after which all papers pertaining to its work should be destroyed. If Nominating Committee requires advice, it should seek it from the Interim Moderator or the Advisory Committee and not from the Kirk Session. It is particularly forbidden for any previous minister of the charge to have any role in the process whatsoever.

b) Respecting applicant confidentiality

In the course of its work, the Committee will receive applications and references containing personal information to enable it to carry out its remit. This should not be disclosed to anyone outside the Committee. Indeed, the very fact that a minister has applied, expressed an interest, or even asked for a Parish Profile should be considered confidential.

Be particularly considerate of ministers in existing charges. The minister has a relationship with their current congregation that can be significantly undermined if it is known that you are in conversation with him or her. Be careful to send any correspondence to the minister's home address and not to a Church building or office. Unsolicited Parish Profiles, mailed to Churches, and opened by office bearers, have often been a source of irritation. Even once you have a nominee, and he or she has accepted, careful discussion needs to take place between the Nominating Committee, the nominee and the Interim Moderator to ensure that the name doesn't leak out before his or her existing congregation is properly informed.

4. THE COMMITTEE AT WORK

a) What sort of Ministry?

It is of the utmost importance that the Committee should have a clear idea of the type of ministry best suited for the congregation and parish. In an all-round parish ministry, which of these are most important – pastoral care, teaching and preaching, outreach? The Committee should be advised on this matter by the Presbytery's Advisory Committee, which will have consulted with the Kirk Session before meeting with the Committee.

Having received such advice, the Committee should then understand quite clearly that it is their sole and total responsibility to find and recommend to the congregation a suitable Nominee.

The Committee must, at all times, guard against taking any decision to rule out certain candidates on the grounds of age, gender or marital status.

The Committee should have a CONGREGATION/PARISH PROFILE available to give to those interested in the vacancy. It is the duty of the Kirk Session to prepare the Parish Profile and this should be an honest statement (negative as well as positive) of the life, work and witness of the congregation and parish. It should refer to the past history and present situation of the congregation, drawing particular attention to any major changes or disruptions which have taken place in recent times. This may be in the form of a readjustment, a conflict or a difficult parting of the ways between minister and congregation. It serves no purpose to try to sweep significant issues under the carpet. It is important also that it should contain the vision and plans for the future, including what the congregation intends doing and not just what it expects the new minister to do. It should give sufficient information to enable candidates to form an opinion and have a 'feel' for the situation. It should include details about the parish and wider community, but not be a tourist information leaflet!

b) The Strategy

The Committee, at the earliest possible opportunity, should agree how it will go about its work. This will include such details as advertising, information for candidates, closing date for applications, timetable for interviews and procedures for interviewing and hearing candidates. Care should also be taken to establish in advance the procedure to be followed when voting begins. How small a majority will be acceptable if the vote cannot be made unanimous? It should be appreciated that a majority of only one need not indicate that the Committee is hopelessly divided. On the other hand, if a decision cannot be made unanimous, the attempt should be made to discover the reason, which may range from blind prejudice to withholding information or concerns which ought to have been disclosed. From the outset, all members of the Committee should be fully informed and have a very clear picture of how it will proceed with its business.

c) Advertising the Vacancy

The Requirements of the Vacancy Procedure Act 2003 in relation to advertising the Vacancy are set out in Section 17 and these should be noted with care and attention. Vacancies should be advertised in the Vacancies Section on the Church of Scotland website. There is no charge for this service. To arrange for the vacancy to be advertised on the website, please contact ministries@churchofscotland.org.uk, indicating the basis, the Interim Moderator and contact details, information on who to contact to obtain a Parish Profile and a closing date (if one has been agreed). Where possible, the information should also include contact details for the Clerk to the Nominating Committee, and a note of the Church website, if the Parish Profile can be found online. Churches are strongly encouraged to place parish profiles online, as this means that they can then be featured in, and linked to, the vacancy list on the website. Many ministers, open to seeking a new charge, will discreetly examine the Ministries Council's vacancy list and download parish profiles. If your information isn't there, or isn't up to date, you will be significantly disadvantaged in your search.

In addition, a suitably worded advertisement may be drafted, with a closing date for applications, and agreed by the Committee. The Committee should consider the wide range of opportunities for advertising, including the internet. Vacancies can also be advertised in the Life and Work magazine, but please note that this carries a charge. To obtain contact details, please contact ministries@churchofscotland.org.uk

The Interim Moderator will receive from the Ministries Council the list of all Probationers currently available for Call. It may also ask for a shorter, but more detailed, list of those Probationers in whom it is principally interested. In addition to applications, the Committee may also receive recommendations in respect of ministers who might be considered suitable candidates. They, however, should be asked to submit a CV and a note of confirmation that they are prepared to be considered.

d) Dealing with Applications

When applications/recommendations are received and any names on the list of Probationers are noted as being of interest, the Committee should:

- acknowledge receipt immediately (same day if possible) and do not wait until closing date;
- send a Profile and any other relevant information agreed (such as Local Church Review, Annual Accounts, Church Magazine, etc);
- give an indication of the plans of the Committee regarding the proposed timetable (if known).

(Pre-printed letters may be used to save time.)

Should the Nominating Committee be approached by a licentiate of the Church of Scotland (that is, someone who completed their training before 2001 but has not subsequently been ordained into a charge), they should alert the licentiate that he/she must open an application for an assessment of training needs by the Ministries Council. All licentiates who have not been ordained within five years of their licensing must apply directly to the Ministries Council (which also maintains a list of known licentiates) for this assessment to be made. The purpose of this requirement is to ensure that any licentiate seeking ordination is properly equipped to do so. It is also for the Interim Moderator to satisfy himself or herself that the chosen Nominee is eligible to be called as the minister.

e) Ministers from other Denominations

Special requirements exist for ministers outwith the Church of Scotland who wish to work for the Church of Scotland. There are also immigration requirements for ministers who are not nationals of the European Union or Switzerland. Both these requirements can be found below:

Immigration Requirements – Home Office UK Visas and Immigration

Strict immigration requirements are in place, which affect ministers who are not nationals of the European Union or Switzerland who wish to work for the Church of Scotland. The Ministries Council is responsible for administering the sponsorship of individuals on behalf of the Church as a whole. This entails deciding if an individual meets the criteria for sponsorship and, if so, issuing a Certificate of Sponsorship number for that individual to use in the course of making their own visa application. Vacant congregations must carry out a recruitment process throughout the UK, European Union and Switzerland, over a 6-month period, before they can accept any application from outwith these areas. Full details can be found in Appendix I I.

Ministers of other denominations should not be approached directly, either by the unsolicited sending of parish profiles or by 'head-hunting'. Respect should be paid to the procedures used in other denominations for the placement of ministers, as some do not allow a direct approach to be made to a minister by a congregation. It is not appropriate to seem to be 'poaching from another Denomination'. The Ecumenical Relations Committee can give guidance on these matters. Email: ecumenical@churchofscotland.org.uk

It is also of the utmost importance that if your Nominating Committee does pursue the interest of a minister from another denomination in any part of the world, then they should alert that minister that he/she must open a parallel application for admission to the Church of Scotland ministry. Such applications are made directly to the Ministries Council, who will deal directly with the applicant. At no stage should it be assumed that this process is a formality and it must certainly not be assumed that acceptance by a Nominating Committee means that the Ministries Council will concur.

Further information on both the Admissions Process and Immigration Requirements can be obtained from Mrs Heather French in the Ministries Department.

Email: hfrench@churchofscotland.org.uk

f) Selection Process

If you choose to have a closing date, then all applications and recommendations should be considered carefully by the Committee immediately after it; the information given by the candidate may be supplemented by that obtained from references and at this stage the Committee may begin the process of shortlisting. If, at this stage, there are any candidates whom the Committee is quite clearly not going to pursue, then they should be advised of this immediately – even though detailed plans for interviewing/hearing may not have been finalised.

In other situations, there may be few applicants, and you may simply wish to consider each application as it comes to you. Again, you should inform applicants of your process and let them know immediately if a decision is taken not to pursue applications.

Members of a Nominating Committee should be aware that the process for candidates is often tense and demanding; it is of the utmost importance, therefore, that candidates are:

- dealt with thoughtfully and courteously;
- kept up-to-date with progress;
- informed of decisions, even when these may not be the outcome desired by the individual.

g) Dealing Fairly with the Short-listed Candidates

A number of options are open to the Committee at this important stage of the procedure. The Committee must decide what the best approach is, bearing in mind the size of the Committee, number of candidates, geographical location and so on.

In the past, Nominating Committees have followed different approaches, opting (where geography allows), to send out small groups to listen to applicants or recommended candidates conducting public worship. Sometimes their visit is announced, and sometimes not. The 'secret' approach can often be embarrassing for a minister who is not considering a move. It can also mean a fruitless journey if said minister is not leading worship that day. The scouting party approach can also involve several rounds of visits when varying opinions are delivered.

Instead of setting out to listen in small groups, the Committee should instead invite the list of people in whom they are initially interested to an interview and a look around the church, halls and manse. Sometimes the Committee works in two groups, one asking questions for, say, 30-45 minutes, another group answering questions for the same period of time, while a third group offers the 'conducted tour'. Some thought should be given to the assessment which will follow this process so that the same questions are asked of each interviewee. If references are called for at the stage, the Committee might ask the referees to comment on specific areas of the applicant's work and character.

This list of people could then be reduced further. If there were more than one applicant remaining in whom the Committee were still interested, they could be heard on successive Sundays by the entire Nominating Committee, with an interview following immediately. It is probably best to use a 'neutral' church for these occasions. A nominee could then be selected. This approach has the potential of greatly reducing the time span of the search process, and is, in the opinion of the Ministries Council, far less susceptible to being construed as prejudicial to the rights of candidates. Ministry is a demanding 'all round' vocation, and assessment of candidates should seek to elicit all round gifts and skills rather than be settled for or against on the strength of the conduct of one service of worship.

h) Interviewing candidates

Committees sometimes find this part of the vacancy process the most daunting. It should be remembered that an interview is simply a means of eliciting information and trying to establish if what the candidate has to offer matches what the congregation is seeking. For this reason, it is very important that the members of the Committee are fully conversant with all aspects of the congregation's life and work – membership, attendance, finance, organisations, activities, difficulties, future plans etc. The interview helps assess attitudes, personality, strengths and weaknesses, and the ability of the candidate to work with others. However, an interview is a two-way conversation and questions should be couched in such a way as to encourage dialogue.

The candidate should actively be encouraged to question the Committee about the congregation, its spiritual life and activities. The atmosphere for the interview should be relaxed and friendly to encourage a free exchange of information and views. It may be best to sit at tables for ease of writing notes and have names of members of the Committee clearly displayed.

Remember, both you and the applicant are equally trying to discern God's will at this point, and not trying to recruit or impress each other.

It is also important for the Committee to elicit all the information it wishes to have about a candidate before any interview takes place. The candidate's CV should provide much of the factual information required; however, the Committee should use the interview as an opportunity to explore any gaps in a candidate's personal history and to find out more about their various experiences. The members of the Committee should appreciate that the onus is on them to find out what they want to know, rather than on the candidate somehow to meet the unexpressed thoughts of the Committee.

It is of the utmost importance that the interview process:

- gives the interviewee an easy place to start, allowing the opportunity to settle nerves;
- succeeds in achieving a rapport with the candidate;
- elicits the information needed to make a decision;
- ensures that all candidates are treated equally and fairly;

- does not breach Act V 2007 anent Discrimination (Appendix II)
www.churchofscotland.org.uk/about-us/church-law/acts

Good interviewing practice

- asks open questions which lead to discursive answers;
- has questions already prepared, which are asked of all those to be interviewed;
- follows up lines of questioning when the answers given do not elicit the full picture;
- asks the interviewee to speak of real examples of their work, as well as seeking to establish their outlook and understanding of various issues.

When interviewing, it is best to explore areas of interest and importance – especially any that might be problem subjects – where there can be a full and frank exchange of views and all members of the Committee can participate. Some suggestions are given below:

- Why apply for this parish?
- What is its attraction?
- What has the candidate to offer?
- Why a change of parish at this time?
- What have been the successes and achievements in their present charge? What have been the disappointments?

Explore what are the strengths of the candidate. Find out the weaknesses (not to eliminate, but to realise that if this candidate becomes minister, help will be needed in these areas).

Ask about the candidate's theological stance. If the candidate has used the terms 'liberal' or 'conservative evangelical' in the letter of application, the Interim Moderator can offer guidance to the Committee on the meaning of these terms. This is always easier to explore in relation to how the candidate would react to real situations, eg infant baptism, marriage of non-church members or divorced persons, lapsed membership, social activities, finance, fundraising, new forms of worship, choirs and praise bands, etc.

Inappropriate Questioning

In relation to the General Assembly's Protection Against Discrimination Act 2007, you should remember that you are seeking to call a minister and this means that you must respect the right of the minister's spouse and family to be as much, or as little, involved in the life of the congregation as they choose. It is not permissible to ask what will be the involvement of the minister's spouse or family. It may be relevant to ask about the candidate's hobbies, means of relaxation and personal support systems, and this in its own way may lead to a natural conversation about the candidate's situation. Otherwise, if this is not volunteered, it is not appropriate to ask such direct questions.

Are the candidate's priorities compatible with those of the congregation?

Bear in mind a minister is a leader in many situations. Therefore you need to assess him or her as a potential Moderator of the Kirk Session or convener of other groups. Key areas for consideration here are the ability to grasp a situation, take control, give advice and direction, and establish good and harmonious working relationships with others.

The minister is also a pastor visiting homes and hospitals in all sorts of situations. Does this person inspire confidence? Could confidences/troubles be confided in him/her?

The minister will also be a key member of the community beyond the church, invited to conduct funerals of those who are not members of the church, responding to an invitation to be a school chaplain, and taking part in other community activities. If this is an important

part of your congregation’s vision and activity, you should be sure to include questioning in this area. Could this person be a future minister of congregation and parish?

The Committee should not fall into the trap of looking for a perfect candidate, but should try to find someone who will be part of a team, in which all will be expected to play their part.

Note-taking is a perfectly legitimate part of interviewing.

i) Hearing candidates

The conduct of Public Worship is the prime responsibility of a minister. This will be an important concern of the Committee.

When the Committee is ‘hearing’ a minister, it is not a good idea to sit together in Church but rather spread out and merge with the congregation and so get a ‘feel’ for the Service.

- How do you assess the worship? Is it carefully thought out and prepared? Do the constituent parts make for a unity – or is it a number of units unrelated to each other? Are illustrations used to help – or as gimmicks? Is the content relevant and helpful? Is it topical? Is it Bible based?
- Does it make you think of your own faith and belief?
- What of the presentation? Is it fluent, audible, easy to listen to, etc?
- Is there a rapport between minister and congregation?
- Take into consideration the fact that the candidate may not be (and, if a probationer, will not be) in his/her own Church, and so may be slightly ill-at-ease.
- How well does the candidate communicate with all ages? Remember a minister is called to teach, preach, pray and care for all ages.
- Make discreet notes during the service to consider later.

It may be helpful for individual Committee members to have their own score sheet for each candidate (say out of 10). Mark for such things as preparation, content, inspirational effect, children/young people, teaching value and so on.

Relative to all of these questions and any others that may be relevant to the local situation, it may be useful to design a grid which allows members to comment on or rate candidates under various headings. A grid may look something like this, but it is important to realise that this is an *aid* to decision making and not the *means* of decision making:

Heading	Comment	Questions for Later	Marks 1 – 10

Such a process helps to safeguard the Committee against prejudice and discrimination. It also reveals the following:

- that the criteria for selection have been considered beforehand;
- that individual committee members consider all the evidence and not just that which supports an instinctive reaction; and
- evidence on which to base a judgement and to explain why an candidate was unsuccessful should feedback be requested.

j) Choice of Nominee

Having interviewed and heard all the selected candidates, the Committee must now make its choice of a Nominee to recommend to the congregation.

Bearing in mind what has been said earlier regarding strategy and process, the Committee should be able to go confidently to the congregation with a nomination.

It should be remembered that when any vote is taken, the Interim Moderator has no vote at all. Anyone else acting as Convener has a vote, but not a casting vote. The Nominating Committee should remember that, where there is lack of unanimity or potential for deep division, it may consider re-advertising and beginning the process over again.

Having agreed on a nominee and the candidate having accepted the nomination, the Convener of the Nominating Committee should immediately make contact with the Presbytery's Advisory Committee who will review the process followed and offer any further advice (see section 13.3 of Vacancy Procedure Act 2003). Only once that has happened can the name of the nominee be made public – and if the nominee is a minister currently in charge, the timing of any announcement should be discussed with the nominee to ensure his or her congregation are informed simultaneously.

Please note that it is the decision of the COMMITTEE that is being recommended to the congregation. Whether that decision is unanimous or not, it is a collective decision and should be regarded as such by all members. It will be unhelpful to the ministry of the new minister and congregation if it is known that the Committee was divided.

Any other candidates should now be informed that the Committee has made its choice of a Nominee, if this has not already been done. They should be thanked for their interest in the vacancy and any outstanding costs that they may have incurred should be reimbursed.

Arrangements will then be made by the Interim Moderator for the successful candidate to conduct public worship in the Church on a convenient date. The Interim Moderator will also ensure that all the legal requirements are observed regarding arrangements made for voting, signing of the Call and notification of Presbytery. Arrangements for the Ordination and/or Induction will then be made by Presbytery.

That effectively ends the work of the Committee. They have done what they were instructed to do. The Vacancy Procedure Act describes what would happen in the event that the Committee was unsuccessful in bringing a Nominee to the congregation within the allocated two-year timescale.

4. EXPENDITURE

During its work, the Committee and members will incur expenditure – advertising, postage, stationery, travel etc. These expenses should be paid by the congregation.

Candidates will also incur expenditure in attending for interview and the conduct of worship. Such expenditure should be reimbursed immediately. This may involve pulpit supply fees if the minister has had to make arrangements to be heard in another venue, overnight accommodation and travel expenses.

In both cases, for Committee members and candidates, the standard Church of Scotland mileage rate for Committee work will apply.

5. DISCHARGE OF COMMITTEE

After the Nominee has been elected, the Committee is discharged, having completed its business. All papers relating to candidates should be returned to the Clerk of the Committee to be destroyed, and electronic copies and emails should be deleted. The papers relating to the Nominee will be passed to the Presbytery and they will also be destroyed after a period of time. The rule of confidentiality that applied during the course of the Committee's work should be maintained, and details relating to the Committee's work should not be disclosed at any time.

6. THE VACANCY – A THING OF THE PAST

The vacancy is now a thing of the past. A new era has begun in which all should work together to support the new minister and family through encouragement and prayer.

APPENDIX I

Procedures for Kirk Sessions, Nominating Committees and Interim Moderators during a Vacancy involving a team ministry with an Associate, Deacon, Parish Assistant or Project Worker in post.

These Guidelines are offered by the Ministries Council and are designed to facilitate communication and to prevent bad practice. These Guidelines meet the requirements of the General Assembly with reference to the Joint Report of the Ministry Council and the Legal Questions Committee (May 2007).

It is important to note that the object of these Guidelines is to meet the requirements of the consultations which have been taking place between the Church and Governmental Departments; as such these Guidelines supersede any previous national or local Guidelines and are prepared for use throughout the church.

The term 'member of staff' means Associate Minister, Parish Assistant, Deacon, Project or Specialist Worker employed by the Ministries Council. They are also relevant where there are locally employed staff.

1. Immediately after the Interim Moderator is appointed, s/he should arrange to meet with the member of staff prior to the appointment of a Locum. The Interim Moderator has an official function as the line manager and his or her knowledge of the work being normally undertaken by the member of staff will be important, not least in the selection of a suitable Locum.
2. The purpose of the meeting is to allow the member of staff to share what s/he is already involved in, what the agreed remit of the post is, and what s/he might be able to do during the vacancy in order to maximise the best possible use of resources to meet the needs of the congregation and parish – hospital visits, funerals, home visits, worship etc. Each Ministries Council Appointment has its own specific objectives and it should not be assumed that the member of staff will be free to take on duties previously undertaken by the minister.
3. The member of staff and Interim Moderator should meet to share information and for planning, prayer and fellowship at least once a month if a Locum is appointed. Even if a Locum is appointed, the Interim Moderator remains the team leader; these responsibilities for the work of the team cannot be delegated. The member of staff will not be answerable for his or her work to the Locum – the two are colleagues within a team led by the Interim Moderator.
4. In parishes where a Locum is not appointed, more frequent contact with the Interim Moderator may be required.
5. Where a Locum is appointed, s/he should meet with the member of staff once a week or at least fortnightly, to share information and for prayer and fellowship.
6. The Parish Profile will highlight that the team ministry agreed by Presbytery will include a Ministries Council Appointment and (where relevant) that there is a member of staff in post.
7. Even if the member of staff is a member of the vacant congregation, by virtue of the conflict of interest involved, the member of staff may not be elected to serve on the Nominating Committee.
8. It will, however, be important that applicants for the vacant Charge are given an opportunity to meet with an existing member of staff at some point during the Nominating Committee's process. It is recommended that this should be factored into the process at time of interviewing the short-listed applicants. Time and space should be given for a meeting of the member of staff and each of the applicants. Time should be allowed for this to happen prior to the interview with the Nominating Committee. The Nominating Committee can then

incorporate, in their interview, questions designed to establish whether the applicant could establish a working relationship with the existing member of staff.

9. Again, when short-listed applicants come to view the church, parish and manse etc, the member of staff may be part of the group that provides the guided tour. His or her insights, especially on the life of the parish, will be helpful to the applicant and the conversation amongst the group will be helpful in establishing whether a working rapport is likely to develop.
10. The Nominating Committee should remember that it is their responsibility alone to come to a decision on the Nominee and under no circumstances should the member of staff be placed in the invidious position of being asked for their opinion on applicants or be given the opportunity to exercise a veto on the choice of the Nominating Committee.
11. As in all matters relating to the procedure of the Nominating Committee, the member of staff will hold in strict confidence the identity of any applicants for the Charge and any information that they might be party to as a result of being involved in the process.
12. For the avoidance of doubt, the member of staff should not be present on any occasion when the Nominating Committee is hearing applicants conduct worship.
13. If the member of staff is a member of the congregation s/he will, of course, be able to exercise their right to vote at the election of the Nominee and also sign the Call.

APPENDIX 2

V. ACT ANENT DISCRIMINATION (AS AMENDED BY ACTS III AND VIII 2012)

Edinburgh, 19 May 2007, Sess. I

The General Assembly hereby enact and ordain as follows:

1. For the purposes of this Act:
 - (a) protected grounds shall be one or more of the following: age, gender, marital status, colour, racial group, ethnic origin, national origin, nationality, sexual orientation or disability (where 'disability' shall mean a disability certified by the individual's general practitioner): but in each case the protection granted by this Act shall be interpreted in conformity with the existing legislation of the General Assembly;
 - (b) 'direct discrimination' shall mean the treatment of an individual less favourably than another, on any of the grounds listed in paragraph (a) above, where the relevant circumstances of the cases are not materially different;
 - (c) 'indirect discrimination' shall mean the application of a provision, criterion or practice which disproportionately impacts on certain individuals according to their age, gender, marital status, colour, racial group, ethnic origin, national origin, nationality, sexual orientation or disability;
 - (d) 'discrimination in the course of ministerial profession' shall mean discrimination that affects the selection, appointment, translation or training of any minister of Word and Sacrament to whom the provisions of civil employment law do not apply, or any other detriment to him or her, or that affects the selection of a Nominee in terms of Act VIII 2003 (as amended);
 - (e) 'harassment' shall mean behaviour (including speech, writing or action, or any combination of them) unfairly perpetrated against a person as a result of discrimination, and which in the opinion of the Presbytery would alarm or distress a reasonable person or compel his or her actions or decisions;
 - (f) 'victimisation' shall mean any behaviour including speech, writing or action, or any combination of them, unfairly perpetrated against a person as a result of his or her having made a complaint in terms of this Act, or given evidence on behalf of someone making a complaint, or been otherwise involved in the procedures described in this Act;
 - (g) 'complaint' shall mean a complaint that discrimination, harassment or victimisation has been committed, or that the commission of discrimination, harassment or victimisation has been knowingly permitted and not prevented;
 - (h) 'Respondent' shall mean a person, committee or court of the Church against whom an accusation of discrimination, harassment or victimisation has been made;
 - (i) 'Committee' shall mean a Council, Statutory Corporation or committee of the General Assembly, or a committee of any inferior court or financial body;
 - (j) 'Presbytery' shall mean the Presbytery in whose bounds is the congregation of which the Respondent is a member or adherent;
 - (k) 'The Judicial Proceedings Panel' shall mean the Panel referred to in section 1(e) of Act III, 2001 (as amended);
 - (l) 'Special Committee of Presbytery' shall mean a Committee of three persons appointed from the Judicial Proceedings Panel in terms of section 12 of whom at least one will be a minister and one an elder.
2. This Act shall apply only to discrimination and harassment committed by a court or committee of the Church or by an individual member or agent of a Court or committee in the performance of his or her duties.
3. It is unlawful to discriminate either directly or indirectly against a person.

4. It is unlawful to perpetrate harassment or victimisation, as defined in section I above, against any person.
5. Where an individual against whom an allegation of discrimination, harassment or victimisation is made is a minister, licentiate, deacon or graduate candidate, the provisions of Act III 2001 anent Discipline of Ministers, Licentiates, Deacons and Graduate Candidates (as amended) shall apply and the Presbytery shall proceed in terms of that Act. For the purposes of that process, discrimination, harassment and victimisation as defined in this Act are hereby declared to constitute disciplinary offences in terms of the said Act III.
6. For the avoidance of doubt, where an individual by whom an allegation of discrimination is made is an employee of any court or committee of the Church, and that allegation arises within the context of that individual's employment, the provisions of civil employment law shall apply.

Allegation of Discrimination

7. Notice of circumstances indicating that discrimination has been committed by a court or committee of the Church or by an individual member or agent of a Court or committee in the performance of his or her duties, must be submitted to the Presbytery Clerk within three months of such alleged discrimination. Except where section 5 or 6 above applies, the Presbytery Clerk shall within seven days remit the matter to the Presbytery's Superintendence Committee in terms of this Act, and report that action to the next ordinary meeting of the Presbytery.
8. The Superintendence Committee shall, within seven days of its receipt of the complaint, appoint a Group of three members of the Presbytery (but not of the Superintendence Committee), or two such members along with one member of a neighbouring Presbytery appointed for this purpose in terms of Act VI 2002 (as amended) section 2.
9. The Group shall meet separately with the complainer (if any), with the person(s) allegedly discriminated against (if other than the complainer), with the Respondent, and with any other individuals the Group believes it appropriate to meet. The purpose of these meetings shall be to ascertain a preliminary account of the circumstances.
10. The Group shall normally institute steps to effect mediation or conciliation between or among the parties, and these steps and their outcome shall be reported to Presbytery through the Superintendence Committee. The report to Presbytery need not contain the names of any of the parties in the event that the steps have, in the opinion of the Superintendence Committee, resolved the complaint without the need for further action on the part of the Presbytery.
11. The Group may decide not to attempt to institute the steps referred to in section 10, but shall narrate to the Presbytery, through the Superintendence Committee, their reasons for such a decision, and the Presbytery may instruct the Committee to make a fresh attempt to resolve the matter through mediation or conciliation.

Investigation of Complaint

12. In the event that the complaint has not been resolved through the steps referred to in Section 10, the Presbytery shall appoint, from the Judicial Proceedings Panel, a Special Committee of Presbytery. For the avoidance of doubt, a Presbytery shall not select anyone to serve on a Special Committee who is a member of their own Presbytery.
13. (a) In considering whether to carry out an investigation, the Special Committee of Presbytery shall have regard to all the relevant facts, and in particular:
 - (1) the bona fides of any person making an allegation that discrimination may have been committed;

- (2) any representation made by the person who is the subject of the allegation; and
- (3) the gravity of the alleged offence.

For the avoidance of doubt the standard of proof throughout proceedings shall be a balance of probabilities.

- (b) Before deciding whether to carry out investigation the Special Committee of Presbytery shall intimate in writing to the Respondent the nature of the offence alleged and the nature of the evidence purported to exist in support of the allegation and shall offer him or her the opportunity to make any answer thereto, provided that he or she shall not be obliged to answer.
 - (c) If the Special Committee of Presbytery decides that it is not appropriate to carry out an investigation in respect of all or any of the allegations made, the Special Committee of Presbytery shall report that decision to the Presbytery. Without prejudice to its existing powers of superintendence, the Presbytery may issue an instruction to the Respondent regarding his or her conduct. Any disobedience of that instruction may be treated as a disciplinary offence.
 - (d) For the avoidance of doubt, a decision of the Special Committee that it is not appropriate to carry out an investigation in respect of all or any of the allegations shall not be subject to appeal in terms of Act V, 2004 anent the Intimation of Appeals or dissent and complaint or any other form of review other than a procedural review carried out by three members of the Judicial Proceedings Panel appointed by the Legal Questions Committee. Said review can be sought only on one or both of the following grounds: (i) that there was an irregularity or breach of the principles of natural justice in the process followed by the Special Committee which materially influenced its decision; and (ii) that its decision was materially influenced by some incorrect fact. In the event that the persons so appointed to carry out such a procedural review determine that one or both of the foregoing grounds have been established, they shall order a new investigation to be carried out by a different Special Committee of Presbytery selected from the Judicial Proceedings Panel. The decision of the procedural review shall be final and not subject to appeal, dissent and complaint or any other form of review.
14. (a) If the Special Committee of Presbytery decides to initiate investigatory proceedings it shall:
- (1) give notice to the Respondent of the decision to investigate the case and of the allegation or allegations which are to be investigated;
 - (2) give notice to the Presbytery of that decision and of the allegation or allegations which are to be investigated; and
 - (3) give notice to the Legal Questions Committee, which shall appoint a legally qualified assessor to advise the Special Committee of Presbytery on matters of law and procedure.
- (b) On receipt of the notice referred to in section 14(a)(2), the Presbytery shall make such arrangements as appear to it appropriate for the provision of pastoral support for the Respondent and his or her family, for the person or persons who made the allegation and for any witnesses within the bounds of the Presbytery.
 - (c) At the request of the Special Committee, or on its own initiative, the Presbytery may impose upon the Respondent an administrative suspension, being an instruction by the Presbytery to the individual to abstain from the exercise of all the functions of his or her office until proceedings under this Act are finally disposed of; and it shall not constitute a form of censure.

15. The Special Committee of Presbytery shall carry out such investigations as it deems necessary to determine whether discrimination may have been committed, and keep a Record Apart of the investigatory proceedings.
16. Before reaching any conclusion, the Special Committee of Presbytery shall make known to the Respondent the substance of the complaint made against him or her and the nature of the evidence existing in support of the allegation, and shall offer him or her the opportunity to make any answer thereto; provided that he or she shall not be obliged to answer.
17. Upon consideration of the allegations and evidence submitted and of any answers given, the Special Committee shall be entitled to resolve that no further investigation shall be carried out if there is no case to answer. In that event, it shall report to the Presbytery which shall recall any administrative suspension imposed in terms of section 14(3). An appeal brought by any party against any actions taken in terms of sections 13 to 17 inclusive of the Act shall be regarded as an intermediate appeal and shall not sist the Special Committee's process. For the avoidance of doubt, a decision that no further investigation shall be carried out shall not be subject to appeal in terms of Act V, 2004 anent the Intimation of Appeals or dissent and complaint or any other form of review other than a procedural review carried out by three members of the Judicial Proceedings Panel appointed by the Legal Questions Committee. Said review can be sought only on one or both of the following grounds: (a) that there was an irregularity or breach of the principles of natural justice in the process followed by the Special Committee which materially influenced its decision; and (b) that its decision was materially influenced by some incorrect fact. In the event that the persons so appointed to carry out such a procedural review determine that one or both of the foregoing grounds have been established, they shall order a new investigation to be carried out by a different Special Committee of Presbytery selected from the Judicial Proceedings Panel. The decision of the procedural review shall be final and not subject to appeal, dissent and complaint or any other form of review.
18. In the event that the Special Committee of Presbytery decides to proceed further in terms of this Act, it shall bring a report to the Presbytery in numbered paragraphs stating its findings in fact, a recommendation as to disposal of the case, and a determination of whether there has been any element of harassment or victimisation. The Presbytery shall hear and dispose of the Report.

Disposal of Complaint

19. The Presbytery shall dispose of the case as seems appropriate to it. Where the Presbytery determines that discrimination has been committed by an individual, it shall select one of following disposals:
 - (a) instruction to any party regarding future conduct; disobedience of such instruction constituting the disciplinary offence of contumacy;
 - (b) reprimand, which shall be an expression of disapproval or particular behaviour with counsel regarding future conduct;
 - (c) removal from a particular office held, including removal from membership of a Kirk Session;
 - (d) deprivation of status as an elder, subject to future restoration by the Presbytery.

Harassment and Victimisation

20. In disposing of the case, the Presbytery shall always take into consideration whether there has been:
 - (a) any element of harassment; or
 - (b) any element of victimisation of the complainer following the bringing of the complaint, by any party, and shall adjust the severity of any disposal accordingly.

Miscellaneous

21. A complaint may be made in terms of this Act against a Presbytery or a committee or Council of the General Assembly, and shall take the form of a Petition to the Commission of Assembly.
22. All decisions made by Presbyteries in terms of this Act shall (subject to the provisions of section 18) be subject to the normal rights of appeal to the Commission of Assembly, but such appeal can be brought only on one or more of the following grounds: (a) that there were irregularities in the process; (b) that the final decision was influenced by incorrect material fact; or (c) that the Special Committee acted contrary to the principles of natural justice.
23. No legal expenses in connection with this Act shall be met from the central funds of the Church.
24. Act VI 2002 anent Co-operation by Presbyteries (as amended) is hereby further amended by the removal in section 2 of the word 'or' and the addition, to the end of section 2, of the words 'or Acts IV and V 2007'.

This Act came into effect on 1 September 2007.

APPENDIX 3

GUIDELINES ON UNSOLICITED APPROACHES TO MINISTERS

It has been brought to the attention of the Ministries Council that some ministers in the early years of their first charge are being approached by Nominating Committees to apply for another charge. Because of this, it has been decided to issue some guidelines to those involved in the vacancy process.

Under normal circumstances, newly ordained ministers are encouraged to stay in their first charge for a minimum of five years, especially if that charge has *Unreviewable Tenure*. This allows the new minister to settle into a new home, put into practice the academic, practical and pastoral training he/she has received over the previous few years and, not least, to bring some stability to a congregation which may have had a long vacancy. In addition, those ministers with a spouse and family can settle into a new job, perhaps new school, new area and make new friends.

However, it is recognised that ministers, in answering a call to a charge which has a five-year *Reviewable Tenure*, are in a less secure situation and, therefore, in their fifth year may be searching for, or be open to, an invitation from another congregation. In this case, it may be reasonable for a Vacancy Committee or Interim Moderator to approach such a minister.

There are also exceptional circumstances (as illustrated in *Act VIII, 2003, Section 4 (2)*) that may lead a minister in his/her first five years or the respective congregation to consider translating to another charge.

Please note, too, that while the above applies to ministers in their first charge, it is good practice not to make unsolicited approaches to ministers who have served fewer than three years in their current charge.

Further Information

These *Guidelines for Nominating Committees*, together with *Guidelines for Interim Moderators*, *Appointment of a Locum during a Vacancy* and the *Schedules* can be accessed on the Church of Scotland website, following the link:

www.churchofscotland.org.uk/resources/subjects/ministries_resources

Or, if you require a hard copy, please contact:

Miss Sheila MacRae

Support Assistant, Ministries Council

Tel: 0131 225 5722, ext 2335

Email: smacrae@churchofscotland.org.uk

Should you have queries about any of these documents or wish further information, please contact:

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