
REPORT OF THE COUNCIL OF ASSEMBLY TO THE COMMISSION OF THE GENERAL ASSEMBLY TO BE HELD ON 3 OCTOBER 2018

PROPOSED DELIVERANCE

1. Receive the report.
2. Appoint a Special Commission of five persons independent of the present Councils of the Church to consider the matters within the following remit, to consult widely and to report to the General Assembly of 2019:-
 - a. To review the governance structures of the Church of Scotland Charity number SC011353 and make recommendations for a trustee body which would conform to best practice (including the avoidance of conflicts of interest) in terms of charity law while being true to Presbyterian church polity.
 - b. To recommend key principles for a national structure which is “*lean and fit for purpose to lead reform*” (GA 2018) and which would ensure that the General Assembly can effectively and efficiently direct its Councils and Committees so that they prioritise their work and resources to support the mission of the local Church.
 - c. To recommend what further work should be done to embed these principles and review the current pattern of Councils and Committees in order that these might better focus on the Church’s understanding of its vocation to be a national church engaged in mission.
3. Appoint as members of the Special Commission the following persons: (*suggested names will be sent prior to the meeting of the Commission.*)

REPORT

The Council of Assembly (CofA) was formed by the General Assembly of 2004 which set its membership, remit and powers.

In 2007 the General Assembly agreed that the Charity Trustees for “The Church of Scotland: Charity Number SC011353” should be all the members of its Councils and Committees.

In 2008 the Special Commission on Structure and Change brought forward a series of recommendations one of which was to make the CofA Secretary a separate full-time appointment. Previously this function was carried out by the Principal Clerk. It also pressed for new ways of promoting the representation of Presbyteries on all Church Councils and recommended the appointment of a Special Commission to consider the relevance of the Third Article Declaratory.

At the 2009 Assembly the CofA asked that its voting members be appointed as the Charity Trustees of the Unincorporated Councils and Committees of the General Assembly. However, the Assembly was persuaded that instead of agreeing to this a Special Committee of nine persons should be appointed to “review the implications for the governance of the Church of Scotland of contemporary standards and practices in the running of charities”.

This Committee reported to the 2010 Assembly and asked that the voting members of the CofA be appointed as the Charity Trustees of the Unincorporated Councils and Committees of the General Assembly. The Assembly approved. At the same time the Assembly required that members of the various Councils and Committees of the General Assembly apply to their duties the same standards as are required of charity trustees.

This is something of the journey that the CofA has travelled these last twelve years. During that time the secretarial function has been enhanced, the remit occasionally amended and most significantly the duty of being a charity trustee body has been laid on a group which was not designed for that function. Along the way many good things have been achieved while other aims and ambitions have not been met.

The CofA share the view expressed by the 2018 General Assembly that reform is “much needed” within our Church and presented its Strategic Plan in that spirit. However, the rejection by this year’s Assembly of the CofA’s Strategy proposals and also their initiative on reviewing pensions trusteeships has caused the CofA to reflect on its remit, membership and working patterns and the broader structure of governance and authority within which it sits.

The General Assembly of 2018 approved several sections of deliverance the fulfilment of which underline the major challenges for the CofA working in the current framework.

These sections of deliverance are as follows:-

3. Instruct the Council to return to the General Assembly of 2019 with a radical action plan for 2019-2022 to achieve much needed reform within our Church.

4. Instruct the Council to work collaboratively with other Councils, Committees and Presbyteries to bring proposals to the General Assembly of 2019 for structural change, consulting with the Rev Dr Doug Gay about the ideas contained in the recent Chalmers Lectures and with other appropriate persons with expertise in the reform of institutions and structures, to enable a Church structure that is lean and fit for purpose to lead reform.

5. Instruct the Council, in collaboration with other Councils, Committees and Departments as appropriate, to bring forward proposals to the General Assembly of 2019 that will allow more funds for mission work, including the freeing of funds held only for property matters and a reformed Ministries and Mission allocation process.

Given both the historical perspective, the CofA’s own experience and these instructions of the General Assembly the CofA believes that these are some of the areas which may usefully be reviewed:-

- *The composition of the CofA where, although all the voting members are appointed by the Assembly, some are appointed Council conveners and others are appointed as trustees through a different recruitment process. This potentially produces conflicts of interest.*
- *Given a limited budget the national Councils and Committees are often competing with each other for resources which can militate against collaborative working. The Councils and Committees retain much of their independence reporting directly to the General Assembly and having control of “their” invested funds. The Council of Assembly has not achieved a place where real coordinated action and the sharing of resources can happen.*
- *The lines of authority and the areas of responsibility are not always clear and it can be difficult to work in a unified way.*
- *Charity Law has evolved in the years since the Council was established and even since it was given the duty of acting as the trustee body.*
- *The CofA’s list of remits is too long and the task of weaving between Councils, Committees and the wider Church is complicated.*

- *The question of how the Charity Trustees report their work to the General Assembly (aside from the reporting of the whole Council of Assembly) has never been clarified.*
- *It can be difficult for the Councils and Committees of the General Assembly to respond to the views of Presbyteries and Kirk Sessions given that there are no formal mechanisms for interaction between these courts and the work of the Councils and Committees.*
- *In the changed landscape of civil legislation the independence of the Church provided by the Church of Scotland Act of 1921 can no longer be taken for granted.*

The CofA has become increasingly aware of tensions and difficulties within its own operation. It has sought ways to mitigate the inherent stresses and strains but these have not been completely satisfactory.

The CofA believes that time is of the essence given the urgency of decisions facing the Church. There is a pressing need for the Church to have mechanisms by which work and use of resources can be prioritised and the clamour for action, signalled at this year's General Assembly, can be given practical expression.

Accordingly the CofA requested that the Legal Questions Committee call a Commission of the General Assembly in terms of Act VI 1997.

They suggest that a Special Commission of five persons be formed which would report to the General Assembly of 2019 in terms of the remit set out in section 2 of the deliverance. In preparation for the meeting of the Commission of Assembly some potential members of the group have been tentatively approached but the CofA fully understands that it is for the Commission of Assembly to determine how it would like to proceed and to whom it would be willing to entrust this important task.

In the name of the Council

SALLY BONNAR, *Convener*
DAVID WATT, *Vice-Convener*
MARTIN JOHNSTONE, *Acting Secretary*