



The Church of Scotland

Commission of the General Assembly

June/July 2020



THE CHURCH OF SCOTLAND

Commission of the General Assembly

Meeting date: 7 July, 2020

Proposed Deliverance

The Commission of the General Assembly:

- 1) Receive the Report.
- 2) Agree that until the opening day of the next General Assembly it shall be permissible for a Presbytery to sustain a Call by following a vacancy process which follows the terms of the Ministers and Deacons in Civil Partnerships and Same Sex Marriages Act (Act I 2015) and the Vacancy Procedure Act (Act VIII 2003) save only to the extent that those are altered by the Protocol set out in the Report.
- 3) Agree that the Protocol set out in the Report may subsequently be amended as directed by the Legal Questions Committee but only to the extent necessary to reflect changes in civil legislation.
- 4) Agree that until the opening day of the next General Assembly both Presbyteries and Kirk Sessions may meet and vote by video-conferencing or audio-conferencing or a combination of the two, provided that the principles stated in the Protocol set out in the Report shall be adhered to by all involved.

22 June, 2020

Report of the Legal Questions Committee

Representations were made to the Committee by Presbyteries and staff from the Faith Nurture Forum all of whom were concerned that the Covid-19 Regulations issued by the Scottish Government prevented the operation of the Vacancy Procedure Act and the related Ministers and Deacons in Civil Partnerships and Same-Sex Marriages Act.

These blockages mean that:-

- a vacant congregation which has been given the right to call a minister cannot take steps to fill the vacancy,
- probationers at the end of their training cannot find their first parish,
- admissions candidates cannot be called and inducted,
- ministers who feel called to another charge cannot take that vocation forward
- those who received an invitation to preach as Nominee immediately prior to lockdown have not been able to progress any further since that date

The Committee believe that this cannot be for the good of the Church nor the well-being of the individuals involved.

What is being suggested are ways of working which allow us to honour the spirit and principles of the Church's legislation and traditions while allowing Presbyteries, congregations and ministers to move forward in these exceptional times.

We would make these points about the Protocol:

- it is permissive – it may be used by a Presbytery to fill a vacancy but the Presbytery may instead choose to wait until the Covid-19 restrictions are lifted and it can use the Vacancy Procedure Act in the normal way.
- it is short-term – it is suggested that the Commission give permission for the Protocol to be followed only until the General Assembly itself can meet and make decisions on these matters.
- it does not seek to make permanent changes to legislation.

The Protocol

In light of the coronavirus pandemic and the restrictions it imposes on daily activities such as travelling, gathering and meeting, and with the intention of promoting the vitality and well-being of Presbyteries, Kirk Sessions, ministers and congregations, the following shall be permissible:

(1) Vacancy process

To enable the Church's vacancy processes still to continue so that a minister may be called to a vacant charge, and notwithstanding the provisions of the Ministers and Deacons in Civil Partnerships and Same Sex Marriages Act (Act I 2015), section 3, and the Vacancy Procedure Act (Act VIII 2003), sections 15, 21(1), 22-23, and 30-32, a Presbytery may sustain a call following a vacancy process which adheres to the following general Protocol:

Where this Protocol is to be used to any extent, the Vacancy Procedure Committee, having considered the full circumstances of the vacancy, shall make that decision and then shall inform Presbytery and the congregation(s) concerned through the Schedule A process in terms of in section 2 of the Vacancy Procedure Act (Act VIII 2003); intimation through the Schedule A process shall proceed in line with the principles noted below;

Act I 2015

- *Section 3:* meetings of the Kirk Session(s) may take place by video-conferencing or audio-conferencing or a combination of the two, such that elders, whilst not physically present in the same location, have opportunity to hear the contributions of others and make contributions (under the direction of the Moderator) and the vote(s) may take place by such means as ensure a secret ballot (while maintaining verification of eligibility to vote) and are agreed by a majority of the Kirk Session(s) present at a meeting held by video-conference or audio-conference or a combination of the two;

Act VIII 2003

- *Section 14: Electoral Register:* every effort shall be made to ensure that a full and complete Electoral Register is compiled, and that persons have the opportunity to seek to have their name added and their position considered; meetings may take place by video-conferencing or audio-conferencing or a combination of the two;
- *Section 15: Appointment of Nominating Committee:* the Session Clerk shall seek Nominations from the congregation and shall accept responses both by email and by post or hand delivery; upon receipt the Session Clerk shall, if an election is required, contact the congregation by email and/or post/hand delivery to provide summary information regarding each person nominated and to seek votes for the requisite number of persons;

- *Section 21(1): Nomination:* if the candidate is not able to travel to view the buildings, opportunity shall be given through video and audio for the candidate to view, and receive full and fair detail upon any matter relating to, the whole ecclesiastical buildings associated with the charge;
- *Section 22: Preaching by Nominee:* public worship may be conducted by any means which enables all those entitled to vote in the election to see and hear the nominee conduct the same act of worship including by means of a live stream or through recorded media made available by any appropriate means, or by a combination of the two;
- *Section 23: Election of Minister and Section 24: Ballot Procedure:* the vote may take place by those physically present (if any) completing a hard copy of a voting paper and those not, completing and posting or hand delivering a hard copy of a voting paper; the arrangements made shall ensure secrecy of the ballot while maintaining verification of eligibility to vote;
- *Section 30: Sustaining the Call, Section 31: Admission to a Charge and Section 32: Service of Introduction:* meetings may take place by video-conferencing or audio-conferencing or a combination of the two; in the case of ordination, this shall not take place until a physical and quorate meeting of Presbytery may lawfully take place and with due attention to hygiene, may lawfully ensure that there is imposition of hands; the giving of the right hand of fellowship may be postponed until regulations allow this; such physical meeting shall take place in the charge's place of worship (or as the case may be, one of them) failing which in such venue as will enable the meeting to be livestreamed;

(2) Virtual meetings for Presbyteries and Kirk Sessions:

Both Presbyteries and Kirk Sessions may meet and vote by video-conferencing or audio-conferencing or a combination of the two;

Provided that in respect of both (1) and (2) the following principles shall be adhered to by all involved:

- Every effort shall be made to ensure that all those eligible to attend any meeting held by video-conferencing or audio-conferencing or a combination of the two, can participate fully in such meeting, in terms of joining the meeting, in hearing and contributing to the debate (in terms of asking questions, engaging in discussion and moving motions) and in voting;
- Mechanisms such as the "raise your hand" feature on Microsoft Teams, or each participant being supplied with a printed paper with a "request to speak" indicator which they can hold up to be seen by others on the video call, shall be used wherever possible to facilitate participation;
- A vote may be taken at a meeting held by video-conferencing or audio-conferencing or a combination of the two, but where a secret and/or precise ballot is requested or provided for, that shall take place by those physically present (if any) completing a hard copy of a voting paper and those not, completing and posting or hand delivering a hard copy of a voting paper, declaring for the avoidance of doubt that in the case of a congregational vote, a mixture of voting methods may be agreed by the Kirk Session(s); declaring also that arrangements shall be made to ensure verification of eligibility to vote;
- Intimations to the congregation shall take place at online worship, by placing on the website and social media if used, and by email or letter and/or by phone so as to ensure that all members of the congregation receive intimation in some form or other, declaring for the avoidance of doubt that a mixture of intimation methods may be agreed by the Kirk Session(s);

- Wherever possible active assent shall be obtained, rather than any matter proceeding on the basis of presumed consent;
- In operating Vacancy process, overriding caution shall be exercised and there shall be as little innovation as possible;

And provided further that the practical operation of the Ministers and Deacons in Civil Partnerships and Same Sex Marriages Act (Act I 2015) and the Vacancy Procedure Act (Act VIII 2003) during this period shall be in accordance with detailed Guidance, reflecting the Protocol and principles outlined above, to be issued by the Principal Clerk; for the avoidance of doubt, such Guidance may extend beyond the sections of the Acts specifically mentioned above but shall remain in line with the spirit of enabling what is stated above.

In the name of the Committee

*Grant Barclay, Convener
Barbara Finlayson, Vice-Convener
George Whyte, Secretary*