

**MINUTE OF THE APPEAL HEARING  
BEFORE THE JUDICIAL COMMISSION  
IN THE MATTER OF AN APPEAL AGAINST A DECISION OF THE PRESBYTERY OF  
MELROSE AND PEEBLES GIVEN ON 3 SEPTEMBER 2019  
HELD VIA MICROSOFT TEAMS ON THURSDAY 10 JUNE 2021 AT 10AM**

**Sederunt:** Ms Morag Ross QC, Convener of the Judicial Commission  
The Very Rev Bill Hewitt, Vice-Convener of the Judicial Commission  
Rev Dr George J Whyte, Principal Clerk  
Ms Christine Paterson, Depute Clerk  
And eleven members of the Judicial Commission (“the Commission”) as follows:  
Rev Catherine Beattie  
Rev Jan Mathieson  
Rev Dr Gordon McCracken  
Rev Dr Ian McLean  
Mr Alan Cox  
Mr Chris Dunn  
Mr William Imlay  
Mr David McClements  
Mr Robert McDougall  
Mr Leslie Moffat  
Mrs Pauline Weibye  
**Appellant:** An elder  
**Respondent:** the Special Committee of the Presbytery of Melrose and Peebles

The Hearing was opened with prayer.

The Convener made some preliminary remarks confirming the procedure to be followed.

The Parties withdrew in order for the Commission to discuss some procedural matters and then they re-joined the appeal hearing.

In terms of Rule 8 of the Rules of Procedure set out in Schedule 2 to the Appeals Act (Act 1 2014) (“the Act”), the appeal then proceeded as follows:

- each Party made comment supplementary to their written submissions and was given the opportunity to make response to the written submissions lodged by the other Party;
- each Party answered questions put to them by members of the Commission; and
- each Party was given the opportunity to make final comments, with the Appellant being given the last word.

It was agreed that the Commission’s decision would be intimated to the Parties by email.

Parties withdrew and the Commission discussed its decision, including a short suspension for a brief lunch.

The decision of the Commission was in the following terms:

The Commission decided that it was able to reach a decision without the need to see or obtain further documents.

The Commission decided to uphold the appeal and quash the decision of the Presbytery of Melrose and Peebles taken on 3 September 2019.

The Commission took the view, in relation to the first ground of complaint, that there was a breach of the principles of natural justice or material irregularity of process on the part of the Special Committee of Presbytery, in particular in not establishing the full factual circumstances around the complaint.

On the third and fourth grounds of complaint, the Commission took the view that these were time-barred.

The Commission noted that further expansion of these reasons will be given in the written decision.

These decisions were taken unanimously.

It was confirmed that written reasons for these decisions would follow within 21 days.

The Commission was grateful to the Parties for the care and attention given to the preparation for this Hearing, which was regrettably held after a lapse of time due to circumstances outwith anyone’s control.

The Convener thanked everyone present for their attendance. The Hearing was closed at 2.01pm with prayer and the decisions of the Commission were intimated to the Parties by email.