

General Assembly 2018 podcasts

by Laurence Wareing

2. Saturday 19 May: afternoon

After lunch, the Moderator called for the Report of the Legal Questions Committee. The convenor, the Revd George Cowie, said that this was the longest ever report included by the committee in the *Blue Book*. This was because of the large amount of legislation that the committee had been asked to review. He said that most of the work had been about paring down and consolidating existing Acts in order to reduce their overall number. For example, three acts relating to ordination have been consolidated into one. The convenor's hope was that, as a result, members would find legislation more accessible.

The committee asked the Assembly to approve a new Discipline Overture and transmit it to Presbyteries for consideration under the terms of the Barrier Act. The new Overture draws together existing Acts that deal with matters of discipline, bullying and discrimination into a "consolidating and cohering Act".

The Overture is the fruit of a four year project and a wide-spread consultation exercise. The aim is to ensure that when discipline issues do arise, the best possible practice is followed by the Church. It is hoped that measures should not be heavier than needs be or take longer than necessary. For that reason, a three person commission is being replaced by a single assessor with an advisor. For that reason, also, there will be an accelerated procedure for individuals who admit the alleged offence.

The Church currently meets the full legal costs for Ministers and Deacons facing disciplinary procedures. Elders and other office bearers receive no support. Legal costs to the Church last year amounted to a six figure sum. The Committee is anxious to create a new system of legal aid that is less costly and offered on a more level playing field. All office bearers will be included under the new legislation.

Following an instruction from the General Assembly of 2017 the Legal Questions Committee was required to "undertake a study of the matters which would require to be addressed in any new legislation permitting Ministers and Deacons to officiate at same-sex marriage ceremonies." The core of this report is an Opinion by the Procurator Fiscal, who is the Church's independent advisor on legal matters.

The report is not bringing legislation at this time but *guidance*, outlining the context within which any legislation would have to be prepared if desired. The Opinion looks in particular at the implications for the Church of the Marriage (Scotland) Act 1977. A key consideration is the preservation of “the rights of individuals who wish to abide by historic and current practice of the Church in relation to human sexuality”.

The committee was asking the Assembly to note that this work had been undertaken.

Commissioners raised a number of detailed queries about the different areas of legislation under revision: whether there would be sufficient safeguards for individuals within the proposals to reduce legal aid; why should individuals be required to bring evidence of written legal advice in the event of admitting guilt? The Convenor said that, since the Overture relating to discipline would be going to presbyteries under the Barrier Act, there would be an opportunity for people to feed back comment, and for small adjustments to be made where it was felt greater clarity would be helpful.

Turning to the deliverance the first nine sections were accepted without further discussion. At this point, the Revd Bryan Kerr brought forward an amendment to the Deliverance instructing the Legal Questions Committee “to prepare legislation enabling those Ministers of Word and Sacrament and Deacons who wish to do so to be nominated to solemnise same-sex marriage ceremonies”, in light of the Committee’s report and the Procurator’s Opinion.

One commissioner proposed that the Assembly ‘depart’ from Mr Kerr’s amendment without discussion, in the interests of keeping the peace. A former Moderator said that peace would not break out by ignoring issues that cause dissent. On a vote, the Assembly agreed to discuss Mr Kerr’s amendment. He said that, though there had been much discussion over previous years about the ability of ministers in same-sex relationships to serve the Church of Scotland, there are many members of the Church who desire to be married to same-sex partners in church but don’t have that option. He believed that the Church should be able to consider this possibility within the principle of “constrained difference” established over previous years.

Mr Kerr’s seconder emphasised the anomaly of a broad Church able to accept ministers in same-sex relationships but unable to bless such relationships. “Those seeking God’s blessing are waiting and watching,” she said. Another commissioner proposed adding a caveat that legislation be prepared only if the Committee finds that safeguards, in their opinion, sufficiently protect against the risks they have identified. Supporting this, further speakers reminded the Assembly that the report had indicated that Church legislation couldn’t be “future-proofed” against civil legislation. The Convenor

agreed that “future-proofing” was difficult but that “we have to be brave to do whatever we think is right at the time”. On a vote, the amendment to Mr Kerr’s new section was accepted.

Returning to the now-amended section, one minister spoke about his two daughters, both married. His heterosexual daughter had had the choice of asking him to either officiate at her wedding or to walk her down the aisle. His lesbian daughter had no such choice. However, another commissioner urged the Assembly not to “sleep walk” into the uncertainty that had been outlined by the Committee. Yet another argued that no legislation will protect those who officiate at same-sex marriages because it is “perception that creates disunity in a parish”. He said he’d be willing to give up his right to conduct *any* weddings in the interests of the peace of the Church.

In an electronic vote 345 voted for Mr Kerr’s amendment and 170 against, so his proposal was accepted.

Returning to the deliverance in the print, the Assembly passed an Act that will legislate for attendance at meetings online or otherwise from a remote location. In a supplementary report, the Legal Questions Committee sought to tweak standing orders and make a small amendment to the Vacancy Procedure Act. The deliverance was approved virtually without comment.

The 2017 General Assembly issued an instruction that the Ministries Council jointly with the Legal Questions Committee “consider issues that have arisen when implementing the Ministers and Deacons in Civil Partnerships and Same-Sex Marriages Act. The Council had concluded that its wish for change cannot be made through simple amendments to the current Act. Further theological reflection is required. The Ministries Council asked to be discharged from the 2017 instruction, and the convenor said the Council will bring a further deliverance next week outlining how it wishes to proceed on the matter. Commissioners agreed with this approach.

Turning to the report of the Council of Assembly, the Convenor, Mrs Sally Bonar, said that, following the success of the 2017 *Together We Pray* initiative, a further National Day of Prayer has been called on 3 November 2018. However, she said that, while prayer is fundamental to our Christian lives, this does not preclude good stewardship of our resources. Though she found the Council’s report energising and appropriately challenging, nevertheless she recognised that human and financial resources are declining. For instance, income from legacies has diminished sharply over the past few years. “We must take account of that”, the Convenor said. A deficit budget has been recorded for 2018 and a deficit budget is projected for 2019. Sustainability will not be achieved without a substantial change in how we manage our money, she warned, adding: “I have learned that how we

govern and steward our finances are an indicator of the health of the organisation and can be leavers for change.”

In other areas: data protection legislation has taken up a lot of time this past year and the role and work of a new interfaith officer had been taken forward. This latter topic will be taken up in detail by the World Mission Council on Monday.

Dr. Robin Hill asked if the Council might affirm not only local and regional work but international work also. The Convenor was pleased to affirm the international perspective. There was a question about the funding of the Gender Justice Officer. Another commissioner noted that many local congregations are drawing on reserves year on year and asked how many were running at a deficit. The convenor promised to bring that information to a later session of the Assembly.

Addressing concerns about the possibility of confidential information being made public, a new section to the deliverance was proposed by the deputy presbytery clerk of Dundee Presbytery. He requested help to ensure that presbytery office bearers can fulfil their duties fully “whilst observing best practice in relation to Data Protection principles”.

In the light of pressures on budgets, a former Moderator put the case for maintaining funding for work place chaplaincy – which enables those who are engaged with the work of sharing the Gospel to both support Christians and non-Christians alike working in sometimes stressful workplace situations; and also to engage, challenge and judge the culture, morals and ethos of a place of work in the name of Jesus Christ.

Finally, a Joint Report presented by a number of Councils and Committees, all with an interest in the implementation of Local Church Review, asked for their working group to be discharged. The future aim will be to align the process of Local Church Review with the Church’s strategic plan, to be discussed on Monday. Join us then.