

## Clarifying aspects of Membership

<b>Contact Name and Details</b>	Louise Wilkins, Conference Officer for Legal and Constitutional Practice <a href="mailto:wilkinsl@methodistchurch.org.uk">wilkinsl@methodistchurch.org.uk</a> 020 7467 5278
<b>Status of Paper</b>	For Information
<b>Action Required</b>	None
<b>Draft Resolutions</b>	53/1. The Council receives the report.

### Summary of Content

<b>Subject and Aims</b>	To seek a way for people being received into membership and into Full Connexion to acknowledge that there is no intention to create a legally binding relationship.
<b>Main Points</b>	<ul style="list-style-type: none"> <li>- Most lay and ordained members of the Church would not think they are entering into a contractual relationship when being received into membership.</li> <li>- The Supreme Court judgment noted the lack of clarity in the nature of the relationship between the Church and its members.</li> <li>- The aim is to clarify this relationship to ensure all people being received into membership or Full Connexion know the nature of the relationship they are entering into.</li> </ul>
<b>Background Context and Relevant Documents (with function)</b>	Report 48. Supreme Court case, to the 2013 Conference
<b>Consultations</b>	The Law and Polity Committee

### Summary of Impact

<b>Standing Orders</b>	Amendments would be required if the proposals as set out in this paper are approved
<b>Faith and Order</b>	To be consulted on the proposals
<b>Legal including impact on other jurisdictions</b>	Possible
<b>Wider Connexional</b>	Possible impact on the understanding of membership.

## Clarifying aspects of Membership

### 1. Introduction

- 1.1 The Law and Polity Committee stated in its report to the 2014 Conference that it does not follow that because the Supreme Court allowed our appeal in *The President of the Methodist Conference v Preston* we can safely sit back and do nothing. That report dealt with one area needing immediate attention. This paper is brought to the Council for its information and to confirm that work is to be undertaken on another less urgent but more fundamental issue raised by the court's judgment. This is the issue of clarifying the nature of the relationship between the Methodist Church and its ministers? The judgment made it clear that it is not an employment relationship but we must now clarify that there is no legally binding contractual relationship either.
- 1.2 Moreover the need to address the issues raised by the *Preston* case has alerted the committee to the fact that we nowhere set out the legal status of the Methodist Church. It is plainly, in law, an unincorporated association, but the rights and duties of the members of such bodies are usually defined by contract and we need to make it clear whether that is the case.

### 2. **The question**

Although the Supreme Court is absolutely clear that there is no contract between the Methodist Church and its ministers, the leading judgment leaves open just what is the nature of the relationship between the Church and its ministers as well as members.

### 3. **An answer**

- 3.1 Paragraph 26 of the judgment stated “[t]he question whether an arrangement is a legally binding contract depends upon the intentions of the parties” (p. 1361B) and at paragraph 17, it is stated that “the disciplinary scheme is the same for ministers and lay members” and that “the ministry is not a distinct order or class” (p. 1358B).
- 3.2 For a contract to be formed there must be an offer, acceptance, consideration (or deal) and an intention to create legal relations. The issue of whether there is a contract with ministers involves two successive questions: (i) do persons becoming members of the Methodist Church intend thereby to enter into a legally binding multilateral contract with all the existing members to abide by its constitution and (ii), if not, does that situation change when a member becomes a minister? If the answer to both questions is negative, as we should be able to ensure, then we should be able to hold the line confirmed in *Preston* indefinitely, unless Parliament intervenes.
- 3.3 Clarifying that there is no intention on anyone’s part to create a legal relationship when entering into membership confirms that there is no legal contract between the Church and its ministers but also confirms that the same applies between the Church and its members. This clarification will hopefully serve to forestall any litigation by members against the Church which, whilst unlikely, is not unforeseeable. It is also helpful to clarify that the primary denial of intention to create legal relations comes at the stage of entry into membership, which is likely to be uncontroversial.

#### **4. Implementation**

- 4.1 The Law and Polity Committee envisages that the constitutional provisions about entry into membership should make it clear that becoming a member is an expression of commitment to Christian discipleship within the Methodist Church and of acceptance of its discipline, but is not intended on either side to create legal relations. It is also proposed by the Committee that the provisions about reception into full connexion should establish that what is involved is entry into wider responsibilities and authority within the church, in addition to those already exercised by virtue of membership and existing offices, but not the creation of a new legal relationship. Draft amendments to the Deed of Union and Standing Orders to that effect are appended.
- 4.2 It would need to be clear that these provisions were not just adopted by the Conference and published in CPD but known to and accepted by candidates for reception into membership or full connexion. One way of doing this would be an additional questions and answers in the services of admission into membership and reception into full connexion, but the committee apprehends that that might not be acceptable for policy reasons. It is therefore proposed that the amendments seeking to clarify the nature of relationships and how any such changes are to be known about are discussed with the Faith and Order Committee and the Ministries Committee. This could possibly be done by requiring the signature of a written declaration, for example when offering for the ministry and/or at the first Presbyteral Synod attended during training.

#### **5. Incidental points**

- 5.1 The Committee would suggest that some work, if that has not already been done, be undertaken to look at how we mark the admission into membership of persons received into full connexion directly from the ministry of other communions.
- 5.2 Making it clear that the basic relationships of membership and ministry are not contractual will sharpen the need to clarify the status of other relationships and, if they are to be contractual, the consequences of that. For example Standing Order 690(2)(c) expressly requires that where a person within that Standing Order worships in a Local Church, or seeks to become involved in its life, he or she must agree to "enter into a written contract" setting out certain terms. On the other hand Standing Order 792(2) provides for supernumeraries undertaking regular pastoral work to do so under a "written agreement", without specifying whether or not it is to be a legal contract.
- 5.3 The changes we recommend will directly affect only persons coming newly into membership or full connexion. Consideration also needs to be given to how the position is brought to the attention of existing members.
- 5.4 The proposed amendments as listed here are not for taking to the 2015 Conference. The proposed amendments are for the Council's information only. The proposed amendments and their implementation will be discussed at length with the Faith and Order Committee and the Ministries Committee over the next connexional year.

## Draft Standing Order Amendments

### Deed of Union

**9 Privileges and Duties of Membership.** (a) It is the privilege and duty of members of the Methodist Church to avail themselves of the two sacraments, namely baptism and the Lord's Supper. As membership of the Methodist Church also involves fellowship it is the duty of all members of the Methodist Church to seek to cultivate this in every possible way. The weekly class meeting has from the beginning proved to be the most effective means of maintaining among Methodists true fellowship in Christian experience. All members of the Methodist Church shall have their names entered on a class book, shall be placed under the pastoral care of a class leader or pastoral visitor and shall receive an annual ticket of membership.

***(b) The privileges and duties of membership, as set out in sub-clause (a) above and appearing from Standing Orders, are commitments by each member to Christian discipleship within the Methodist Church, and to acceptance of its discipline, and by the Church to provision of the means by which that discipleship may be fully expressed, but entry into membership is not intended on the part of either to create, and does not create, a contract or other legal relations.***

### Standing Order 700

(2) By receiving persons into Full Connexion as Methodist presbyters the Conference enters into a covenant relationship with them in which they are held accountable by the Church in respect of their ministry and Christian discipleship, and are accounted for by the Church in respect of their deployment and the support they require for their ministry. ***That covenant relationship arises within their existing relationship as members, which continues, and neither entry into it nor service within it is intended to create, or does create, a contract or other legal relations.***

### Standing Order 701

(2) By receiving persons into Full Connexion as Methodist deacons the Conference enters into a covenant relationship with them in which they are held accountable by the Church in respect of their diaconal ministry and Christian discipleship, and are accounted for by the Church in respect of their deployment and the support they require for their ministry. ***That covenant relationship arises within their existing relationship as members, which continues, and neither entry into it nor service within it is intended to create, or does create, a contract or other legal relations.***

### **\*\*\*RESOLUTION**

**53/1. The Council receives the report.**