

47. Law and Polity Committee Report

1 GENERAL

In addition to the matters dealt with in the resolutions contained in this report, the committee has advised on matters referred to it by the Methodist Council and other committees and individuals.

No Special Resolutions were referred to the Law and Polity Committee by the Conference of 2009.

The committee is charged under Standing Orders with the scrutiny of all new legislation which it is proposed to bring to the Conference in order to ensure its coherence with existing usage. Various members of the committee undertake this task and have commented upon all the proposals submitted to the committee by the Methodist Council and various other bodies.

The committee has appointed the Law and Polity Conference Subcommittee under Standing Order 338(6) as follows: The Secretary of the Conference, The Revds James A Booth, Jennifer M Dyer, Kenneth G Howcroft, Gareth J Powell, Miss Elizabeth Ovey and Mr David S Walton.

***RESOLUTION

47/1. The Conference adopts the General Report.

2. REPRESENTATION AT CONFERENCE

2.1 Election of Conference-elected Representatives

The Conference-elected representatives now have to be one deacon, four presbyters and four lay persons. Previously the Conference had some discretion about how many deacons, presbyters and lay persons it elected to fill the vacancies each year, and it therefore made sense for the candidates to be voted on in a single list. However, now that there is no discretion (the candidates voted in have to match the categories of the candidates standing down), having a single list makes the operation of a single transferable vote election unnecessarily complex. It is therefore proposed to amend Standing Order 103 as follows:

47. Law and Polity Committee Report

***RESOLUTION

47/2. The Conference Amends Standing Orders as follows:

S.O. 103 Conference-elected Representatives... .

- (2B) There shall be a single **separate** list of candidates **for each of the categories**.
- (2C) In the election the provisions of Standing Order 016A shall **apply to each list**. ~~be modified so that ...~~ [the rest of Clause 2C is to be deleted]

2.2 Allocation of Conference seats between Districts

The current wording of Standing Order 105(3) was in part drafted during debates in the Conference of 2008 and it has become apparent that in a couple of respects the wording is capable of differing interpretations. It is proposed to amend the wording as follows, to better express the intention of the Conference of 2008 by removing ambiguities:

***RESOLUTION

47/3. The Conference amends Standing Orders as follows:

S.O. 105 District Allocations

- (3) The numbers to be elected by each Synod, **after the diaconal representatives have been allocated in accordance with clause (1A) above**, shall, subject to clause (2) above, be in proportion to the number of members in the District involved. ~~The numbers of seats to be filled by lay representatives and of seats then remaining to be filled after allowance for any seats to be filled by diaconal representatives under the rota referred to in clause (1A) above shall be calculated in accordance with clause (1) above.~~ **The number of lay people to be elected by each Synod in order to satisfy the provisions of Clause 14(1) of the Deed of Union shall similarly be in proportion to the number of members in the District involved.** Those remaining seats shall each be open to be filled by a minister or a deacon.

47. Law and Polity Committee Report

3. CIRCUIT ASSESSMENT

The Conference of 2000 determined that from September 2003 the collection of assessments in all Circuits shall not be solely dependent upon membership figures. However, nothing was added to Standing Orders in 2003 about this. To remedy this, it is proposed to add the following sub-clause:

***RESOLUTION

47/4. The Conference amends Standing Orders as follows:

S.O. 515 Responsibilities

(3) *It shall be the responsibility of the Circuit Meeting to assess the contribution to be made by each Local Church towards the general expenditure of the Circuit, including the circuit contribution to the Methodist Church Fund, the sums required for the payments of stipends and allowances for ministers, deacons and probationers, and other expenditure budgeted by the Circuit Meeting. The Circuit Meeting shall assess the contribution of each Local Church in a manner that is appropriate in all the circumstances, taking into account the needs and ability to pay of each Local Church and not merely their respective membership figures.*

4. MINOR AND CONSEQUENTIAL AMENDMENTS TO CPD

As usual, the committee submits a number of amendments to *Constitutional Practice and Discipline* consequent upon decisions already taken by the Conference, or to remedy minor errors and omissions.

4.1 Ratification of corrections already printed

***RESOLUTION

47/5. The Conference, by way of ratification of corrections already printed in *The Constitutional Practice and Discipline of the Methodist Church*, makes the following amendments:

S.O. 124(11): "... the Methodist Publishing House ..."

S.O. 439(1): "... except that where a scheme **project** is being dealt with under Standing Order 960 any applications for grants in connection with that scheme

47. Law and Polity Committee Report

project shall be dealt with under that Standing Order along with the ~~scheme~~ **project**.

S.O. 743(3) (as renumbered): "... by a particular minister **or deacon** ..."

S.O. 929(4)(ii): "the appropriate ~~consents~~ **consent** for ..."

S.O. 931(1)(vi): "... Methodist Chapel Aid **Limited** ..."

S.O. 961(2): "... ensuring that the ~~scheme~~ **project** is completed ..."

S.O. 976: delete "(1)" at the beginning of the clause

S.O. 983: "... whether to consent to a ~~scheme~~ **project** ..."

S.O. 1120(12): "... lay worker **employee** ..."

Guidance on the Stationing of Ministers and Deacons, Section C(4):

(c) "... obliged under S.O. ~~545(3C)~~ **546(7)** ..."

(d) "... set out in S.O. ~~545~~ **546** ..."

Guidelines for District Policy Committee, item 6(b): "... Advance Funds **and model trust money** ..."

4.2 Corrections

***RESOLUTIONS

47/6. [Special resolution] The Conference amends clause 25A of the Deed of Union as follows:

(c)(iii) when exercising its jurisdiction under sub-clause (e) (ii) **(iii)** below.

47/7. The Conference, by way of minor correction, amends Standing Orders as follows:

S.O. 102 Representatives of Connexional and Other Bodies

... (6) A lay member of another communion may be a member of the Conference if ~~appointed under head (vi) of clause (1) above, or if he or she is a member of the Connexional Team and is appointed under head (i).~~ *[Head (vi) of clause (1) was itself deleted last year.]*

47. Law and Polity Committee Report

S.O. 335 World Methodism

(1A) **Connexional** Team members shall be entitled ...

S.O. 48A5 Further provisions relating to modified constitutions

(2) ... (vi) Section 45 (District ministries panel **district Candidates committee**)

S.O. 545(3F) and S.O. 546(10) [Extensions to ministerial/ diaconal appointments]

... requesting members of the Circuit Meeting to inform the chair if he or she intends **they intend** to oppose ...

S.O. 610 Constitution [of the Church Council]

... (4) ... (v) ... pastoral work under Standing Order 792(2) and;

(vi) ... pastoral work in that Local Church; **and**

S.O. 612 Minimum size

(1) ... other than those qualified under heads (i) to (v) **head (i)** of Standing Order 610(1) ...

S.O. 917 Application of Model Trust Money generally

... (4) ... (xi) ... or the application of the capital money is made in furtherance of ...

(5) This Standing Order shall not govern the application of income of **money in** a district Advance Fund, ...

4.3 Consequential amendments

*****RESOLUTION**

47/8. The Conference, by way of consequential provision, amends Standing Orders as follows:

- (a) **S.O. 002(2)**: add to the list of 'other autonomous Conferences': **The Methodist Church The Gambia**
- (b) **Section 06 Training**: delete the whole section. *[This section deals with Foundation Training. It was retained for transitional purposes after the foundation training process was replaced. There are no longer any persons to whom it applies and the section should therefore be revoked.]*
- (c) *[When provision was made by Standing Order 116C for the appointment of the Conference officer for legal and constitutional practice, there remained certain consequential amendments to be made, and the following are now proposed.]*

SO 212 Particular functions [of the Methodist Council]

... (3) ... persons in appointments to which Standing Order 114, 116A, **116C**, 313 or 315 applies ...

SO 314 Other appointments authorised by the Conference

... (3) ... the appointment by the Methodist Council of a Connexional Team Secretary **or the Conference officer for legal and constitutional practice** requires the prior authority ...

SO 315 Other ministerial and diaconal staff appointments

(1) ... in an appointment other than those within Standing Order 114, 116A, **116C** or 313, ...

SO 316 Curtailment of appointment

- (1) (i) a minister or deacon to a station under Standing Order 116A, **116C**, 313 or 315; ...
- (2) The officer referred to in clause (1) above shall be:
 - (i) in the case of the assistant secretary of the Conference, **the Conference officer for legal and constitutional practice** or a Connexional Team Secretary, the Secretary;
... (v) in all other cases, the Connexional Team Secretary responsible for the oversight of the appointee.
- (3) ... In the case of such an appointment under Standing Order 116A, **116C** or 313 a report shall also be made ... to the Conference ...

SO 013(3)(a)

(3)(a) If the responsible officer believes on reasonable grounds that an office-holder is incapable through mental illness or otherwise of duly exercising office, or is subject to a receiving order in bankruptcy, or has compounded with creditors **an insolvency process as defined in sub-clause (c) below**, or that for the preservation of good order ...

(c) An office-holder is subject to an insolvency process if:

- (i) **a bankruptcy order has been made against him or her;**
- (ii) **he or she has entered into an individual voluntary arrangement or otherwise compounded with creditors generally; or**
- (ii) **a debt relief order has been made relating to him or her.**

5. Signalling vocation and clarifying identity

5.1 The 2008 Conference received a report with the above title, and adopted the following proposal [paragraph 2.5]:

47. Law and Polity Committee Report

The proposal is that throughout the Church, informally and formally, we commit ourselves to use a clear and consistent vocabulary when speaking of those who exercise their ministry on behalf of the Methodist Church in Britain (which has traditionally been described as being “in full connexion with the Conference”):

‘presbyter’ when we mean someone ordained into the Order of Presbyters in the Church of God, i.e. to the ministry of word, sacraments and pastoral responsibility;

‘deacon’ when we mean someone ordained into the Order of Deacons in the Church of God, i.e. to the ministry of witness through service, and who is also a member of a religious order, the Methodist Diaconal Order;

‘minister’ when we mean an ordained person, irrespective of whether they are a presbyter or a deacon.

- 5.2 The Conference then directed the Law and Polity Committee to report to the Conference of 2009 on the items in paragraph 2.6 of the Report, which states:

If this nomenclature is agreed by Conference, there will be a number of consequences, including:

A revision of the Church’s foundation documents (e.g. *Constitutional Practice and Discipline*);

A ‘proofing’ of future Conference reports and resolutions;

A re-labelling of the ‘Ministerial’ Session of the Conference.

- 5.3 Last year the Committee reported to the Conference that work had been undertaken but a consensus had not yet been found. Accordingly the Conference passed R 52/16;

The Conference directs the Law and Polity Committee, having consulted the Faith and Order Committee and the Warden of the Methodist Diaconal Order, to report to the Conference of 2010 upon whether clause 4 of the Deed of Union might be appropriately amended, not only to accommodate the change of vocabulary resolved upon by the Conference of 2008, but also so as to include an affirmation of the existence and purpose of the diaconal order of ministry which the Methodist Church has received, and, if so, how.

- 5.4 During the course of the year the Committee has undertaken consultations as required and proposes the following amendments to Clause 4 of the Deed of Union;

Doctrine. The doctrinal standards of the Methodist Church are as follows:

47. Law and Polity Committee Report

The Methodist Church claims and cherishes its place in the Holy Catholic Church which is the Body of Christ. It rejoices in the inheritance of the apostolic faith and loyally accepts the fundamental principles of the historic creeds and of the Protestant Reformation. It ever remembers that in the providence of God Methodism was raised up to spread scriptural holiness through the land by the proclamation of the evangelical faith and declares its unflinching resolve to be true to its divinely appointed mission.

The doctrines of the evangelical faith which Methodism has held from the beginning and still holds are based upon the divine revelation recorded in the Holy Scriptures. The Methodist Church acknowledges this revelation as the supreme rule of faith and practice. These evangelical doctrines to which the preachers of the Methodist Church are pledged are contained in Wesley's Notes on the New Testament and the first four volumes of his sermons.

The Notes on the New Testament and the 44 Sermons are not intended to impose a system of formal or speculative theology on Methodist preachers, but to set up standards of preaching and belief which should secure loyalty to the fundamental truths of the gospel of redemption and ensure the continued witness of the Church to the realities of the Christian experience of salvation.

Christ's ministers in the church are stewards in the household of God and shepherds of his flock. Some are called and ordained to this sole occupation **as presbyters or deacons.** and **Presbyters** have a principal and directing part in these great duties but they hold no priesthood differing in kind from that which is common to all the Lord's people and they have no exclusive title to the preaching of the gospel or the care of souls. These ministries are shared with them by others to whom also the Spirit divides his gifts severally as he wills.

It is the universal conviction of the Methodist people that the office of the Christian ministry depends upon the call of God who bestows the gifts of the Spirit the grace and the fruit which indicate those whom He has chosen.

Those whom the Methodist Church recognises as called of God and therefore receives into its ministry **as presbyters or deacons** shall be ordained by the imposition of hands as expressive of the Church's recognition of the minister's personal call.

The Methodist Church holds the doctrine of the priesthood of all believers and consequently believes that no priesthood exists which belongs exclusively to a particular order or class of persons but in the exercise of its corporate life and worship special qualifications for the discharge of special duties are required and thus the principle of representative selection is recognised.

47. Law and Polity Committee Report

All Methodist preachers are examined tested and approved before they are authorised to minister in holy things. For the sake of church order and not because of any priestly virtue inherent in the office the ministers *presbyters* of the Methodist Church are set apart by ordination to the ministry of the word and sacraments.

The Methodist Church recognises two sacraments namely baptism and the Lord's Supper as of divine appointment and of perpetual obligation of which it is the privilege and duty of members of the Methodist Church to avail themselves.

5.5 *Process required to give effect to this change.*

It will be recalled that, until the coming into force of the 1976 Act, the form of this clause could not be amended by the Conference itself – under the provisions of the preceding legislation which was the framework for Methodist Union in 1932, recourse would have had to be to Parliament itself. Under the 1976 Act, amendment is possible, but by the process of a 'deferred special resolution', defined by s. 2(1) of the Act as "a resolution of the Conference passed in one year by a special [i.e. 75%] majority and, after full consultation down to and including Local Church level, confirmed in the second following year by a special majority". In other words, consultation is not just with the Synods, but with Circuit Meetings and Church Councils too, and the confirmation vote takes place two years, not one, later.

This provision has only been invoked once. This was in 1993–5, when the Conference was going through the process of giving formal recognition to the Methodist diaconate as an order of ministry within our church. One or two very small phrases in cl. 4, which might have implied that we only recognised one order of ministry, were deleted, as the minimum needed at that time to open the way forward; nothing positive was inserted about having the diaconate as another order of ministry. (The opportunity was taken at the same time to remove the couple of remaining instances of non-inclusive language in the Deed.)

*****RESOLUTION**

47/9. The Conference amends Clause 4 of the Deed of Union as set out in paragraph 3.4 above

6. The power to let model trust property

The power for managing trustees to let model trust property is conferred by paragraph 16(e) of the Model Trusts, the current wording of which is set out in the schedule to this report. At the request of the Trustees for Methodist Church Purposes the

47. Law and Polity Committee Report

committee has considered the terms of that paragraph, and its relationship with paragraph 20(1), also set out in the schedule, and as a result brings four proposals to the Conference.

The first is that the power is expressed as being one to let “any part” of the land comprised in the property. (In the Model Trusts and Standing Orders “land” includes buildings.) The question has been raised whether that enables the whole of the land to be let, and although the committee inclines to the view that it does it proposes an amendment to remove any possible doubt on that score.

Secondly, there is the adjective “rack” in the expression “rack rent”, generally understood to mean a full market rent. That interpretation poses several difficulties. The word is used in relation only to a letting “for any term”, and not to a (legally indistinguishable) letting “on a lease”. It is unnecessary, in that there is a general obligation in law on charity trustees to obtain full consideration. Most immediately, it has in some minds cast doubt on the availability of paragraph 20(1) where there is a letting of model trust property for a term at a rent. That paragraph enables the Methodist Council (which now stands in the place of the board of the former Property Division) to authorise dispositions at less than full consideration where that would advance any purpose of the Church. The committee is of the view that in such a case the word “rack” does not, on the true construction of the Model Trusts, exclude the operation of paragraph 20(1), which is specifically, and legitimately, directed to providing an exception to the obligation to obtain full consideration, but again it is clearly desirable to put the matter beyond argument, and the committee therefore proposes the deletion of “rack”.

Thirdly, the words “for any term” are not very apt to include periodic tenancies, which should obviously be permitted, and in practice always are. The committee therefore proposes their deletion also.

Fourthly, in paragraph 20(1), and elsewhere in the Model Trusts, the word “dispose” and its cognates, which are not technical terms, clearly seem intended to have a wide meaning, and not one confined to outright disposal by way of transfer. The committee proposes an addition to the interpretation provisions in paragraph 1 to clarify the position in that sense.

Schedule

16 General powers of managing trustees. Subject to any statutory restriction and to the provisions of this Schedule, the managing trustees may –

(e) let or re-let for any term at a rack rent, or on a lease for a premium, rent, royalty,

47. Law and Polity Committee Report

share of profits or other consideration or any combination thereof, any part of the land comprised in the property or any timber, mineral or other rights therein;

20 Special powers on disposal of property. (1) If the board of the Property Division shall consider that any purpose of the Church would thereby be advanced, it shall be lawful for such board to authorise the trustees of any model trust property, by a written authority under the hand of its General Secretary or of any other person authorised by such board in that behalf to dispose of such property or any part thereof, in any manner whatsoever to any person upon trust for such purpose of the Church without the payment or provision of any consideration or for the payment or provision of less consideration than might otherwise be reasonably obtainable in respect of such property or such part thereof, and it shall be lawful for such trustees to enter into any transaction pursuant to such authority.

Amendments

1. In paragraph 1 of the Model Trusts, after the definition of 'Connexional Trustees', insert: 'disposal' or 'disposition', in relation to any model trust property, means disposal of the property or any estate or interest in it by any means, including conveyance, assignment, transfer, demise and letting, and 'dispose' has a corresponding meaning.
2. Amend paragraph 16(e) of the Model Trusts as follows: **16** (e) let or re-let ~~for any term~~ at a rack rent, or on a lease for a premium, rent, royalty, share of profits or other consideration, or any combination thereof, **the whole or** any part of the land comprised in the property or any timber, mineral or other rights therein;

***RESOLUTION

47/10. (Special Resolution) The Conference amends the Model Trusts as set out above.