

LEGAL QUESTIONS COMMITTEE

NOVEMBER 2023

PROPOSED DELIVERANCE

The Commission of Assembly:

1. Receive the Report.
2. As envisaged by the General Assembly of 2023, in relation to hybrid congregational meetings, agree with effect from 1 December 2023 the Protocol contained in the Appendix to the Report.

REPORT

1. THE REMIT TO THE COMMITTEE

- 1.1 At the General Assembly of 2023 the following remit was given to the Committee:

Instruct the Committee to consider bringing forward proposals to a Commission of Assembly, to be held in any format permitted under section 4(2) of the Commission of Assembly Act (Act VI 1997) before 30 November 2023, to enable congregational meetings convened for any purpose to be held, in addition to wholly in person, online or by a combination of in-person and online (ie in hybrid format) with voting and thus decision-making similarly taking place simultaneously in person and/or online, such proposals to be contained in a new Protocol to be passed for that purpose.

- 1.2 The Committee has met and has agreed that a Commission of Assembly should be held on 30 November 2023 and that it should be held online.

2. PROPOSED PROTOCOL

2.1 The Committee agreed that there are obvious benefits to permitting hybrid congregational meetings, such as enabling people to attend meetings when they would not otherwise be able to do so, saving time and money and benefiting the environment. Online participation in meetings has become widespread and normalised in recent years, so that many people now routinely join online meetings and are comfortable doing so.

2.2 A proposed Protocol is annexed in the Appendix, to take effect from 1 December 2023. The Committee gave careful thought to the conditions which should apply. Clearly, holding a hybrid congregational meeting in accordance with the Protocol will require some preparatory and follow up work on the part of the Kirk Session and also a certain amount of diligence during the hybrid meeting itself.

2.3 Two specific points to note on the drafting of the Protocol are:

2.3.1 After discussion, the Committee thought that congregational meetings should not be set up to be held entirely online. It was felt that in view of the numbers of persons involved and the diverse nature of attendees, in terms of their technical expertise, to authorise wholly online meetings might disenfranchise some people. Therefore, the Committee took the view that such meetings should not be allowed. It is noted however that the wording is intended to provide that should it happen in practice that all attendees invited to a hybrid meeting attend online, that would be permissible.

2.3.2 The Committee did not include in the Protocol provision for postal voting. A fundamental provision of our Church polity has always been that only those present at the properly constituted meeting, having heard the arguments and discussion leading up to the vote, are entitled to vote and it was felt that to enable postal voting would wholly undermine this important principle.

2.4 The Committee commends the Protocol to the Commission.

In the name of the Committee

MARJORY MACLEAN, *Convener*

APPENDIX

Protocol as to Hybrid Congregational Meetings

From 1 December 2023, congregational meetings, in addition to being held wholly in person, may be held in hybrid form, meaning with attendees permitted to be present in person or online, provided that certain conditions as set out below are met.

However, ***congregational meetings may NOT be arranged to be held wholly online.***

The conditions which will apply to congregational meetings held in hybrid form are mainly intended to achieve equivalence to the requirements which would apply under existing Church law to a meeting held wholly in person, and they are as follows:

- 1) The Kirk Session must decide in advance that the specific congregational meeting in question is one which it is appropriate to hold in hybrid form rather than wholly in person, having regard to the subject matter of the meeting and to the congregation's particular circumstances;
- 2) The Communion Roll or Electoral Register, as the case may be, must be up to date as follows: in the case of the Communion Roll it must have been annually revised and attested in terms of the Communion Rolls Act (Act VI 2000) within the calendar year prior to the date on which the congregational meeting is to take place, and in the case of the Electoral Register, it must have been prepared and may be updated in terms of the Vacancy Procedure Act (Act VIII 2003);
- 3) Notice of the congregational meeting must be intimated in the normal way, ie by pulpit intimation and where appropriate via the congregation's website and/or social media, by at least ten days' (including two Sundays') notice to the congregation;
- 4) The Kirk Session must be satisfied that arrangements can be made to distribute in advance to those who request it and are entitled to it, a link to join the congregational meeting online and information about how to connect and participate, including details of how to contribute to the discussion and how to vote;
- 5) The Kirk Session must be satisfied that it will be able to verify the identity of those who will be joining the congregational meeting online as being persons entitled to attend, participate and vote in such a meeting;
- 6) The Kirk Session must be satisfied that the congregational meeting can be set up and run with sufficient technical expertise to enable all those present, whether in person or online, to hear the full meeting, including all prayer, worship and debate and also to participate in the meeting should they so wish;
- 7) Before any vote is taken, the Moderator or Interim Moderator shall remind the meeting that only those who have been present during the full meeting and who are eligible to vote, can now proceed to vote;
- 8) Where a vote is required, the Kirk Session must be satisfied that an accurate ballot can be held; in the case of a secret ballot the arrangements made shall ensure secrecy of the ballot while maintaining verification of eligibility to vote¹; and
- 9) The minute of the congregational meeting shall record that the conditions set out in this Protocol were fulfilled, and the minute shall then be engrossed (included and signed) in the minutes of the next Kirk Session meeting.

¹ There are anonymised polls available on both Zoom and Microsoft Teams (Zoom Polls and Microsoft Forms/Polls).