

SPECIAL COMMISSION ON STRUCTURAL REFORM

Proposed Deliverance

The General Assembly:

1. Receive the report.
2. Appoint with effect from 1 June 2019 a new trustee body, to be named the Assembly Trustees, to replace the Council of Assembly in accordance with Appendix 1.
3. Instruct the Selection Committee to propose to this General Assembly the names of twelve trustees, each to serve from 1 June 2019 for periods of one, two or three years, including a Convener, a Vice-convener and an Administrative trustee.
4. Instruct the Assembly Trustees to appoint a senior management team to oversee the work of the Unincorporated Councils and Committees (SC011353) in accordance with the terms of Appendix 1 and to take steps immediately to appoint a Chief Officer and, where necessary, additional temporary support to facilitate the process of change.
5. Instruct the Assembly Trustees to begin a process of reducing the administrative costs within the central organisation of the Church by 20%-30%, to initiate a review of the staff pay grade scheme and report to the General Assembly of 2020.
6. Instruct the Assembly Trustees to prepare plans for a reduction in the number of Councils and to bring recommendations to the General Assembly 2020.
7. Instruct the Assembly Trustees to initiate discussion of ways in which the Social Care Council and Crossreach can become a more self-sustaining and financially viable organisation at “arm’s-length” within SC011353 and to report progress to the General Assembly 2020.
8. Appoint a new Assembly Business Committee to replace the Assembly Arrangements Committee with effect from 1 June 2019 in accordance with Appendix 2.
9. Instruct the Selection Committee to propose the names of eight members of the Assembly Business Committee to this General Assembly, including a Convener and Vice-convener.
10. Instruct the Assembly Business Committee to prepare plans for the General Assembly 2020 to ensure that progress on structural reform is adequately considered in all its dimensions, and, in particular, that the Assembly Trustees are given the fullest opportunity to report on progress achieved on matters of strategy, finance, governance, and staffing.
11. Instruct the Assembly Business Committee, in consultation with the Legal Questions Committee, to bring forward amendments to Standing Orders to ensure that each Trustee is included as a corresponding member of the General Assembly when not otherwise a commissioner.
12. Instruct the Assembly Business Committee to report to the General Assembly 2020 on ways in which the composition and format of the General Assembly can more effectively and efficiently serve the work of the Church.

13. Discharge the Panel on Review and Reform with effect from 1st June 2019 and thank its Convener, members and officers for their service.
14. Instruct the Assembly Trustees to make provision for adequate research and analysis to be undertaken in order to inform the vision, strategy and policies of the Church.
15. Commend the work of the Principal Clerk in facilitating Presbytery reform and encourage him to continue this process with a view to reducing significantly the number of Presbyteries within the next five years.
16. Thank the Convener and members of the Council of Assembly for their service to the Church.
17. Thank the officers of the General Assembly, and staff members of all Councils and committees for their commitment, dedication, and hard work.
18. Thank all those who have constructively engaged with the Special Commission whether in person or in writing.
19. Thank and discharge the Special Commission.

Report

Introduction

Following a report of the Council of Assembly to a meeting of the Commission of the General Assembly on 3 October 2018, a Special Commission of five members, independent of the Councils of the Church, was appointed 'to consider the matters within the following remit, to consult widely and to report to the General Assembly of 2019.

- a. To review the governance structures of the Church of Scotland Charity number SC011353 and make recommendations for a trustee body which would conform to best practice (including the avoidance of conflicts of interest) in terms of charity law while being true to Presbyterian church polity.
- b. To recommend key principles for a national structure which is "lean and fit for purpose to lead reform" (GA 2018) and which would ensure that the General Assembly can effectively and efficiently direct its Councils and Committees so that they prioritise their work and resources to support the mission of the local Church.
- c. To recommend what further work should be done to embed these principles and review the current pattern of Councils and Committees in order that these might better focus on the Church's understanding of its vocation to be a national church engaged in mission.'

The five members of the Special Commission are Rev Professor David Fergusson (New College, Convener), Sarah Davidson (Scottish Government), Right Rev Peter Forster (Bishop of Chester) until 25 March 2019, James McNeill QC, and Morag Ross QC. Nomi Pritz-Bennett (PhD student at New College) has acted as secretary and research assistant to the group. We have also received valuable support from Susan Taylor at 121 George Street.

The Commission has met 18 times in plenary session over a six-month period. During these meetings and in numerous other informal discussions we have sought to engage with a wide range of office-bearers and employees within SC011353. Discussions have also taken place with the Council of Assembly and the Clerks Forum, while a wider consultation exercise was held through the Church of Scotland's website. The Special Commission wishes to thank all those who have been willing to speak with us in person and to present their views in writing, despite the short period in which we have undertaken our work. Although compressed, we have found the time-frame of six months sufficient. The well-focussed oral and written submissions made us immediately aware of the critical issues in the minds of contributors with numerous themes being readily apparent. Specially created electronic databases, for which we are grateful, have given us immediate access to all available materials on the national work of the Church. And our respective backgrounds within the Church have enabled us to engage with each other at detailed levels.

In light of all of our meetings and investigations we agree with the concerns underlying the remit. There is urgent need for a group of trustees unhindered by conflict of interest. A revised structure is required to enable the General Assembly effectively to direct prioritisation of the work of the Church. The principles to govern these matters can now be embedded. Given concerns as to proper stewardship of resources, these issues should be tackled without delay.

Presbyterian Church Government

According to the mainstream Reformed tradition, the two marks of the church are Word and sacrament. At the time of the Reformation, this led to a renewed appreciation of the local church as the place where the Word of God was proclaimed, the sacraments administered, and oversight exercised. Set within its

parish community, the church was visible through its regular weekly worship together with the pastoral care, education and mission that were essential to the people's calling of God. Notwithstanding this local focus, the Church of Scotland was never ordered simply as a congregational organisation. Each parish church was under the oversight of a regional body which came to be known as the Presbytery. This court had several functions including worship and witness, mutual support and encouragement, and oversight of all matters relating to the life and work of congregations and parishes. These regional bodies in turn were regulated by the highest court, the General Assembly, which through its legislative powers sought consistency of doctrine, discipline, and practice while overseeing a system of territorial coverage. But the presence of the Church was primarily manifested at the local level, with the higher courts exercising a responsibility towards its maintenance and welfare. At the national level, the Reformed church continued to exercise a vital and visible part in Scottish civic life which continues to this day. Yet the Kirk's prominence has depended in large measure on the traction it gained from its presence in each parish community.

Arguably, this system served the Kirk well for the best part of four centuries. It produced a stable form of church government that shaped the life of the nation in what Tom Devine has called 'the parish state'.^[1] But with the rapid decline in membership since the mid-1950s and the evident dissociation of Scottish society from organised religion, it has proved less well equipped to adapt to changing circumstances. Since the 1950s, the Church of Scotland has lost c80% of its membership, and it is now half the size it was in 2000. With membership declining at c4% per annum, we should anticipate a smaller church with reduced resources which will require to take some hard decisions about its priorities and dispositions. As G. D. Henderson once

suggested, although Presbyterianism works well under settled conditions, it has had more limited success as a pioneering agency.^[2]

Despite the decline in membership, congregational giving has remained at impressive levels. But income is now flat-lining and is expected to decrease in the years ahead in light of demographic trends. Congregations increasingly comprise a disproportionate number of retired people and the predictions are that these trends are likely to continue for the foreseeable future. This of course is not a counsel of despair. The Church has an important and exciting missiological task in a changing social landscape and many congregations are meeting these challenges faithfully and imaginatively. But the prospects for further numerical decline and the likelihood of a much smaller Church of Scotland in the next 10-20 years cannot be ignored.^[3]

The Path of Reform

Notwithstanding the efforts of several bodies and commissions dating back to the Committee of Forty in the 1970s, the church has found itself increasingly hampered by structures that were intended to maintain and regulate the life of a much larger organisation.

The case for change has been consistently made by a succession of commissions and working groups. Their work is outlined in Dr Doug Gay's recent work on *Reforming the Kirk*, a work to which the Commission is indebted.^[4] Since our recommendations may be seen as consistent with a single trajectory of thinking, including much that is argued by Doug Gay, we note the following.

Church without Walls (2001) – this comprehensive report called for far-reaching reform at every level of church government.^[5] The accent here falls on the local church as a place of worship and an agency for mission. Power, resource, responsibility and initiative should be devolved to a greater extent to the local

level. More flexible and efficient structures are required to facilitate the work of congregations, though the report closes by noting a longstanding resistance to change within the Church of Scotland based on an admixture of fear and power. Many of the recommendations of *Church Without Walls* are still being sifted, adapted and partially implemented. The work of this Special Commission may be seen as continuing that process.

Commission on Review and Reform (2008) – chaired by Lord Brodie, this commission was established following an overture to the General Assembly expressing concerns about the increased centralisation of power.^[6] Again, the thrust of the report was towards a more decentralised church through the emergence of a smaller number of better resourced Presbyteries – this led to the report of the Panel on Review and Reform (see below). Serious questions were also raised about the cost and effectiveness of the General Assembly with its hefty volume of reports and quantity of deliverances that can baffle even the most determined and seasoned of commissioners. Similar criticisms of the Assembly are not hard to detect at earlier times. For example, more than twenty years ago in an acute analysis in *Life and Work*, Dr John Chalmers described some of the obvious difficulties in the way the General Assembly functions. The Blue Book is neither well read nor understood by most commissioners as they leave after a week of deliberations, and soon the annual process begins over again. 'When you take into account the cost of taking men and women out of their parishes, the Assembly actually costs more than we spend on new churches or providing development opportunities for our ministers. That's a lot of money – but what do we get for this investment?'^[7]

Panel on Review and Reform Report (2011) – following a process of consultation, the Panel submitted proposals that were directed towards a new system of c13 Presbytery assemblies.^[8] This represented a

radical shift from a polity of 46 Presbyteries, but the proposals were defeated on the floor of the Assembly. In examining this episode, Doug Gay has argued that Presbytery reform can only succeed if it is accompanied by a simultaneous reform of the central church. The Commission shares this view which has been confirmed by our realisation of how the Church of Scotland ought to function as an organic body with many interlocking parts. The creation of fewer but larger and better resourced Presbyteries makes sense only if there is some devolution of initiative and resource from the centre to the regions. Without such a transfer, neither additional funding nor the increased powers in relation to strategy, mission and allocation of resource will make much sense. Accordingly, the Commission takes the view that a necessary accompaniment to its proposals is that element of the current Radical Action Plan (proposed by the Council of Assembly) which proposes a rapid reduction in the number of Presbyteries. And the improved functioning of these larger Presbyteries will require some simultaneous rethinking of how they can better relate to the General Assembly, a matter which we understand is being considered by the Legal Questions Committee. Nothing should be allowed to stand in the way of this restructuring of Presbyteries.

In surveying this body of material, we are struck by i) how much of it adumbrates our recommendations in this report and ii) how slow the Church has been to bring about the radical structural reforms that have been recommended in the past. Our situation has now become critical in terms of finance, numbers, and the evident dysfunctionalities of our organisation. Without immediate change, it is unlikely that the Church can operate in a way that will command the confidence of its members, ministers and employees.

Council of Assembly

One of the recommendations of the Committee of Forty was the establishment

of an Assembly Council in 1978. The growth of increasingly large and powerful Boards (later Councils) and Committees (with staff and budgets) reporting directly to the General Assembly was judged to require greater oversight and coordination. Hence, the primary remit of the Assembly Council was to coordinate the work of the central Councils and to set budgets and staffing levels in accordance with strategic priorities.^[9] Whether this ever worked satisfactorily is questionable.

In 2004, this became a Council of Assembly with a stronger emphasis upon envisioning a strategy for changing times and acting as a catalyst for change in the Church of Scotland. The report of 2004 recommended that the new body have stronger financial and administrative oversight of the central organisation.^[10] At the same time, the old Boards and Committees were reorganised. With the emergence of Councils, the current organisational structure was established. And, following the advent of new charities legislation, the voting members of this body became the trustees of SC01353 upon the recommendation of a further special report. This made the reasonable point that since the Council of Assembly exercised functions of oversight, stewardship and management it was already acting *de facto* as the trustee body.^[11]

Yet since its inception (or reinvention) the Council of Assembly has laboured under several systemic difficulties relating to composition, financial management, and its relationship to the other Councils. These were listed in the report brought by the Council itself to the Commission of Assembly in October 2018. Our findings support its conclusions.

Following full and frank discussions with a range of office-bearers, we offer the following observations. These confirm our judgement that the Council of Assembly in its present form is incapable of acting satisfactorily as a trustee body owing to i) conflicts of interest, ii) a confusion of

oversight with the day-to-day running of an organisation, iii) a diffusion of fund holders in the organisation, and iv) an unsatisfactory relationship with the General Assembly. In its report to the Commission of Assembly, the Council alluded to inherent tensions which had not been mitigated and believed that there was a pressing need to create mechanisms for a clearer prioritisation of the work of the Church. In considering this, the Commission has come quickly to the view that we should not expect our trustees to labour with an impossible remit; hence, we propose the formation of a new trustee body with a different composition, much more specific financial powers, a clearer relationship to the senior management team, and significant adjustments in its relationship to the General Assembly. In our view, these proposals provide conformity with best practice in terms of charity law and Presbyterian church polity, as we have been asked to recommend.

Membership – the voting members of the Council of Assembly include conveners of each of the other Councils, thus generating a conflict of loyalties, particularly with respect to the allocation of resources. Where conveners (accompanied by secretaries as non-voting members) are faced with the challenge of securing resource for the work of their Councils, the wider strategic vision of the Council of Assembly can be compromised. If too many people are seated around the table (around 30 people can currently attend the Council of Assembly), the group is less likely to function well. Low levels of participation amongst some members, especially the General Assembly appointees, can result in their feeling disempowered and marginalised. Several have complained to us of the way in which discussion tends to be dominated by Council representatives. We have heard frequent complaints of a ‘silo’ mentality inside the central organisation, in part exacerbated by the control of restricted funds. This is confirmed by the recent Transformational Change report

commissioned by the Council of Assembly. In its executive summary, the report states that ‘starkly disproportionate levels of funding across the Councils are resulting in protectionist attitudes, leading to an imbalance in the Senior Management Team’s overall ability to perform tasks collaboratively. The issue of historic budget setting is furthermore impacting adversely on the ability of support services to perform their crucial roles within the organisation. As a result, a wasteful duplication of roles within and across Councils is commonplace, and the potential to issue a coherent message of high quality across the organisation is lost.’^[12]

Function – The current remit of the Council of Assembly fails to reflect that the principal duty of charity trustees is to preserve and deal with the charity’s assets in accordance with its purposes. Much of the remit reflects the responsibility to act in an executive capacity as regards the day-to-day management of the work of Councils and Committees. We note that in many organisations these functions would be clearly separated with the executive staff members being accountable to the trustees. For this reason, oversight and executive functions should be more clearly distinguished in any future structure and this has been our aim in introducing a new set of proposals for governance.

Management – the Secretary of the Council of Assembly has been required to line manage up to 14 senior staff within the organisation. This has compounded the remit of the Council, again confusing trusteeship with day-to-day management, while also highlighting the blurred lines dividing the responsibility of General Assembly office-bearers and Council appointees. In recent years, the Church has alternated between having a separate appointee as secretary to the Council of Assembly and combining this post with that of Principal Clerk. This duality of control has occasioned different concerns around the workload and a potential for

conflict. There may be no perfect solution here, but our view is that the current formal remit, and therefore the required skillset, of the Principal Clerk is quite different from that of a senior executive manager of staff and activities within SC011353. From all of our consultation, we are in no doubt that the proper management of staff and activities within the central offices deserves and requires a properly qualified senior executive, as would be obligatory in any organisation of comparable size and complexity. The roles of Principal Clerk and Senior Executive are complementary as each will release the other to focus on her or his principal duties to the Church. The function of the Chief Officer, a new post that is being proposed for this purpose, is essentially that of director of administration. As accountable to the trustee body, the office-holder cannot be a member of it. The responsibility for the development of vision, strategy and overarching policy will belong to the trustee body as guided by the General Assembly, and it will be for the Chief Officer, working with the trustees, to implement that vision, strategy and policy. The primary remit of the Chief Officer will thus be inward-facing in relation to organisational leadership and the management of staff and resources, rather than as a representative of the Church of Scotland in the wider public domain. The skillset and experience required for this role is likely to attract someone with a track record of senior executive leadership in an organisation of comparable scale, with strategic and operational delivery experience.

Reporting – the Council of Assembly reports directly to the General Assembly, as do the other Councils and committees of the church. This generates a further problem around coordination of strategy and establishment of priorities, when the Assembly can give approval (as it usually does) to whatever is proposed by these other bodies. The role of the Council of Assembly is consequently limited at the General Assembly, as it tends to report as

one amongst many Councils thus compromising the oversight and coordination that it ought to exercise. This is compounded by a system that prevents members of the Council of Assembly serving as commissioners *ex officio*. They are thus unable to participate in discussions at the highest court of the church in which they exercise an important trustee role. It has also been pointed out to us that members of the Council of Assembly often have access to the reports and deliverances of other Councils only after these have gone to press. There appears to be little scrutiny, filtering, or opportunity for aligning reports with the established priorities of the organisation. In part, this may be explained by the very tight time-frame within which reports have to be compiled and submitted for publication. We find this absence of scrutiny by the Council of Assembly surprising given that its primary function is one of coordination and oversight. With an overall failure to impose a coordination of strategy and the establishment of priorities, approvals given by the Assembly can be piecemeal, involve duplication and result in waste of resources.

Strategy and Priorities - A further complaint concerns the absence of any common understanding, whether expressed formally or not, of the clear, strategic priorities of the Church of Scotland. These priorities would need to be consistent with the Articles Declaratory and the expressed will of the General Assembly. Yet several persons in positions of leadership have complained to us that they are having to interpret strategic priorities for themselves, a point that is also stressed in the Transformational Change report. This prevents the work of the Church being carried out effectively, causes confusion and duplication, and puts an undue burden on leaders. In our view a new trustee body, freed from internal conflicts of interest between Councils, should be able to carry out the present remit of the Council of Assembly to assist the Assembly to determine strategies and to set priorities

and monitor delivery. There is no reason why, as in any large, national organisation, this cannot be done systematically through a well-prepared rolling programme devised by trustees, committees and working groups. A clearly articulated set of priorities would also be of much benefit to the General Trustees in aligning their work with that of the General Assembly.

Finances – although the Council of Assembly is required to authorise expenditure, in practice its financial powers are limited by the extent to which some funds are restricted and others designated for the work of individual Councils. The lack of clarity surrounding many of these creates difficulties for all concerned. The task of determining which funds are restricted and whether their status can be altered has taken some time but, we understand, will soon be completed. Councils are incurring annual deficits, especially Social Care and the Israeli entities. These deficits have to be made up from reserves. The operating loss for 2018 (excluding exceptional items such as losses on investments and gains on property sales) was £5m. The principal contributors were Ministries £(1.1m), Social Care £(1.5m) and the Israeli entities £(1m). Since at least 2015, budgets, management accounts and annual outturns have shown net annual deficits varying between £2m and £7m. Budgets and forecasts have often been at variance. In scrutinising the minutes of the Council of Assembly over a four-year period, the Special Commission was dismayed to see how little attention appeared to be devoted to discussion of financial matters, and this despite the detailed work of its Finance Group and warnings sounded by some of its members. We take one example. At meetings of the Council of Assembly in November and December 2016, the deficit for 2016 was being forecast at £4m against a budgeted deficit of £3.2m and the budget for 2017 was being revised to a deficit of £4.7m from a forecast of £1.3m. Whilst members of the Council expressed ‘concern’, the Council engaged in no further discussion

over 2017 as to how to respond to this lack of budgetary control. Only in December 2017 were serious questions asked, when the Council’s Finance Group reported that the detailed budget deficit for 2018 was £4m against a forecast of £2.3m and that 2019 would present serious challenges because of reducing congregational contributions and a continuing and significant reduction in legacy income. Even so there was no urgency expressed: merely that firmer budget measures “might be required”.

A related concern is the relentless growth of posts and staff costs within the central Councils and committees. At the end of 2018, 245 persons (217 full-time equivalent) were employed within SC011353, at an annual payroll cost of £9.9m. This represents a growth in numbers of c10% from 222 (198 full-time equivalents) since 2013 with a cost rise of over 20% from £8.2m. Even allowing for inflation, the rising cost of the central staffing complement seems unaffordable, given the reduced size of the Church of Scotland and the anticipated decline in congregational income (currently c£47m). Successive General Assemblies have added to central staff numbers without proper discussion of the optimal size of the central organization. A smaller and leaner bureaucracy will be needed for the years ahead, especially if larger Presbyteries are to be better resourced for their work.

Not only is there no deficit reduction plan, but our detailed investigations have shown a disturbing lack of concern to curb and control expenditure. Substantial sums of money have recently been spent on consultancy, branding exercises, YouTube productions and newsletters. Until a moratorium was recently declared, 33 different newsletters were being distributed to a variety of mailing lists from inside 121 George Street. There is no coherent strategy supporting these disparate communications activities, with ample evidence of duplication and minimal consideration of the needs of the intended

audiences. This seems an inefficient use of scarce resources. One correspondent suggested to us, not unreasonably in our view, that if another national charity were to send us over 30 newsletters from different elements of its central administration, we would find this baffling.

With further dismay, we note that these forms of expenditure have taken place at a time when ministry candidates and their families continue to face serious financial pressures. Despite repeated pleas and some valiant efforts, the Church of Scotland has still failed to provide an adequate stipend for those who are required to devote three of four years of full-time study to their ordination training. Many of our candidates continue to borrow money from the Students Loan Agency only later to face repaying debts from a ministerial stipend. Those called to ministry are required normally to undertake an intense programme of 3-4 years of full-time study and training. Having relinquished their secular employment, they deserve to be better supported throughout this process. At a time of acute ministerial shortage and crisis in recruitment, this is symptomatic of an organisation that is losing sight of its fundamental priorities.

Councils – at present, the General Assembly has six standing Councils: Council of Assembly; Ministries; Mission and Discipleship; World Mission; Church and Society; and Social Care. Given our remit to explore ways in which a leaner structure would better serve the local church and its mission, we are proposing a reduction in the number of Councils. Again, this is not a novel idea but one that has been advocated for some time. In recent years, there have been areas either of overlap or of common activity without strategic oversight, e.g. more than one council reports on Israel/Palestine, three Councils have developed initiatives for younger people, parish mission is a preoccupation for at least two Councils and so on. Some consolidation of effort

and reduction of semi-autonomous groups would save resource, while also facilitating more coordinated and strategically focussed activity. A rationalised structure could achieve better oversight, reduced expenditure, economies of scale, less duplication of effort, cessation of work which is no longer a priority, and less rivalry between Councils.

We have been unable to identify a clear role for the Panel on Review and Reform in the new structures envisaged, though we recognise the need for a forward looking 'think tank' that can stimulate fresh reflection and vision. Such groupings could be established on a limited, fixed-term basis with a clearly defined remit by the new trustee body. To underpin this and other work, there is a need for an in-house facility to ensure that policies are informed by proper research and analysis. Comparisons with other churches, e.g. the Church of England and the PCUSA, suggest that such a facility is desirable, even necessary. For example, a research support officer might undertake work in the following areas, all of which are central to the mission of the church:

- 'functionality' of particular Presbyteries or areas of the country - their use and allocation of financial and human resources, the 'weak spots' in terms of territorial coverage;
- Presbytery 'health checks' to enable more realistic planning, involving closures, new initiatives in pioneering and church planting, and the resourcing of healthy churches to enable growth;
- 'mapping' to identify space for new initiatives in church life, and drawing upon best practice in other churches;
- assessing the development of new 'fresh expressions'.

Social Care presents distinctive and formidable challenges in terms of governance and finance. We have discussed these with office-bearers and the CEO of Crossreach and we share their view that

Crossreach should become an arms-length, self-sustaining organisation. While remaining within the charitable body and drawing strength from its links with the Church of Scotland, Crossreach could function in a more autonomous capacity with its own management, financial and HR structures. This would also result in significant efficiency gains; for example, at present, the CEO of Crossreach dedicates c30% of her time to the work of church committees, most of which are remote from her expertise and remit.

Representation on Councils and Committees

– a further complaint that we received on several occasions concerned the size of many Councils and Committees. These often exceed 30 members with the result that significant numbers are unable to contribute effectively to discussions and decision making. Moreover, the managing of these relatively large bodies appears to absorb a disproportionate amount of effort on the part of staff inside the church offices. Given this problem, in addition to the general decline in numbers and resource, we believe that the Church of Scotland could function more effectively with a much smaller representation on these and other bodies. Our system of church government at every level is currently populated by large and unwieldy bodies that neither facilitate effective decision-making processes, nor proper stewardship of time and resource. We should ensure that, wherever appropriate, Council officials are empowered and trusted to take executive decisions, instead of requiring these to be channelled through large committees for scrutiny, discussion and approval.

Wider Structural Concerns

Although the remit of the Special Commission begins with a focus on the Council of Assembly, it raises further concerns about the need for a 'national structure' that is sufficiently 'lean and fit to lead reform'. The Special Commission has also considered this, mindful of the wish of the General Assembly 2018 to see

proposals for radical reform brought forward in this context.

General Assembly – as a body of c800 commissioners, the Assembly has often proved inadequate in holding Councils and committees accountable, controlling expenditure, and in articulating a coherent strategy for the whole church. Time and again, we have been confronted in our discussions by the view that the General Assembly is unfit for purpose and unable properly to exercise its role in relation to oversight, coordination, and the enabling of the mission of the local church. There are many symptoms and several causes of this malaise.

On average 167 people are attending the General Assembly for the first time and most have not been present in the preceding year. Commissioners are confronted by a substantial volume to which is added another set of supplementary reports which appears shortly before the Assembly, as well as several sets of Daily Papers. Coupled with the procedures surrounding questions, debates and deliverances, it is perhaps inevitable that most recommendations are received, taken on trust, and approved. (Amidst the plethora of approved deliverances, some decisions are never acted upon, while efforts to 'encourage congregations' to undertake some task or other seem unlikely to have any real effect.) The timing of the Assembly is also problematic, given that it requires any working elder to take a week's annual leave. Costings are imprecise, but it is certain that the headline figure (£400+K) does not represent the total amount. The time spent by ministers preparing reports, travelling to meetings and spending one week of the year in Edinburgh also requires to be properly costed, as does the input of staff time in servicing these committees, and preparing for the Assembly. If all this were included in the calculation, the Church of Scotland's AGM would appear to be a very expensive undertaking. And with the approval of reports and deliverances

completed, it is not long before the process begins all over again. The disproportionate number of retired ministers in attendance also attracts negative comment, especially from those younger ministers in post who find this disempowering. We believe that the proposed new Business Committee, as an immediate priority, should identify ways in which the General Assembly can be reduced in size and become more effective in serving its purpose.

Presbyteries – although their number is generally agreed to be too high, efforts at reform have hitherto proved largely unsuccessful. The distress experienced by many of the smaller Presbyteries is now palpable and reform is urgently needed. The emergence of groups is a welcome development but soon the Church of Scotland will need to reduce the number of its Presbyteries from 45 to c12, if these are to function as effective and properly resourced regional bodies. Work on this is already underway and should be further encouraged and accelerated. There are two problems that afflict the relationship of the Presbyteries to the General Assembly. First, there is a lack of accountability. We appear to have no reporting mechanism by which plans and strategies are approved by the Assembly, though some Councils do maintain frequent contact with Presbyteries and provide regular advice and support, while the Clerks Forum ensures some coordination of Presbyteries with the central church. But how the General Assembly satisfies itself that Presbyteries are functioning well is not at all clear. This relates to a second problem surrounding resource. The distribution of funds from wealthier parts of the church has historically taken place according to the two criteria of poverty and remoteness of location. It has been an axiom of our system that a sharing of material resources is needed to support congregations in the poorest parts of Scotland and in more remote locations where population density cannot produce financial sustainability. According at least to anecdotal evidence, the present system of resource allocation

seems to work sub-optimally with not a few congregations in areas that are neither poor nor remote receiving substantial subsidies. This suggests that a rationalisation of resource allocation, informed by the provision of more robust and granular data is urgently required. The system of resource allocation is also controversial for the disincentives it creates particularly for congregations in long-term vacancies,^[13] and for the ways in which funds released by the sale of assets (e.g. as a result of a union) are not distributed to areas of strategic priority. We recognise that there are tensions amongst the local, the regional and the national church but some balancing of interests and priorities needs to be more clearly established.

Kirk Sessions – Neither is the local church free of structural problems. Kirk Sessions function as trustee bodies but again the numbers are often too large to deliver proper oversight and executive control. The size of Kirk Sessions has historically been determined by the number of districts requiring pastoral care. This has produced bodies of 50+ persons in many places. Whether the ministry and mission of the church are best exercised by such large groups spending significant amounts of time servicing committees and visiting districts is at least an open question. And whether younger members wish to hold an office that is effectively for life is doubtful. Another correspondent suggested to us that if prospective young elders were to sample a Kirk Session meeting and then be offered the post for life, they would be unlikely to find this an attractive proposition. We note that in other churches, for example the Presbyterian Church of the USA, Kirk Sessions comprise only those elected to serve for a fixed term, thus constituting much smaller and arguably more effective executive bodies at local level. A disproportionate amount of time is arguably absorbed by the routine tasks of the eldership. This could be released for other activities and new initiatives. We welcome the initiative of the

Legal Questions Committee in bringing forward new proposals to this end.

121 George Street – there has much discussion over the future of the buildings that currently house the church offices. We have received conflicting reports of the cost of necessary repairs, of decanting, of securing alternative accommodation, and of the commercial viability of leasing sections of the building. The Commission has not taken a view on these matters except to observe that i) the new trustee body will require to take an informed view on the future of the buildings and possible alternatives at an early opportunity, ii) that this should be done through close consultation with the General Trustees, iii) that no decision should be taken until there is greater clarity on the future shape and needs of the central organisation of the church and iv) that the wider cultural impact on the organisation should be considered in this context. Accordingly, we recommend that the trustee body takes steps to carry out necessary repairs to ensure that the organisation can continue to function in 121 at least for the short term but that steps be taken to assess its longer-term viability. Further remarks from the Transformational Change report are relevant in this context. 'It was evident from our visits to 121 and from numerous comments received from SMT members that the existing building general arrangement and infrastructure present considerable challenges to creating an open, collaborative workplace. Some examples of close adjacencies between teams were reported to be extremely successful. Most members, however, saw the compartmentalised internal plan arrangement, with distinct front and rear accommodation blocks arranged over multiple levels, as presenting barriers to effective inter-team collaboration.'^[14]

Outline of Proposals

The focus of our remit is proper trustee governance, together with the identification of, and proposals to embed in the Church's structures, key principles to

allow the General Assembly to prioritise the work and resources of the Church. Six months of meetings and investigation have made us acutely aware of the need for widespread reform, including a Radical Action Plan.

Proposal 1– A new body of trustees, to be called the Assembly Trustees, should be established with effect from the end of the General Assembly 2019. This body will act as the trustees of all funds held within SC011053 whether restricted, designated or unrestricted. Trustees appointed by General Assembly 2019 will retire in a gradual process after one year, following which appointment should take place through a transparent and inclusive process of advertisement, application, recommendation and interview. This process should be designed to maximise the diversity of the Trustee body from among all members of the Church and with the necessary skills. The remit and responsibilities of the new trustee body are set out in Appendix 1.

Those trustees first appointed by the General Assembly will be a transitional body who will make the necessary appointment of a Chief Officer, establish governance systems which allow the trustees to carry out their work properly, and provide assurance to the General Assembly as to the manner in which the Assembly's strategies and priorities are being taken forward. From extensive discussions with colleagues inside and outside the Council of Assembly, we have reached the conclusion that the current structure has never been fit for purpose. Its composition has resulted in too large a group, conflicts of interests on the part of conveners and others in attendance, a confusion of oversight with executive management, and an inability to exercise proper fiscal control over Councils and committees. Our view is that this new body requires to take up post with immediate effect to ensure a rapid response to a sense of crisis. This has multiple causes – financial, organisational and motivational.

Proposal 2 – Beyond the three-year transitional period, the trustee body should comprise 12 members, to be appointed for a period of three years, including a convener, vice-convener and administrative trustee. Two further members will be appointed *ex officio*, the Convener of the Business Committee of the General Assembly and the Chair of the General Trustees. We agree with the indication in our remit that a proper structure should ensure that the Assembly can effectively direct prioritisation of work and resources. In order to achieve this, there must be true collaboration between Councils (or their successors). This will be enhanced if the new trustees are able to carry out the work which had been remitted to the Council of Assembly of monitoring, evaluating, and co-ordinating the work of Agencies and Councils and their wise use of resources. This can be achieved by the new trustees facilitating a rolling budgetary programme and having oversight of all potential reports and deliverances. The General Assembly will then be able to set priorities upon the basis of a systematically presented set of options. The Assembly Trustees should determine for themselves an appropriate sub-committee structure. All reports and deliverances to the General Assembly should be transmitted to and scrutinised by the trustees prior to their publication. In our view, this will better represent the way in which the trustees are intended to exercise broad oversight of the work of the charitable body. The new trustee body should receive administrative support from within the organisation. Our view is that c12 is the optimal figure for the trustee body of our charitable organisation. It should be sufficiently large to incorporate the necessary skills and to reflect the breadth of the Church of Scotland. But it should be sufficiently small to ensure that all its members participate actively in meetings and assume responsibility for establishing priorities and for exercising oversight and coordination of activities. The trustee body should comprise people with skills in law, human

resources, finance, management, communications and theology, while also including members with extensive experience of leadership in the Church of Scotland. The need for proper coordination with the work of the General Assembly Business Committee and the General Trustees can be served by appointing the conveners of these bodies as trustees *ex officio*. No employee of the Church of Scotland, full-time appointee of the General Assembly, or other convener should hold the position of trustee.

Proposal 3 – A senior management team should be restructured to work closely with the trustees, with delegated authority for the discharge of functions from day to day. This will be led by a full-time Chief Officer – a new role – whose appointment should be an urgent priority for the new trustee body. The appropriate membership of and remit of the Senior Management Team will be determined by the Trustees in accordance with good management practice. We have given serious consideration to what a “leaner and fitter” management structure would look like. Conscious of the burden imposed by large management spans and having considered practice in comparable organisations, we believe that there may be an advantage in a further new appointment to the SMT of a Head of Corporate Services. This post would support the Chief Officer, taking management responsibility for finance; human resources; communications; IT; estates and other central functions. Accordingly, we would invite the trustees to consider this. During the interim period from 1 June, we would recommend that the current Acting Secretary to the Council of Assembly continue in his role with respect to organisational oversight, working under the authority of the new trustee body.

From a range of conversations, we have reached the conclusion that the current senior management team is neither sufficiently clear of its role nor sufficiently empowered to act as an executive body. This is confirmed again by the

Transformational Change Report. Clearer delegations of responsibility and accountability need to flow from the trustee body through the Senior Management Team to the rest of the organisation. In particular, this must involve greater management oversight, support and development of staff and control over budgets, expenditure and implementation of the strategic aims of the trustee body as approved by the General Assembly. This model functions well in many other charitable bodies and partner churches; it should be followed within the parameters of our Presbyterian form of church government.

In addition, the trustees will be served by one of their own number to act as the Administrative Trustee. With appropriate support from a staff member in the central organisation, the Administrative Trustee, among other matters, shall make all necessary arrangements for meetings of the Trustees and the work to be covered by them, work closely with the Convener, Vice-Convener, and the Chief Officer to ensure that all proper governance measures are implemented and to ensure that trustees are given appropriate training.

Proposal 4 – There should a reduction in the number of Councils, with a view to the formation of two groupings. The following model is suggested, though we recognise that further internal discussion is required with a view to the Assembly Trustees bringing a set of recommendations to General Assembly 2020. The Ministries Council and the Mission and Discipleship Council might merge to form one ‘inward facing’ body with responsibilities for the resourcing of ministries, the upbuilding of the congregations of the Church of Scotland and the envisioning of Christian mission in Scotland. The World Mission Council and the Church and Society Council might merge to form one ‘outward facing’ body that will facilitate the overseas work of the Church of Scotland together with the task of bearing Christian social witness

at home and overseas. These new groupings could provisionally be named the Ministries and Mission Group, and the Church in the World Group. We recommend abandoning the nomenclature of ‘Councils’ to signify more clearly the distinction between the trustee body and those groupings within the central organisation of the Church that in future will become more accountable to the trustees in terms of strategy and reporting, and through the trustees to the General Assembly. But, once formed, these new groupings should feel free in due course to propose alternative designations to the General Assembly that reflects their remit.

Admittedly, the terms ‘inward facing’ and ‘outward facing’ are not altogether happy. The task of equipping ministers and congregations for mission clearly has an outward role, while much that is undertaken with respect to Scotland, the UK and the wider world has a reference to congregations, their witness and their partnerships with other churches and agencies. And the ecumenical work of the Church of Scotland will have a demonstrable locus in both bodies. Nevertheless, the integration of these Councils into two units has sufficient rationale to enable greater coordination and economies of scale to take place without loss of vision or vital activities. If we can ensure that there is sufficient cooperation and alignment with organisational priorities, then these two groupings can be made to work for the good of the whole church. Our view is that the location of Ecumenical Relations, the Theological Forum, and the Inter-Faith Officer should be considered in light of this new configuration with a view to developing closer links, more efficient working and a coherent governance model. Consideration should also be given to other groupings within the organisation. For example, we are aware of the important work of the Guild and would recommend that the trustees seek to identify any ways in which it can be best included in any new governance arrangements. To develop

close links between these new groupings and the Assembly Trustees, we envisage 'liaison trustees' being appointed, from amongst the trustees, to work alongside the group leadership.

A fusion of four Councils into two groups should enable economies of scale, avoidance of duplication and competition, reduction of central staff numbers, more effective working across the organisation and devolution of some functions to larger Presbyteries. These Council mergers have been mooted for some years with the intention of creating one internally focussed and one externally focussed group. Now is the time to bring about this reorganisation.

The Panel on Review and Reform was established by the *Church Without Walls* report in 2001. Its remit has fallen somewhat uncertainly between those of other bodies, e.g. the Council of Assembly which is responsible for strategy and both Ministries and Mission and Discipleship which have initiated new programmes in ministry and mission in the intervening years. Our view is that a place will need to be found for the wider strategic thinking undertaken by the Panel, particularly in a comparative context, but that this can be done on an occasional basis either by the two new groupings or by an ad hoc working group of the trustee body. In this connection, we have also come to the view, following Doug Gay, that the Church requires a research facility in order to generate accurate data and informed analysis across a range of activities. This could be based within the new Ministries and Mission Group. Accordingly, the Panel on Review and Reform can now be discharged not with disregard to the importance of its remit but with the intent of embedding and strengthening its work via other bodies.

Social Care faces formidable challenges, already alluded to above. Our view, which appears already to be widely shared, is that Crossreach needs to become a more autonomous body both in terms of its

finance and governance. The different and specialist nature of its activities will require this, while the need to reach a position closer to financial sustainability is apparent. A positive relationship with the Church of Scotland should be maintained but in a way that is financially prudent in the longer term. The Social Care Council should become the Social Care Committee and be instructed, in line with the Radical Action Plan, to forge a new identity for Crossreach as a self-sustaining 'arms-length' body. The Social Care Committee should bring a series of recommendations in those terms to the General Assembly of 2020.

Proposal 5 – The new trustee body should seek within one or two years a reduction in the costs of the central administration of SC011353 by c20–30%. This figure is indicative only, but our initial judgement is that it needs to be of that order for cost savings that will prove commensurate with the steady decline in the size of our membership and the subsequent impact on income. To oversee this process of transition, expertise in organisational change management should be secured, where necessary, by the trustees. This might be on a fixed-term basis: again, the precise nature of this appointment is a matter for the trustees, working with the new Chief Officer. A simultaneous review of the pay grade scheme should be also be undertaken. We understand that this is now overdue and that significant anomalies require to be tackled. A time of administrative re-organisation will provide an opportunity for this work to be advanced.

There has been recent growth in the number of posts created within the central committees and Councils. This number is unsustainable for a membership shrinking in size by c4% each year and with congregational income likely to decline. Furthermore, the need to create fewer and better resourced Presbyteries will require a slimming down of the central organisation and a redistribution of resource to the

regions. Steps to reduce central costs should be undertaken as an immediate priority by the new trustee body. To be effective this programme will need to consider functions essential for compliance with charities law, the core business of the Church, ways in which some activities might devolve to larger Presbyteries (for example, support with mission, buildings, finance, and human resources). Other activities should be re-evaluated in relation to the shrinking size of the Church, increasing financial constraints, and a clearer understanding of the Church's priorities.

Proposal 6 – The Assembly Arrangements Committee should become the Business Committee of the General Assembly to form a body of 12 members – see Appendix 2.

The newly formed Business Committee should report in 2020 on ways in which the Assembly can become smaller, of shorter duration, and more cost effective. To this end, the 2020 Assembly should be largely devoted to issues of governance, finance and the articulation of strategic priorities for the whole church. Reports and deliverances from Councils should be kept to a minimum during this transitional year. Following merger, the two new groupings should be tasked with identifying ways in which committee membership can be significantly reduced as a cost saving measure.

The General Assembly should also be reduced in size and duration to reflect the smaller membership of the Church of Scotland and to produce a more effective forum for discussion and decision making. Models from other Reformed churches could be compared for the sake of envisioning a more adequate form of church government which better coordinates central, regional and local church structures. In particular, a new way of enabling Presbyteries to report to the General Assembly should be considered – as mentioned above, we understand that

the Legal Questions Committee is already engaging with this task

The Commission judges that the new trustee body should have a more central role at the General Assembly than the Council of Assembly, which has too often found that it is by-passed by other Councils and thus marginalised at key moments. For example, it is anomalous that the Council of Assembly often lacks advance notice of reports and deliverances of other committees and Councils prior to their submission for publication. Our requirement is that all reports and deliverances now be transmitted to the trustees via the Senior Management Team and scrutinised prior to publication. Deliverances and reports should be significantly reduced in length in the interests of efficiency, accessibility and cost savings. The presence of trustees as commissioners will also ensure better knowledge of Assembly business, improved channels of communication, and increased accountability. Responsibility for Heart and Soul should be remitted to the Ministries and Mission grouping.

Through much of our consultation process, we have been struck by the adverse comments on the size of Councils and Committees. These large bodies generate significant amounts of staff administrative time and costs in terms of time and travel. Our view is that these bodies would be at least as efficient if contracted in size with savings also generation. To ensure sufficient expertise for the expediting of business, Committees should continue to have powers to co-opt members. We recommend that the eventual merged groupings review their committee structures with a view to achieving a significant reduction in numbers, wherever possible.

Conclusion

The Commission submits these proposals to the Church, conscious of their far-reaching consequences. These are aligned with previous analyses and reports, together with much of what we have

learned through the consultation process. It is clear to us that the status quo is not sustainable and that vital changes are immediately required for the welfare of the whole Church and the proper stewardship of its resources. Frequently, we have been urged to be bold and radical in our proposals. In that spirit, we offer this report and its recommendations to the General Assembly.

In the name of the Commission

David Fergusson, *Convener*
Sarah Davidson
James McNeill
Morag Ross

Appendix 1

CONSTITUTION AND REMIT OF THE CHARITY TRUSTEES OF THE CHURCH OF SCOTLAND, (the Unincorporated Entities), SCOTTISH CHARITY NO SC011353

Introduction

1. The Charity Trustees of the Church of Scotland, (the Unincorporated Entities) Scottish Charity No. SC011353 (the "Charity") are known as the "Assembly Trustees".
2. The general work of the Church of Scotland (the "Church") beyond the local spheres of Congregations and Presbyteries is directed and controlled by the General Assembly of the Church (the "General Assembly") through standing committees appointed for the purpose. By Deliverance of the General Assembly made on 17 May 2004, the Council of Assembly (the "Council") was established, with effect from 1 June 2004, as such a standing committee of the General Assembly, to which it is directly accountable and to which it is required to report annually.
3. Following upon the coming into force of the Charities and Trustee Investment (Scotland) Act 2005 (asp 10) (the "2005 Act") the Church is recognised as a Designated Religious Charity, Scottish Charity No. SC011353. By Deliverance of the General Assembly those members of the Council appointed by the General Assembly together with those members of the Council holding office as Conveners of the six major Councils of the Church (the "Conveners") were appointed to act as the Charity Trustees and, as such Trustees, to have general control and management of the assets of the unincorporated Councils and Committees of the Church (the "Unincorporated Entities").
4. The assets of the Charity are those held for the Unincorporated Entities and include the assets of the Church of Scotland Housing and Loan Fund for Retired Ministers and Widows and Widowers of Ministers. Other Church assets are held by the General Trustees, Scottish Charity SC014574, the Church of Scotland Investors Trust, Scottish Charity SC022884 and the Church of Scotland Trust, Scottish Charity SC020269 (together, the "Statutory Corporations"). Church assets are also held locally by individual trustees on behalf of Congregations or by Presbytery trustees on behalf of Presbyteries.

5. In practice it has been found that (a) because much of the remit of the Council involves acting in an executive capacity as regards the day-to-day management of the work of Councils and committees, it is impractical for a body of volunteer trustees to accomplish such work without dedicated executive support (with the result that what should be the principal role of exercising oversight and coordination of activities suffers) and (b) the inclusion as Charity Trustees of the Conveners (as members of the Council) have not been conducive to good governance and management of the Charity's assets.
6. This deed therefore makes new provision as to the constitution, powers and duties of the Assembly Trustees, reconfirms the charitable purposes, makes specific provision as to the nature of the matters to be carried out by the Trustees and confirms the extent to which day to day management of the work of the General Assembly's standing committees is to be carried out under the aegis of the Assembly Trustees and as part of the remit to them.

Trustees

7. As from the date of their appointment by the General Assembly the first Assembly Trustees (the "Trustees") shall be ***[here take in the names of those individuals first appointed by General Assembly 2019]. [name]*** shall be the first Convener. ***[name]*** shall be the first Vice Convener. ***[name]*** shall be the first Administrative Trustee.
8. The Trustees shall be members of the Church.
9. Trustees shall hold office for a term of three years, renewable for one further term only, whether

consecutive or not; provided that, as regards the Trustees first appointed, one third in number shall serve for a term of one year only, non-renewable for a consecutive term, one third in number shall serve for a term of two years only, non-renewable for a consecutive term, and one third in number shall serve for a term of three years only, non-renewable for a consecutive term. The Trustees first appointed shall be eligible to serve a second term, non-renewable, after an interval of three years.

10 The appointment of a new Trustee upon the occurrence of a vacancy by reason of death, resignation or otherwise, and any re-appointment, shall be determined by the Trustees, subject to approval by the General Assembly, through the adoption of a policy such as that set out in Schedule A below. There shall be twelve appointed Trustees except in time of vacancy. In addition to appointed Trustees the Convener of the Business Committee of the General Assembly and the Chair of the General Trustees of the Church of Scotland shall be Trustees by virtue of office.

11. Up to one half of the Trustees may be ministers and deacons of the Church. No employee of the Church and no member of any Agency will be eligible for appointment as a trustee.
12. There shall be a Governance Group as provided for in Schedule B below.
13. There shall be a Convener, Vice Convener and Administrative Trustee, chosen as provided for in Schedule C below.
14. A Trustee will automatically cease to hold office if: -

- a. he or she becomes incapable for medical reasons of carrying out his or her duties as a charity trustee – but only if that has continued (or is expected to continue) for a period of more than six months; or
 - b. he or she gives to the Convener a signed notice of resignation; or
 - c. he or she is removed from office following the procedure set out in paragraph 15 and Schedule B below.
15. If it appears to the Convener, Vice Convener or Administrative Trustee that a trustee may be in material breach of her or his duties as a Trustee or if a complaint is made by another Trustee or by an interested party alleging such a breach, the Administrative Trustee (or, if necessary, another Office Bearer) shall report the matter to the Trustees' Governance Group at the first reasonable opportunity, without naming the Trustee, with a request that the Governance Group take such steps as are appropriate within the provisions of Schedule B below. Upon such an occurrence, the Trustee in question shall have the rights and obligations set out in that Schedule in addition to all other rights and obligations at law.
16. In all aspects of their work as Trustees, each of the Trustees shall be indemnified by the Church in respect of any liability incurred as one of the Trustees arising from acts or omissions save where a Trustee has acted in a breach of trust amounting to wilful default or recklessness.

Charitable Purposes

17. In accordance with the Declaratory Articles and Act of Assembly V of 2010, the Trustees shall hold the entire heritable and moveable property, assets, securities, investments and income held by or for the Charity (the "Charitable Estate") for the following objects:
- 1) to offer Christian worship, fellowship, instruction, mission and service;
 - 2) to bring the ordinances of religion to the people in every parish of Scotland through a territorial ministry;
 - 3) to labour for the advancement of the Kingdom of God throughout the world.
18. In doing so the Trustees -
- a. shall seek to build and strengthen local congregations as centres of worship, care nurture, service, witness and mission;
 - b. shall promote, in partnership with other churches, the ministry and mission of the Church throughout all of Scotland, with particular reference to its poorest and most remote areas;
 - c. shall support the work of ecumenical bodies and other agencies in Scotland and elsewhere in the world; and
 - d. may make such provision of support, if any, to other charitable bodies having similar aims as those foregoing, as may seem appropriate in a common pursuance of the foregoing objects.
19. As regards the investments and income held by or for the Trustees as

part of the Charitable Estate, the Trustees shall have sole and absolute authority to give instructions to the Church of Scotland Investors Trust as to the management of and dealing with those assets, declaring that the Trustees shall maintain, and in consultation with the General Treasurer keep under review, a list of nominated persons by whom such instructions may be given.

Work of the Trustees

Governance

- 20. The Trustees shall exercise the supervisory function required by the Church's Designated Religious Charity status; in particular, they shall –
 - a. maintain a Code of Conduct for the Trustees adhere to it and supervise compliance with that Code by all Trustees;
 - b. maintain a Code of Conduct for all Agencies, adhere to it and supervise compliance with that Code by all members of such Agencies;
 - c. carry out the work of trusteeship in accordance with the provisions of Schedule C below; and
 - d. maintain and implement such internal audit functions and risk management strategies as appear to the trustees, upon proper advice, to be appropriate.
- 21. The Trustees shall liaise with the Principal Clerk of the General Assembly (the "Principal Clerk") as necessary and in particular insofar as the work required in that post interacts with the work of the Trustees. The Trustees shall request the Principal Clerk to attend such parts of such meetings of the

Trustees as appear to the Trustees and to the Principal Clerk to be appropriate; but without the Principal Clerk being entitled to participate in any vote or other form of determination by the Trustees. The Solicitor of the Church shall attend meetings for the purpose of giving such advice as may be necessary on the legal implications of matters being discussed.

- 22. The Trustees shall have oversight of the work of the Agencies and shall seek to ensure that the use and proposed use by the Agencies of the Charitable Estate is in accordance with the policies, priorities and strategic objectives of the General Assembly and the Financial Strategy of the Trustees.
- 23. The Trustees shall approve the reports to the General Assembly of all Agencies and others prior to submission; and shall ensure that such reports are submitted in draft to the Senior Management Team no later than four weeks prior to any printing deadline required for submission to the General Assembly. Before approving reports for submission to the General Assembly the Trustees shall discuss with Agencies any apparent inconsistencies with the policies, priorities and strategic objectives of the General Assembly, with the Financial Strategy of the Trustees and as between or among reports of various Agencies.
- 24. The Trustees shall attend the sittings of the General Assembly in accordance with such arrangements as are put in place through the Business Committee of the General Assembly.

Powers

- 25. In carrying out their work in terms of this constitution the Trustees have power to do all such things as are necessary or incidental to the attainment of the Charitable Purposes.
- 26. In particular, the Trustees shall have all powers necessary to put into effect the matters hereinafter specified and set out in Schedules A, B, C and D below.
- 27. At a meeting of the Trustees at which the appropriate quorum (as set out in Schedule C below) is present, those Trustees present may exercise all powers exercisable by the Trustees.

Duties

- 28. The Trustees shall seek to ensure the implementation of the policies, priorities and strategic objectives of the General Assembly through working with the Agencies to achieve a collaborative approach to the nurturing of the people of the Church in their witness, worship and service and through assisting the General Assembly to determine strategy for the Church.
- 29. Upon the appointment of the Trustees first appointed –
 - a. the Trustees shall, as soon as practicable after appointment, consult with the respective Conveners of the Church and Society, Ministries, Mission and Discipleship, and World Mission Groups as to the most effective and efficient manner in which the work of the Ministries Group and that of the Mission and Discipleship Group, and the work of the World Mission Group and that

of the Church and Society Group are to be carried out in two new groupings;

- b. the Trustees shall as soon as practicable after such consultation, require the Conveners of the Ministries, Mission and Discipleship Groups and, separately, the World Mission and Church and Society Groups to report to the Trustees within two months with proposals from each combined Group as to:
 - i. a proposed name for their combined Group;
 - ii. an appraisal of those parts of the work of their former Councils which should be carried out by Presbyteries, those parts which should be carried out by the combined Group and any parts which it is no longer necessary to carry out;
 - iii. a proposed remit for their combined Group;
 - iv. a reasoned proposal for the number of members for their combined Group; and
 - v. a reasoned proposal as to which areas of work of the combined Groups might most conveniently be carried out through special task groups or working parties;
- c. the Trustees shall, within one month of receipt of those proposals and after such further consultation as the Trustees deem appropriate, determine upon the

- appropriate name, division of work, remit and number of members of each combined Group; and
- d. the Trustees shall, within one month of such determinations, issue appropriate guidelines to the combined Groups as to the manner in which the combined Groups are authorised to carry out work through special task groups or working parties and the parameters which are to be applied to such an approach.

Administration of the work of the Trustees

30. The Trustees shall appoint one of their number as the Administrative Trustee to carry out the work set out in Schedule E below, or otherwise as the Trustees shall determine, and to liaise with the Chief Officer, the General Treasurer and, when necessary, the Principal Clerk, as to the proper conduct of the administration of the Charity. In carrying out this work, the Administrative Trustee shall be assisted by the Solicitor of the Church.

Finance and Stewardship

31. The Trustees shall oversee the work of the General Treasurer in contributing to the fulfilling of the work of the Church by maintaining a strategic overview in the delivery of finance, accounting and support services, in being responsible to the Trustees for budgetary control, in co-ordinating an appropriate approach to financial services which are of a strategic nature, in carrying out the work of day-to-day oversight of the provision of an effective treasury function and in overseeing the support of human resources, IT and communications.

32. The Trustees shall ensure that Church resources are used wisely and effectively and in accordance with the policies, priorities and strategic objectives of the General Assembly; and in particular, they shall –
- a. adhere to the policies, priorities and strategic objectives of the General Assembly;
 - b. adopt, maintain and keep under review a Financial Strategy;
 - c. after each General Assembly, review as necessary whether potential expenditure should be categorised for the purpose of identifying prioritisation of expenditure;
 - d. after each General Assembly, review as necessary the appropriate prioritisation of expenditure;
 - e. maintain and, after each General Assembly, review as necessary a set of Budget Principles to be applied in determinations in accordance with the provisions of Schedule D;
 - f. maintain, and in consultation with the Church of Scotland Investors Trust subject to a periodic review, an appropriate Investment Policy as regards investments held as part of the Charitable Estate;
 - g. maintain, and in consultation with the Agencies subject to a periodic review, an appropriate Scheme of Financial Delegation such as that set out in Schedule F below to be followed by the Agencies;
 - h. maintain, and in consultation with the Agencies subject to a

- periodic review, an appropriate Scheme of General Delegation;
- i. maintain, and in consultation with the finance committees of the Agencies subject to periodic review, an appropriate Procurement Policy to be followed by the Agencies;
 - j. set appropriate standards of financial management for Agencies and to oversee compliance;
 - k. supervise and assist Presbyteries and congregations in adhering to financial standards required by charity law and by the General Assembly and to oversee compliance;
 - l. oversee the provision of financial management services for the Agencies, as agreed from time to time for the Statutory Corporations;
 - m. determine policy in relation to the teaching and promotion of Christian stewardship throughout the Church and to ensure adherence; and, in particular they shall –
 - i. provide support to Presbyteries and congregations in the promotion of stewardship with a view to generating sufficient income to resource the worship, mission, nurture and service of the Church; and
 - ii. make proposals to the General Assembly as to appropriate policy in relation to Ministries and
- Mission Contributions from congregations, and, subject to Regulations to be approved by the General Assembly, to determine with Presbyteries the Ministries and Mission Contributions required annually from congregations.
- 33. The Trustees shall maintain budgetary control of the use of the resources of the Charity; and in particular they shall –
 - a. determine in accordance with the provisions of Schedule D, for each calendar year, the financial provision (including contingency allowances) to be made available for the work of each Agency and shall ensure that funds are made available to each Agency to meet the provision determined upon;
 - b. prepare, approve and present annually to the General Assembly an indicative Rolling Budget and outline Financial Plan for the following five years;
 - c. prepare, approve and present annually to the General Assembly the audited Annual Report and Financial Statements of the Unincorporated Entities; and
 - d. ensure the maintenance by Agencies and any other budget holders of proper accounting records including those for financial transactions and payroll matters together with management accounts.
 - 34. For the financial year 2020, the Trustees shall determine a final

- budget for that year no later than 1 December 2019.
35. For the financial years 2021 and following, the Trustees shall commence work by 31 August 2019 on the development of the budget for that year and beyond under the arrangements set out in Schedule D.
36. The Trustees shall recommend to the General Assembly the total amount of the Church's Co-ordinated Budget for the Parish Ministries Fund and the Mission and Renewal Fund for the following financial year; and shall determine the allocation of the budget for the Mission and Renewal Fund among the relevant Agencies.
37. The Trustees shall develop and maintain a Reserves Policy; and, in particular, they shall make special provision for the funding of Funds such as the Go For It Fund and of any Growth Fund approved by the General Assembly. The Trustees shall maintain oversight of the work of such Funds to ensure that the Charitable Estate is deployed in accordance with the Charitable Purposes set out above.
38. The Trustees shall receive and distribute the income or capital of unrestricted legacies and donations among the Agencies at such times and in such proportions as to the Trustees shall seem appropriate, with power to specify the use to which these funds are to be applied.
39. The Trustees shall have regard to the conclusions of the 2018-2019 review of Funds which seeks to identify whether Funds are subject to restrictions as to the uses to which such Funds may be put and, if so, as to the proper interpretation of such restrictions. As regards Funds in respect of which there is no such restriction ("Unrestricted Funds"),
- the Trustees, if they consider it to be appropriate for the work of the Church, may, following upon consultation with the Agency or Agencies affected, reallocate such portion as they determine appropriate of any Unrestricted Funds for the time being held on behalf of any of the Agencies, to the work of another Agency or Agencies with power to specify the use to which the same are to be applied. The Trustees shall carry out subsequent reviews at intervals of five years with the aim of ensuring that Funds are allocated in accordance with the agreed priorities of the General Assembly.
40. The Trustees shall maintain a register of Funds held by them in respect of which the terms of the donation indicate a restriction as to the uses to which such Funds may be put ("Special Funds") together with a statement of the terms of the restriction. They shall monitor whether the nature of the restriction continues to provide a suitable and effective method of achieving the objects of the Charity. If, in the opinion of the Trustees, having taken appropriate advice, the nature of the restriction does not provide a suitable and effective method of achieving the objects of the Charity, they shall seek to have the restriction removed.
41. The Trustees, as confirmed in the Constitution of the Church of Scotland Housing and Loan Fund for Retired Ministers and Widows and Widowers of Ministers, having supervisory duties in respect of that Fund, shall monitor the extent to which that Fund continues to provide a suitable and effective method of achieving the objects of the Fund. In the event that the Trustees conclude, in consultation with the trustees of

that Fund, that the purposes of that Fund provide a use for only part of its assets, the Trustees, together with the Fund's trustees, shall recommend to the General Assembly that they apply to the Charity Regulator for a reorganisation scheme in order that such part of the Fund's assets as may be deemed appropriate may be applied to better effect for charitable purposes consistently with the Charitable Purposes set out in paragraphs 17 and 18 above; and in the event of approval being given by the General Assembly, the Trustees shall make such application.

42. The Trustees shall determine annually the stipend rate, having regard to the recommendation of the appropriate Agency; under declaration that any Trustee in receipt of either a salary or stipend from the Parish Ministries Fund, or married to or the civil partner of such a person shall be excluded from deliberation or voting on that determination.
43. The Trustees shall determine the types and rates of expenses which may be claimed by members serving on Agencies.

Operational oversight and Strategy

44. The Trustees shall employ a Chief Officer to ensure that the determinations of the Trustees are enacted efficiently in order to promote the ministry and mission of the Church, and to ensure the effective management of staff and resources. The duties of the Chief Officer shall include facilitation of the development and enhancement of joint working between and among the Agencies, strategic oversight of the administration of the work of the Agencies, and working collaboratively with the Principal Clerk.
45. The Trustees shall arrange with the Chief Officer the institution and maintenance of a Senior Management Team to be convened by the Chief Officer on a regular basis in order to ensure that there is oversight of any emerging issues, effective co-ordination of the work of the Agencies of the Church, and collective leadership of the staff body. The constitution and remit of the Senior Management Team, shall be determined by the Chief Officer after consultation with the Trustees.
46. In seeking to achieve a collaborative approach to the nurturing of the people of the Church, the Trustees shall meet with Agencies and may establish working groups with them to reflect on the best practices to be adopted.
47. In exercising general oversight of the work of the Agencies the Trustees shall appoint liaison Trustees for each Agency (the "Liaison Trustees"). Liaison Trustees shall work collaboratively with their Agency to understand the development of the Agency's work.

48. The Trustees shall oversee the implementation of any broad frameworks as from time to time determined upon by the General Assembly.
49. The Trustees shall make recommendations to the General Assembly on the relative priority of work being undertaken by its various Agencies.
50. The Trustees shall keep under review the central administration of the Church, with particular regard to resolving issues of duplication of resources.
51. The Trustees shall make recommendations to the General Assembly on matters of reorganisation and structural change, including adjustments to the membership and remits of relevant Agencies.

Vision

52. The Trustees shall encourage vision among the members and the Agencies of the Church so as to enable the emergence of ministries to meet the needs of the people of Scotland.
 53. The Trustees may establish working groups to facilitate strategic thinking on vision with power to co-opt members.
56. The Trustees shall consult with the relevant Agencies in their appointment of senior staff. The Trustees, after appropriate consultation, shall appoint the Ecumenical Officer, Interfaith Officer, the Head of Stewardship, the Head of Communications and the Head of Human Resources. The Trustees, in consultation with all other relevant persons shall nominate individuals to the General Assembly for appointment to the offices of Principal Clerk of the General Assembly, Depute Clerk of the General Assembly, General Treasurer and Solicitor of the Church.
 57. The Trustees shall act as one of the employing agencies of the Church in respect of corporate service staff and shall assume and exercise the whole rights, functions and responsibilities of the former Central Services Committee in that regard.
 58. The Trustees shall have responsibility for determining the terms and conditions of the staff for which it is the employing agency.

Staffing, Management and Communications

54. The Trustees shall consult with Agencies on matters of management, resourcing and organisation; and as and when required shall offer guidance to Agencies or issue instructions.
 55. The Trustees shall, in consultation with Agencies determine their staffing and resourcing requirements, including inter-
Departmental sharing or transfer of staff, in line with priorities approved by the General Assembly and any policies drawn up by the Trustees; it being declared that the term “staff” shall not include those directly employed by the Ministries Council, the Social Care Council and the World Mission Council or by their successor bodies.
59. The Trustees shall ensure that proper salary provision, terms and conditions are adhered to by all Agencies and that salary scales are kept under review when necessary.
 60. The Trustees shall have responsibility for policy matters relating to Data Protection within 117-123 George Street, Edinburgh (the “Church

- Offices”) and with respect to Agencies based elsewhere.
61. The Trustees shall oversee the delivery of central services to departments within the Church Offices, to Agencies and, where appropriate, to the Statutory Corporations, Presbyteries and Congregations namely -
- (i) Those facilities directly managed by the Facilities Manager;
 - (ii) Information Technology (including the provision of support services to Presbytery Clerks);
 - (iii) Human Resources;
 - (iv) Legal Services (as delivered by the Law Department and subject to such oversight not infringing principles of legal privilege);
 - (v) Property Services.
62. The Trustees shall oversee the development and implementation of any Communication Strategy across the Church.
63. The Trustees shall oversee and manage any major reputational opportunities and risks for the Church, working with such Agencies as may be appropriate.
64. The Trustees shall oversee effective communication with members and courts of the Church, encouraging good practice.
- Property and contracts*
65. The Trustees shall facilitate strategic property planning across the Agencies to ensure that the best use is made of the property portfolio.
66. The Trustees shall consider and decide on proposals from Agencies to purchase heritable property or any other asset valued in excess of £50,000 or lease any heritable property where the annual rental is greater than £25,000 per annum. No Agency, except as provided for in paragraph 72 below, shall purchase or lease such property without prior approval from the Trustees.
67. The Trustees shall consider and decide on proposals from Agencies, except as permitted in paragraph 72 below, to sell or lease for a period in excess of five years or otherwise dispose of any heritable property, or to sell or otherwise dispose of any asset valued above £50,000, held by or on behalf of that Agency. The Trustees shall have power to allocate all or part of the sale or lease proceeds to another Agency or Agencies.
68. The Trustees shall consider and decide on proposals from Agencies to enter into an agreement or contract for receipt of goods or services (with the exception of contracts of employment or those relating to property transactions) with a total actual or potential financial commitment in excess of £50,000. No Agency, except as provided for in paragraph 72 below, shall proceed to enter into such an agreement or contract without prior approval from the Trustees.
69. Title to the Church Offices shall be held by the Church of Scotland General Trustees for behoof of the Trustees.
70. The Trustees shall be responsible for the proper maintenance and insurance of the Church Offices.

71. The Trustees shall be responsible for policy matters relating to Health and Safety within the Church Offices.
72. For the avoidance of doubt, paragraphs 66, 67 and 68 shall not apply to the Church of Scotland General Trustees and the Church of Scotland Housing and Loan Fund for Retired Ministers and Widows and Widowers of Ministers both of which may deal with heritable property and other assets without the approval of the Trustees.

Interpretation

73. The terms “Agency” and “Agencies” mean the following bodies being Standing Committees of the General Assembly, namely:
1. the following Groups: Church and Society, Ministries, Mission and Discipleship, Social Care, World Mission; and
 2. the following Committees: Assembly Arrangements, Chaplains to Her Majesty’s Forces, Ecumenical Relations, Legal Questions, Panel on Review and Reform, Safeguarding, Theological Forum, Interfaith Programs.
74. “Fund”, except where used as part of a named Fund other than “Unrestricted Fund” and “Special Fund”, means a financial unit, comprising investments or a sum of money or both, held as a separate component part of the Charitable Estate, and identified by reference to the name of a donor, to a particular use or purpose or to use by an Agency or Agencies.
75. “Go For It Fund” means the Fund established in 2012 as part of the Ministries Council of the Church.

76. “Growth Fund” means any Fund established by the General Assembly to be set apart for community and parish development.
77. “Trustee” and “Trustees”, for the avoidance of doubt, mean all Trustees, including those participating by virtue of office.

SCHEDULE A

POSSIBLE SCHEME FOR APPOINTMENT OF TRUSTEES

1. When it becomes necessary to appoint a Trustee, the process shall be transparent and competency based and shall be of the following nature:
 - a. The Trustees shall identify the requisite and desirable experience and skills to fill the vacancy. In particular:
 - i. Trustees should possess an understanding of the life and culture of the Church and of Scotland’s contemporary culture and should be committed to developing the vision and mission of the General Assembly; and
 - ii. the expertise of the Trustees must include finance, human resources, management, communications, civil law, strategic planning and theology.
 - b. The vacancy shall be advertised and circulated as the Trustees determine; such circulation to include Presbyteries, Congregations and the Nomination Committee. The advertisement and circulation shall confirm that applicants

- must be members of the Church and that no employee of the Church and no member of any of the Agencies are eligible for appointment as a trustee.
- c. All applications shall be sifted by the Trustees according to the required criteria and an appropriate number shall be invited to interview.
 - d. Interviews will be conducted by a panel of the Trustees according to such process of examination of the skills, experience and suitability for trusteeship as the Trustees, guided by the Head of Human Resources (who shall attend as a non-voting member of the panel), shall determine.
 - e. The panel shall report to the Trustees, who shall consult with the Nomination Committee as to any comments which the Committee wish to make on the panel's recommendations for appointment;
 - f. any appointment shall be made by the Trustees, subject to approval by the General Assembly. In proceeding to determine an appropriate appointment the Trustees shall have regard to the need to seek diversity among the Trustees; and
 - g. Following acceptance of appointment, a new trustee shall be given an appropriate induction into each of the facets of Charity trusteeship. The induction process shall be determined upon by the Trustees after consultation

with the Solicitor of the Church.

- 2. The Chief Officer shall take no part in the process of recruitment or appointment of Trustees.
- 3. When the term of office of a Trustee has been completed and the Trustee is willing to serve a second term, the Trustees shall renew the appointment without discussion unless the Trustee has failed to participate fully in the work of the Trustees. In the event that a Trustee has failed to participate fully in the work of the Trustees, the Convener of the Trustees shall meet with the Trustee to establish why that failure has occurred and how it might be avoided in the event of reappointment. The Convener shall report to the remaining Trustees after such discussions and the Convener and the remaining Trustees shall decide whether to reappoint the Trustee.

SCHEDULE B

TRUSTEES' GOVERNANCE GROUP

- 1. A Governance Group of seven members shall be established by the Trustees, one of whom shall be the Convener, one the Vice Convener and one the Administrative Trustee.
- 2. The Governance Group shall establish, maintain and keep under review all necessary Codes of Conduct.
- 3. In establishing a Code of Conduct for Trustees (the "Code"), the Group shall have regard, in the first instance, to the Code of Conduct for the Voting Members of the Council of Assembly as Charity Trustees.
- 4. The Governance Group shall ensure –

- a. that each Trustee is aware of the terms of this Constitution;
 - b. that each Trustee is aware of the deliverances from the most recent General Assembly;
 - c. that each Trustee is aware of her or his role as an Assembly Trustee;
 - d. that each Trustee is aware of the need to act with independence of mind and with probity;
 - e. that the delivery of the work of the Charity and the Agencies is founded upon good operational and financial plans;
 - f. that the effective working of the Trustees is enabled through the body of Trustees having appropriate skills, experience and diversity;
 - g. that the Trustees exercise the controls necessary to ensure that the strategic priorities, policies and decisions of the Assembly are implemented effectively and efficiently and establish appropriate checks on management, financial control mechanisms and risk appraisal; and
 - h. that the Trustees and the Agencies are open and accountable in their actions, enabling good communication among themselves and with staff, with others working within the Church, with members of the Church and with those with whom the Trustees and the Agencies engage.
5. Upon a report from the Administrative Trustee of a possible material breach of duty by a Trustee,
- the Group will appoint a panel of three of their number (the “panel”) to deal with the complaint. Unless the panel decides that the complaint is vexatious, frivolous or without merit (namely that even if the complaint were proved it would not constitute a breach of the Code) the panel will investigate the complaint. The Trustee who is the subject of such an investigation will be informed of the complaint and will be interviewed to ascertain the facts. The Trustee is required to give the investigators his/her fullest co-operation. The complaint and investigation will be handled in confidence as far as is practicable. Unless there are exceptional circumstances, the investigation will be completed within 56 days.
- a. In the event that the panel consider that there has been a breach of the Code justifying action being taken, it will refer the matter to the Governance Group for determination as to how the matter should be disposed of. Both the panel and the Trustee shall be entitled to attend and make representations to the Group (the Trustee having the right to speak last) both in relation to whether a breach has occurred and, if it has, the appropriate action to be taken. The Group shall determine the procedure to be followed. Evidence shall not be led from witnesses except where the Group deems this necessary.
 - b. The Governance Group action thereafter may include:
 - i. reprimand, which shall be an expression of

- disapproval of particular behaviour with counsel regarding future conduct;
 - ii. removal of the Trustee from a sub-committee or group, either temporarily or permanently;
 - iii. suspension from Charity Trusteeship either for a fixed period or until the next meeting of the General Assembly with a recommendation to that Assembly that the trustee be removed from membership of the Charity Trustees;
 - iv. referral of the matter to the relevant Presbytery where the conduct found established could constitute a disciplinary offence in terms of General Assembly Discipline Legislation.
 - c. A Trustee who is subject to such action will have the right of appeal to the Trustees on the following grounds:
 - i. an error in law
 - ii. irregularity of process, including breach of the principles of natural justice
 - iii. decision influenced by incorrect material fact; and
 - iv. the severity of any sanction imposed
 - d. The Trustees will determine how to handle any such appeal. Members of the Governance Group will take no part in determining the appeal.
 - e. If the Trustee whose conduct is the subject of a complaint under these provisions is a member of the Governance Group, he or she shall immediately withdraw from active membership of the Group until the matter is resolved. If it appears that the independence of the Governance Group may be compromised, the Trustees may appoint other members to act for the time being in place of the Group.
 - f. If the Trustee whose conduct is the subject of a complaint under these provisions is the Convener of the Trustees, he or she will immediately withdraw from active membership of the Trustees until the matter is resolved. The Vice-Convener of the Trustees, with the Governance Group, will assume responsibility for the handling of the complaint.
- 6. Advice and guidance in relation to the processes set out within these provisions will be provided by the Solicitor of the Church.
- 7. The Governance Group shall establish, maintain and keep under review an appraisal system for the Trustees which is in accordance with current good governance practice. The system should be developed through consideration with a governance consultant external to the Church.
- 8. In developing an appraisal system, the Governance Group will have regard to the following possible elements –
 - a. that the Trustees should, at least every two years, set aside

- time to reflect on their own performance and functioning as a team, identify areas for improvement and make necessary changes;
- b. that, in the event of determining upon a system of individual appraisal, such a process should –
 - i. be facilitated by a governance consultant external to the Church;
 - ii. be forward-looking and focused on learning and improvement;
 - iii. be sensitive to Trustees' volunteer status and proportionate in terms of demands on trustees' time.;
 - iv. provide an opportunity to reflect on individual responsibilities and performance as well as those of the Trustees as a whole;
 - v. encourage suggestions for improvement and development;
 - vi. permit the Chief Officer and the Senior Management Team to offer their views;
- c. that any system should provide for written conclusions and targets to be drawn up –
 - i. as regards the Trustees as a whole, by the facilitator and the Trustees, for further discussion and implementation by the Trustees; and
 - ii. as regards any individual appraisals, by the facilitator and the Trustee, for personal development by the Trustee; and
- d. that the Trustees should reflect on the outcomes of such appraisals as a guide to the improvement of their Trustee training programmes, and in guiding their approach to Trustee renewal and recruitment.

SCHEDULE C

OPERATIONAL WORKING OF THE TRUST

Office Bearers

1. The first Convener shall be, whose term of office as a Trustee shall be non-renewable and shall expire on
2. The first Vice Convener shall be, whose term of office as a Trustee shall be non-renewable and shall expire on
3. The first Administrative Trustee shall be, whose term of office as a Trustee shall be non-renewable and shall expire on
4. Three months in advance of the anticipated retirement of an Office Bearer, or no later than one month after the occurrence of an unexpected vacancy, the Trustees shall choose a successor from among their own number.
5. Save as provided in respect of the first Office Bearers, the term of office as an Office Bearer is three years, non-renewable; and that term will be counted as part of her or his permissible terms as a Trustee.

Meetings of Trustees

Proceedings

6. The Trustees shall meet on at least seven occasions (an "Ordinary Meeting") in each year.
7. The dates of the Ordinary Meetings for the ensuing calendar year shall be settled by the Trustees no later than 31 October in the year preceding. One of those dates shall be specified as the annual meeting-in-person at which all Trustees are expected to attend in person.
8. Any trustee may request the Convener to hold an additional meeting (a "Special Meeting") by a request in writing or sent electronically to the Convener and copied to all other Trustees in confidence giving reasons for the request. After taking the views of all Trustees, the decision as to whether to call a Special Meeting shall be at the absolute discretion of the Convener.
9. Notices of every meeting together with an agenda shall be delivered electronically, or delivered by hand, or sent by post to each Trustee at least ten days prior to the meeting or within such time as the Trustees may determine.
10. Meetings shall be held at times and places convenient for each of the Trustees.
11. Except in respect of the annual meeting-in-person, attendance at an Ordinary Meeting or at a Special Meeting may be made by way of telephone-conferencing, Skype, video-conferencing and other internet- or electronic-based methods of communication.
12. Minutes shall be taken by the Administrative Trustee of topics covered at all meetings, recording reports received, decisions taken and the allocation of any further work required. Matters properly to be treated as confidential, such as employment issues, should not be recorded in the main minute but the fact of the item of business having been discussed should be recorded and a full note set out in a paper apart, to be kept in a separate file from the minute book. The Solicitor of the Church shall be in attendance when it is anticipated that the giving of advice may be necessary on the legal implications of matters being discussed.
13. Copies of approved minutes and of confidential "papers apart" and of all reports and other papers considered at meetings must be retained in a form that continues to allow access throughout the anticipated lifetime of the Charity. All such papers should be retained both in hard copy and in electronic format.
14. A quorum of Trustees shall be 8.
15. The Convener shall chair each meeting of the Trustees.
16. In the event that the Convener is not present within 15 minutes after the time at which the meeting was due to start (or is not willing to act as Chairperson), the Vice Convener, if present, will act as chairperson failing which the Trustees present must elect, from among themselves, the person who will act as chairperson of that meeting, or until the arrival of the Convener.
17. In the event of the need for a vote, each Trustee has one vote, which must be cast personally, but may be given as part of electronic attendance.
18. All decisions will be made by majority vote.

19. In the event of an equal number of votes for and against any decision, the Convener or the chairperson of the meeting will be entitled to a second, or casting vote.
20. The Trustees may, at their absolute discretion, allow any person to attend and speak at a meeting notwithstanding that the person is not a Trustee, but on the basis that they must not participate in decision-making. The minute of that meeting must make the status of any such person clear for the avoidance of doubt.
21. A Trustee must not vote at a meeting (or at a meeting of any sub-committee) on any decision which relates to a matter in which they have a private interest or duty which conflicts, or may conflict, with the interests of the Charity; the Trustee must withdraw from the meeting while an item of that nature is being dealt with.
22. For the purposes of paragraph 21 above:
 - a. private interest held by an individual who is connected with the Trustee (such as being husband, wife, partner, child, parent, brother, sister) shall be deemed to be held by that Trustee; and
 - b. a Trustee will be automatically deemed to have a private interest in relation to a particular matter, if a body in relation to which he or she is an employee, director, member of the management committee, charity trustee, officer or elected representative, has an interest in that matter.

Requirements

23. Each meeting shall be constituted with prayer.
24. At the commencement of each meeting each trustee shall be asked to declare whether he or she has any conflict of interest in any item of business.
25. In the event of a conflict being declared the remaining Trustees shall determine the course of action to be adopted.
 - a. They shall determine whether, in the whole circumstances, it is preferable for the Trustee to withdraw from the discussion and decision, or whether the Trustee may speak but not vote on the matter. In the event that a withdrawal is considered preferable but would render the meeting no longer quorate, and the item of business is urgent the Trustees shall remit the business to a special meeting.
 - b. Whichever course is adopted, the minutes should record:
 - i. which Trustee was affected;
 - ii. when the conflict was identified and declared;
 - iii. what was discussed about it and decided and why that step was considered to be in the best interests of the charity;
 - iv. whether the Trustee withdrew; and
 - v. if the Trustee was not required to withdraw, precisely what was his or her participation.

26. At each meeting of the Trustees they shall consider a financial statement of assets, income and expenditure of the whole Charitable Estate up to date as at no more than six weeks prior to the date of the meeting.

Specific Powers

27. The Trustees shall have power to appoint transition management consultants to advise upon and assist in the facilitation of the rearrangement of the work of Agencies following the General Assembly 2019. Such consultancy shall be on such terms and conditions as to the Trustees shall seem appropriate but shall be for a limited period and shall provide the identification and implementation of a strategic plan for change. It shall identify appropriate physical arrangements for staff to work together in the new Groups and shall assist Group members and staff to engage with the proposed plan and seek to enhance working culture and motivation whilst allowing members and staff to continue with the work of the Church. The Trustees shall have power to make an interim appointment to enable consideration by the Trustees as to an appropriate remit for consultants.
28. **Emoluments:** in the event of an Office Bearer being a parish minister the Trustees may make an appropriate payment to the relevant congregational treasurer to provide additional ministerial support.
29. **Expenses:** Trustees will be reimbursed expenses properly incurred in carrying out their duties as Trustees. Claims and vouchers will be presented to the Administrative Trustee within one month of the expense being incurred.

**SCHEDULE D
BUDGET PLANNING, APPROVAL AND
FINANCIAL CONTROL**

1. The Trustees shall adopt, maintain and keep under review both a Financial Strategy and Budget Principles.
2. For each calendar year the Trustees shall maintain budgetary control by –
 - (i) requiring each Agency to submit to the Chief Officer and the General Treasurer, no later than 30 September, (a) budget proposals for the cost of its work in the next but one calendar year and (b) draft budget proposals for such costs in the four ensuing calendar years;
 - (ii) requiring representatives from each Agency to meet with the Chief Officer and the General Treasurer, for the purpose of discussing the budget proposals for that Agency, at a meeting individual to the work of that Agency on a date in October or November following budget submission;
 - (iii) requiring the Chief Officer and the General Treasurer, following such meetings, to present to the Trustees a comprehensive annual and forward budget proposal;
 - (iv) requiring representatives from each Agency to meet with the Chief Officer and General Treasurer, for the purpose of discussing the Trustees' proposed financial provision for that Agency, at a meeting individual to the work of that Agency on a date in January or

- February following budget submission;
- (v) determining, by 31 March in each year, the financial provision to be made available for the work of each Agency in the ensuing calendar year;
 - (vi) commenting to each Agency, by 31 March in each year, upon its draft budget proposals for the four succeeding calendar years;
 - (vii) making clear to each Agency that funds additional to the financial provision determined upon for a calendar year will not be made available to that Agency unless approved by the Trustees upon a special report being made by the Agency to the Trustees, no later than 31 March in the calendar year for which additional funds are sought, detailing the exceptional circumstances giving rise to the request, seeking appropriate approval and setting out proposals as to how the allowance of such additional funding is to be taken into account in the draft budget proposals for ensuing calendar years;
 - (viii) making clear to each Agency that the financial provision determined upon for a calendar year will be made available to that Agency only for the work approved for that financial year through the foregoing budgetary process. Any funding not applied for such work will not be made available to the Agency for alternative work and will not be carried over as additional funding available to the Agency in ensuing calendar years unless such an approach is approved by the Trustees upon a special report being made by the Agency to the Trustees, during the calendar year in respect of which special approval to use or carry over is sought, detailing the exceptional circumstances giving rise to the request, seeking appropriate approval and setting out proposals as to how the allowance of such additional funding is to be taken into account in the draft budget proposals for ensuing calendar years;
- (ix) making clear to each Agency that the foregoing provisions are as applicable to access to Special Funds held by the Trustees for the work of that Agency; and
 - (x) presenting a report to the General Assembly annually recording the work of the Trustees during the preceding twelve months, outlining the strategic aims and policies which it is seeking to further and setting out the view of the Trustees as to the standards of financial management of each Agency and the compliance of each Agency with the requirements of the Trustees under the provisions of this paragraph.
3. In determining the said annual financial provisions the Trustees shall –
- a. have regard to the strategic priorities, policies and decisions of the General Assembly;

- b. have regard to the anticipated income arising from the Charitable Estate for the year in question as estimated by the General Treasurer;
 - c. take into account the availability to any individual Agency of income and capital from any part of a Special Fund or Unrestricted Fund;
 - d. decide for the year in question whether, and if so to what extent, there should be a use of part of the capital of the Charitable Estate for any special purpose, whether from a Special Fund or otherwise.
4. In exercising financial control over the work of Agencies, the Trustees shall –
- a. authorise the Chief Officer and the General Treasurer to liaise with the finance committees of Agencies;
 - b. ensure that the Chief Officer and the General Treasurer report to the Trustees as to their discussions with Agencies on budget proposals;
 - c. ensure that monthly management accounts are made available to the General Treasurer by each Agency showing actual income and expenditure as against budget together with the reasons for any material disparity; and
 - d. instruct the General Treasurer to report to each meeting of the trustees with an up to date financial statement showing overall expenditure against budget together with a note of any disparity of actual expenditure as against budget

in the management accounts of any Agency.

SCHEDULE E

AN OUTLINE OF THE WORK OF THE ADMINISTRATIVE TRUSTEE

Meetings

1. To prepare for and attend all meetings of the Trustees which, in an ordinary year, may be of the order of seven; and in particular –
 - a. Prepare for the preparatory meeting for the ensuing meeting of the Trustees with the Convener and Vice Convener of the Trustees, the Solicitor of the Church and the Chief Officer
 - i. Check the Yearplan for scheduled business
 - ii. Check preceding Minutes
 - iii. Prepare Agenda for preparatory meeting
 - iv. Confirm the date with those attending
 - v. Attend preparatory meeting
 - b. Prepare and circulate Agenda and all other papers for Trustees' ordinary meetings, confirm attendance and any special arrangements
 - i. Confirm with any non-trustee attending specially
 - ii. Confirm date(s) for any papers from others to be with Administrative Trustee
 - iii. Make any other contacts

- c. Attend Trustees' meetings
 - i. Prepare draft Minutes for convener
 - ii. Make any contacts requested at meeting
 - iii. Arrange date of next preparatory meeting

Governance

- 2. Meet occasionally with Convener and Chief Officer to discuss emerging issues
- 3. Consider terms of trust accounts with Convener, General Treasurer and Chief Officer
- 4. Meet bi-annually with Convener, General Treasurer and Investment Managers
- 5. Have Trustees consider terms of Investment Policy bi-annually
- 6. Prepare Annual Report and Accounts
 - a. Prepare draft Report and discuss with Convener and General Treasurer
 - b. Circulate draft Report to Trustees for comment and finalise
 - c. Assist in liaising with Auditor regarding Accounts
- 7. Assist in the preparation and submission of OSCR return
- 8. Make arrangements for Trustees' biennial away-day
- 9. Prepare induction packs for new Trustees and meet with incoming Trustees

**SCHEDULE F
DRAFT SCHEME OF FINANCIAL
DELEGATION**

Introduction

- 1.1 The Church of Scotland is recognised as a Designated Religious Charity (the "Charity"), Scottish Charity No. SC011353. The assets of the Charity are those held for the Unincorporated Entities of the Church.
- 1.2 The Assembly Trustees (the "Trustees") have been appointed by the General Assembly (the "Assembly") to act as the Charity Trustees of the Charity and, as such Trustees, to have general control and management of the assets of the Charity.
- 1.3 This Scheme describes the limits and extent of financial decision-making authority delegated by the Trustees. A clear scheme of delegation of authority is fundamental to good governance.
- 1.4 The Scheme includes a template for departmental schemes of delegation. Each Agency is required to put in place a robust scheme of delegation, to review it from time to time and to ensure that staff are aware of the scheme and adhere to it.
- 1.5 The Governance Group of the Trustees is responsible for overseeing the operation of this Scheme and will involve other bodies, including the Audit Committee, as appropriate. The General Treasurer is the senior staff member responsible for the scheme, reporting to the Governance Group and to the Trustees.
- 1.6 Assistance and advice on the Scheme may be obtained from the General Treasurer.

Delegated Powers

- 2.1 The Assembly has created a number of Agencies which hold delegated powers from the Assembly. The powers are set out in remits for each body, as agreed and amended from time to time by the Assembly. The remits establish the ambit of decision-making powers for each body.
- 2.2 Budget arrangements for the financial consequences of decisions and actions taken by Agencies are approved for each financial year by the Trustees.
- 2.3 Any decisions or actions taken by Agencies and staff must be contained within the items of work for which budget approval has been given for the relevant financial year. The associated financial consequences of any decisions or actions taken by Agencies and staff must be contained within the approved budget provisions for those items for the relevant financial year.
- 2.4 Proposed plans which might incur unbudgeted costs for items of work for which budget approval has been given for the relevant financial year or which would involve items of work for which budget approval has not been given for the relevant financial year must be referred to the Trustees and their General Treasurer for decision.

Authorised Persons

- 3.1 Agencies shall, in consultation with the General Treasurer, prepare individual schemes of delegation as to the level of authority in financial matters to be granted to individual office holders. Such schemes shall make provision for that authority to be exercised by the holder of another nominated office during periods of leave or illness, or where the post is vacant. Such schemes must be approved by the Trustees.

Accountability

- 4.1 Agencies and staff tasked with delegated authority under the Scheme shall be accountable for their decisions and actions to appropriate governance bodies including the Audit Committee. The Governance Group, on behalf of the Trustees, has the power to invite representatives of Agencies and senior staff, to justify decisions and actions taken under the Scheme and to report on issues to the Trustees.
- 4.2 It must be made clear by a delegating Agency to all office holders to whom departmental financial authorisation is being given or upon whom departmental authorisation may fall in the event of leave or illness of an office holder or in the event of a vacancy, that they are accountable for their financial decisions and actions to appropriate governance bodies including the Audit Committee.

Appendix 2

REMIT & MEMBERSHIP FOR THE PROPOSED NEW BUSINESS COMMITTEE OF THE GENERAL ASSEMBLY

The new Business Committee of the General Assembly

The role of the Committee will be:

- To make all necessary arrangements and to order the business for the General Assembly and Commissions of Assembly.
- To have oversight of and keep under review the functions, the membership, the processes and procedures of the General Assembly.
- To advise the Moderator on his or her official duties if so required and to have oversight of the election, role and function of the Moderator.
- To be responsible to the General Assembly for the care and maintenance of the Assembly Hall and the Moderator's residence and for all arrangements in connection with the letting or other use of the Assembly Hall.
- To act in routine matters not the business of other General Assembly Standing Committees or the Trustees in accordance with the accepted practice and procedure of the Church.

Membership – 12

- Business Convener & Vice Convener
- 2 Members of Legal Questions (Convener & another member involved more in judicial matters to be nominated by Legal Questions)
- A further 6 members made up of ministers & elders around the country with experience of the General Assembly – its functions & arrangements, church law & property knowledge
- Moderator & Moderator Designate
- Ex officio members: Principal Clerk (to act as Secretary), Depute Clerk, Solicitor; Procurator; General Treasurer

Detailed Remit

- The ordering of General Assembly business
- Oversight and review of the process and procedures that govern the General Assembly)
- Nomination of the General Assembly's Selection Committee
- Monitor General Assembly decisions year on year and report to the General Assembly any non-compliance or failure to implement General Assembly decisions and instructions
- Oversight & responsibility for the practical arrangements of the General Assembly
- Oversight and control of the budget covering the General Assembly within the powers delegated to the Committee by (the New Trustee body)
- Oversight of the membership, shape and function of the General Assembly
- Oversight of commissioners and corresponding members of General Assembly

- Oversight of communications with Presbyteries concerning all matters that relate to the General Assembly
 - Design and oversee processes and procedures for Presbyteries to report and be held accountable to the General Assembly
 - Oversight of and support for the Principal Clerk (currently the Convener of AAC is the Principal Clerk's line manager – this should transfer to the Business Convener but with the additional support of the Legal Questions Convener, a trustee and 1 other making up a support group for annual appraisal)
 - Oversight of future re-structuring of Presbyteries
 - Oversight of the election, role and function of the Moderator (support/ budget discussions with Trustees/ review)
 - Advice, and guidance for the preparation and drafting of reports and Deliverances to the General Assembly
 - Oversight of the practice and procedure of General Assembly appointments i.e. Principal Clerk, Depute Clerk, Solicitor and General Treasurer
 - Responsibility for the management and maintenance of the General Assembly Hall & Moderator's residence
- [3] See for example Ben Clements, 'Religious Change and Secularisation in Scotland: An Analysis of Affiliation and Attendance', *Scottish Affairs* 26.2 (2017), 133–162.
 - [4] Doug Gay, *Reforming the Kirk: The Future of the Church of Scotland* (Edinburgh: St Andrew Press, 2017), 143–171.
 - [5] 'Report of Special Commission Anent Review and Reform', *Reports to the General Assembly of the Church of Scotland* (Edinburgh: 2001), 36.1–74.
 - [6] 'Report of Special Commission on Structure and Change', *Reports to the General Assembly of the Church of Scotland* (Edinburgh: 2008), 25.1–30.
 - [7] John Chalmers, 'On the Nod', *Life and Work*, September 1997, 20-21 (21).
 - [8] 'Report of Panel on Review and Reform', *Reports to the General Assembly of the Church of Scotland* (Edinburgh: 2011), 2.1–28.
 - [9] 'Report of Committee of Forty', *Reports to the General Assembly of the Church of Scotland 1978* (Edinburgh: 1978), 491. A similar proposal had been moved but rejected in 1964.
 - [10] *Reports to the General Assembly of the Church of Scotland 2004* (Edinburgh: 2004), 10.1–25.
 - [11] 'Report of Special Committee on the Review of Charity Governance', *Reports to the General Assembly of the Church of Scotland 2010* (Edinburgh: 2010), 24.1–8.
 - [12] Transformational Change Project, 2.
 - [13] See the discussion in Gay, *Reforming the Kirk*, 84–89.
 - [14] *Transformational Change*, 12.

References

- [1] Tom Devine, *The Scottish Nation 1700–2000* (Harmondsworth: Penguin, 1999), 84–102.
- [2] G. D. Henderson, *Why We Are Presbyterians* (Edinburgh: Church of Scotland Publications, 1954).