

THE PRINCIPAL

ACTS

OF THE

**GENERAL ASSEMBLY**

OF THE



**FREE CHURCH**  
*of* **SCOTLAND**

CONVENED AT EDINBURGH, MAY 2024

WITH

ACTS

OF THE

**COMMISSION OF ASSEMBLY**

OCTOBER 2023 & FEBRUARY 2024

FREE CHURCH OF SCOTLAND, THE MOUND, EDINBURGH  
(Scottish Charity Number: SC012925)

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**THE PRINCIPAL ACTS OF THE GENERAL ASSEMBLY**  
**CLASS 1 ACTS – ACTS WHICH HAVE PASSED THE BARRIER ACT**

**Act 1 – Presbytery Representation at the General Assembly**

Number 1 of Class 1

*Category: General Assembly*

*Tuesday 21<sup>st</sup> May 2024*

The General Assembly, seeking to ensure the greatest possible efficiency and equity in the election by Presbyteries of their Commissioners to the General Assembly, and to ensure that the interests of all the constituted gatherings of the people of God are accounted for in the representations of Presbyteries, with the consent of Presbyteries, enact and ordain as follows:

**1. Presbyteries**

The following from the complete Roll of the Presbytery will be included in the qualifying total when calculating the representation of Presbyteries at the General Assembly:

- 1.1. The number of Congregations and Pastoral Charges.
- 1.2. The number of established Church Plants.
- 1.3. Ministers who have been granted a seat in the Presbytery based on their appointment as Course Organisers or as Principal at Edinburgh Theological Seminary.
- 1.4. Ministers who have been granted a seat in the Presbytery based on a General Assembly appointment.
- 1.5. Ministers who have been granted a seat in the Presbytery based on a Presbytery appointment which is made under the provisions of General Assembly legislation.

**2. Definitions**

For the purposes of this Act, the following definitions will apply:

- 2.1. *A Congregation.* A Congregation is a group of communicant members, adherents, and their children, gathered in a particular area under a Minister and a Kirk Session for worship, instruction, fellowship, mission, and service. There are three categories of Congregation.
  - 2.1.1. *Financially Viable.* A financially viable congregation has ordinary income which enables them to support a full-time pastoral ministry and also contribute to the mission work of the Church. They are entitled to a full-time Minister without any restriction on the appointment.
  - 2.1.2. *Financially Marginal.* A financially marginal congregation has ordinary income which is slightly above the threshold at which they are able to support a full-time pastoral ministry. They will have the right to a Minister on a five-year renewable appointment.
  - 2.1.3. *Financially Non-viable.* A financially non-viable congregation has ordinary income which is below the threshold at which they can support a full-time pastoral ministry. They do not have the right to call a full-time Minister.
- 2.2. *A Pastoral Charge.* A pastoral charge is a sphere of pastoral duty (a congregation) to which a Minister may be appointed or inducted.
- 2.3. *Consolidated Charge.* A consolidated Charge, where there are two or more Congregations linked together, each with their own Kirk Sessions, will be reckoned by the number of Kirk Sessions in the consolidated Charge.
- 2.4. *Church Plant.* The term Church Plant shall mean a Church Plant which has been established for at least three years, and which is a body of communicant members of the Free Church of Scotland under the oversight of a parent congregation whose Kirk Session has appointed at least two of its Ruling Elders with direct responsibility for the Church Plant, and which meets regularly with others for public worship on the Lord's Day. The period of three years will be calculated from the date of the induction of a Minister or Probationer to the Church Plant.
- 2.5. *Completed Roll.* The Complete Roll shall mean the total of the number of qualifying Charges, Congregations, Church Plants, and other ministerial appointments listed in Paragraph 1, irrespective of whether the said Charges, Congregations and Church Plants are filled or vacant.

### 3. Representation

The Presbyteries of the Church will be represented in the General Assembly as follows:

3.1. *Ministers.* The number of Ministers to be appointed as Commissioners by each Presbytery will be one third of the total number calculated according to Paragraph 1.

3.1.1. All Ministers who have a seat in the appointing Presbytery are eligible to be appointed as Commissioners.

3.2. *Elders.* The number of Elders to be appointed as Commissioners by each Presbytery shall be equal to the number of Ministers appointed in Paragraph 3.1 above.

3.3.1. Elders appointed as Commissioners will be *bona fide* acting Elders of the Free Church of Scotland and who shall have signed the Formula.

3.3.2. Elders may be appointed from the same Presbytery or from another Presbytery.

### 4. Annual Review

The number of representative Ministers and Elders from each Presbytery shall be reviewed by the Principal Clerk in the January preceding the General Assembly.

4.1. *Presbyteries.* Each Presbytery shall transmit to the Principal Clerk, the Complete Roll of the Presbytery annually, correct as of 31<sup>st</sup> December. The Complete Roll shall show all the qualifying seats in the Presbytery as such are listed in Paragraph 1 above.

4.2. *Assembly Clerks.* The Assembly Clerks' Office will determine and intimate to each Presbytery the number of Commissioners to the forthcoming General Assembly to be returned by them.

### 5. Failure to Appoint

Each Presbytery shall normally be expected to appoint its full number of Ministers and Elders each year. In the event of failure to do so, the Presbytery concerned shall submit to the Principal Clerk, along with the Form of Commission, a statement of the reason for such failure. The reasons submitted will be reported to the Assembly Business Committee which shall report in general terms to the General Assembly.

### 6. Repeals

The General Assembly repeal Act 1, Class 1, 1942.

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## Act 2 – Conduct, Complaints and Discipline of Office-bearers

Number 2 of Class 1

*Category: Governance*

*Tuesday 21<sup>st</sup> May 2024*

The General Assembly, desiring the nurture, growth, and wellbeing of the people of God, and recognising the need for discipline within the life of the Church as a biblical principle that helps to secure such development, and seeking to revise and update the disciplinary processes of the Church to ensure fairness and natural justice to all parties, with the consent of Presbyteries, enact and ordain as follows regarding Complaints received against Office-bearers of the Church:

### SECTION A – OVERVIEW

This Act is arranged as follows:

**Section A** provides an overview of the Act.

**Section B** sets out the nature and purpose of discipline. It also explains the role of private counsel and the difference between church discipline and the civil courts.

**Section C** outlines some general provisions in relation to the Act including the establishment of the Conduct and Complaints Committee, rules governing Conflict of Interest, subjects of discipline under this Act, Jurisdiction, rules of evidence, Companions, potential outcomes, the rules governing Appeals, Requests for Review and Dissent and Complaints, reopening cases, the rules governing sists and the rules dealing with the absence of the Respondent.

**Section D** deals with the initial procedure following the receipt of a Complaint including the triage process and the provision of pastoral care to those involved in the Complaint. It also outlines the process for dealing with an allegation of Heresy.

**Section E** deals with the process for the investigation of a Complaint.

**Section F** deals with the report of the Investigation Group and explains the next steps after the Complaint is admitted or denied.

**Section G** deals with the Disciplinary Hearing in the event the Complaint is denied.

**Section H** outlines the processes to be followed in a case relating to Congregational Health.

**Section I** contains a Glossary of Terms.

**Section J** deals with the repeal of previous legislation.

## **SECTION B – NATURE AND PURPOSE OF DISCIPLINE**

1. **The Nature of Discipline.** The General Assembly recognise the Scriptural emphasis on the place of discipline in the life of the Church. The purpose of the gospel is to make disciples of the Lord Jesus and to develop their Christian character through the regular activities of the preached Word, teaching, prayer, corporate worship, accountability relationships, pastoral oversight. This *formative discipline* takes place under the regular ministry of the Gospel. *Corrective discipline* is exercised by the Church when a believer's behaviour is contrary to the Word of God and detrimental to the good name of the Lord Jesus. This Act is concerned with *corrective discipline*. It is carried out with the authority of Christ, the Head of the Church (Matthew 18:15-17). It is based on the love of God the Father (Hebrews 12:6) and is exercised with pastoral care for the development of the people of God (Hebrews 12:10).

2. **Informal Resolution.** It is clear from our Lord's instructions in Matthew 18:15-17 that where someone sins against you it is appropriate to first bring the issue to them directly, either on your own or with one or two others. However, where the matter remains unresolved it is right "to bring it to the Church" (Matthew 18:17). This Act is concerned with how the Church should deal with a Complaint received by the Church. It must be recognised that there are some circumstances where the Complainant feels unable to go directly to the Respondent and this will not prevent the Church from intervening. It is inappropriate in some cases, including allegations of criminality and safeguarding concerns, to seek *informal resolutions* and the matter **must** be reported to the Church and the appropriate civil authorities.

3. **The Purpose of Discipline.** The purpose of Church discipline is to restore, heal, and build up believers (Galatians 6:1-2) and to maintain the honour of the name of our Lord Jesus Christ. Discipline is carried out in line with our biblical principles, our Presbyterian form of Church Government and Chapter 30 of the Westminster Confession of Faith. All processes must be just, compassionate (2 Corinthians 2:6-8), accessible and timely in their impact upon the Respondent, Complainant and the body of Christ, the Church. Confidentiality must be maintained in all processes to uphold the wellbeing of Complainants, Respondents and Witnesses.

4. **Church Discipline and Civil Courts.** Church discipline is not the same as processes carried out by the secular courts (whether civil or criminal). The Church cannot therefore divest itself of the responsibility of ascertaining facts and their relevance. No proceedings or judgment of a secular court can be regarded as a substitute for due ecclesiastical process, though such judgments may help in determining whether a process is required. Church Courts must form their own judgments independently of proceedings in other courts.

## **SECTION C – GENERAL PROVISIONS**

### **1. Conduct and Complaints Committee**

The General Assembly will establish a Conduct and Complaints Committee.

1.1. *Remit.* The Conduct and Complaints Committee will be responsible for:

1.1.1. Overseeing the Conduct and Complaints procedure of the Free Church of Scotland in relation to Office-bearers. This includes oversight of disciplinary processes and responsibility for oversight of the Triage Group and the Investigation Group.

1.1.2. Maintaining lists of suitable individuals to serve in the various capacities during a conduct and complaints process.

1.1.3. Preparing and publicising regulations and guidance in areas related to Complaints and *discipline* including regulations for carrying out an investigation, standards of conduct, examples as to what constitutes a disciplinary offence, and regulations outlining the procedures to be followed by Kirk Sessions in proceeding with

a disciplinary case against an ordinary member of the Church. Any regulations shall be laid before and be subject to alteration, revocation, amendment, or modification by the General Assembly or its Commission.

1.1.4. Reviewing any completed disciplinary process with a view to improving future practice. An *external reviewer* shall be someone appointed by the General Assembly or its Commission from outside the Free Church of Scotland to review any concluded case. Due to the need to consider doctrinal and theological matters in any review the *external reviewer* must be a Christian. At the conclusion of the case, they will review the process and recommend any learning points for future cases. They shall report to Conduct and Complaints Committee and to the Principal Clerk. If they become aware of a serious failing, they may also report this matter to the General Assembly or its Commission via the Principal Clerk.

1.1.5. Keeping all required records in a secure manner and complying with all legal data protection obligations and Free Church of Scotland policies.

1.2. *Reporting.* The Committee will report to the General Assembly or its Commission as and when required.

1.3. *Membership.* The Committee will be appointed by the General Assembly following nominations from Presbyteries. The Committee will have up to ten members. Six of the members must be Ministers or Elders within the Free Church of Scotland. Four additional members must be members of the Free Church of Scotland and at least three of those additional members must be female. All members of the Committee must have appropriate experience and expertise and have availability for regular training. Members of the Assembly Clerks' Office are not eligible to serve on this Committee in any capacity.

1.3.1. A Clerk will be appointed to assist the Committee in maintaining records and in carrying out administrative duties relating to cases under its consideration. Additional Clerks may be appointed on a case-by-case basis as required. The appointments will be made by the Assembly Clerks' Office in consultation with the Chairman and the Vice-Chairman of the Committee.

1.3.2. Except where varied by the rotational principle the members will be appointed for a term of four years, renewable for a second term of four years. The maximum term of continuous service shall be eight years after which no member of the Committee shall be eligible for further service until one year has elapsed. In the first year of the implementation of this Act under a rotational principle three of the Minister/Elder members and one of the three female members shall be appointed in the first instance for a period of five years and, if appointed for a further four years, shall be permitted to serve for nine continuous years.

1.3.3. The General Assembly shall appoint one of the Elder or Minister members of the Committee as Chairman and one as Vice-Chairman. The Chairman and Vice-Chairman must come from different Presbyteries.

1.3.4. The Committee will also be empowered to make use of *Consultants* who may come from outside the Free Church of Scotland.

1.3.5. The Committee will appoint one of their female members as the Nominated Female Representative who may also receive Complaints.

1.3.6. The identity of the Chairman, Vice-Chairman and the Nominated Female Representative shall be clearly communicated within the Church along with their contact details for use when raising a Complaint. The Principal Clerk's contact details will be communicated alongside this for use where the *Complaint* may relate to a member of the *Committee*.

## **2. Conflict of Interest**

2.1. In any case where a member of the Committee has a Conflict of Interest, this must be declared, and an alternative person should be found to fulfil the role in the case. For the purposes of this Act only, a Conflict of Interest which will prevent someone acting, may be a genuine Conflict of Interest or a perceived conflict. Where another person is aware of a potential Conflict of Interest, they should inform the Principal Clerk who will decide whether there is a Conflict of Interest.

2.2. No one shall serve on an Investigation Group in any proceedings involving the Presbytery in which they reside.

2.3. No one shall be appointed to the Investigation Group in any single case or series of related cases against a Respondent where they have previously acted as an Adviser for the Respondent.

2.4. Where at any stage in procedures under this Act multiple Conflicts of Interest arise, and no person named in this Act can make an appropriate decision, the matter should be brought to the attention of the Principal Clerk who will appoint appropriate alternative decision makers. Where the Principal Clerk is himself conflicted one of the Assistant Clerks shall assume this responsibility.

### **3. Subjects of Discipline**

The following shall be subject to investigation and discipline in terms of this Act:

- 3.1. *Ministers.* All Ministers including Ministers who are staff members at ETS, church planters, missionaries, retired Ministers, resigned Ministers, and those on the Roll of Ministers Without Charge.
- 3.2. *Probationers.* A *probationer* is any person who has been licensed by a Presbytery as a preacher of the gospel but who has not yet been ordained.
- 3.3. *Candidate.* A *candidate* is any person who has been approved by the Board of Ministry as a candidate for the ministry in the Free Church of Scotland.
- 3.4. *Elders.* An *Elder* is any person who has been ordained as an Elder of a Congregation but for the purposes of this Act only shall not include anyone who is also a Minister. Elders includes those who are not currently serving as ruling Elders but who were previously ordained as an Elder.
- 3.5. *Deacons.* A *Deacon* is any person who has been ordained as a Deacon of a Congregation.
- 3.6. For the avoidance of doubt, this Act only applies to *Church Office-bearers* and does not apply to:
  - 3.6.1. *Communicant members* or *adherents* except where *members* undertake the roles set out in 3.1 to 3.5 above.
  - 3.6.2. A *former Office-bearer* who was previously deposed from office and has not been restored.
  - 3.6.3. *Church employees* (persons who work for the Free Church of Scotland by reason of having an employment contract from the Free Church or any Congregation) except where they are members of the Free Church of Scotland and undertake any of the roles set out in 3.1 to 3.6 above; or
  - 3.6.4. *Board consultants, board advisers, and finance committee members* except where they are members of the Free Church and undertake any of the roles set out in 3.1 to 3.5 above.
- 3.7. *Deceased Respondent.* Where a Respondent is deceased, it is not appropriate to proceed with a discipline case, although the Church Court with Jurisdiction may still conduct their own investigation into the circumstances and prepare a report into the matter identifying learning areas for the Church. The Church Court may seek the assistance of the Conduct and Complaints Committee in conducting their investigation. The Church Court may meet with any Complainants to assure them that although they cannot conduct any process, they are seeking to learn whether there are any general lessons which may be learnt from the Complaint(s).

### **4. Jurisdiction**

The Presbytery or the Kirk Session will have Jurisdiction over the Subjects of Discipline.

- 4.1. *Presbytery.* Ministers, probationers, and candidates come under the Jurisdiction of the Presbytery. A Presbytery has Jurisdiction over an individual who has a seat on the Presbytery or who resides within the bounds of the Presbytery. Where a Minister no longer resides within the bounds of any Presbytery, the Presbytery where they last resided retains Jurisdiction.
- 4.2. *Kirk Session.* Elders and Deacons come under the Jurisdiction of the Kirk Session of the local congregation of which they are communicant members and office bearers. Where they are no longer a ruling elder within a congregation, they will come under the Jurisdiction of the Kirk Session where they are a communicant member. If they are no long a communicant member within the Free Church of Scotland, the Kirk Session which last had jurisdiction will retain Jurisdiction.
- 4.3. *Multiple Parties.* In any case involving multiple parties who come under the Jurisdiction of more than one Church Court, all parties should be dealt with by the same Court.
  - 4.3.1. If the parties belong to different Congregations, the Kirk Sessions will consult with the Presbytery who shall advise as to which Kirk Session will deal with the matter.
  - 4.3.2. If the parties belong to different Presbyteries, the Presbyteries will seek the advice of the Assembly Clerks' Office who will give advice as to which Presbytery will deal with the matter.
  - 4.3.3. If one of the parties against whom the Complaint is made is a Minister, ETS staff member, probationer or candidate, the Presbytery concerned must take up the case against all parties and in due course advise the Kirk Session having responsibility for the other person(s).
- 4.4. In all cases involving multiple parties the Court dealing with the case will keep all other Courts informed of the progress on the process of the case and will report the eventual outcome.



4.5. *Congregational Health.* Where an issue of Congregational Health arises, the Presbytery in which the Congregation is situated will have Jurisdiction.

## **5. Evidence**

5.1. *Presumption of Innocence.* The Respondent is presumed innocent until proven guilty.

5.2. *Standard of Evidence.* The standard of evidence required for the Respondent to be found guilty of the Complaint shall be on the balance of probabilities providing the requirements of Paragraph 5.3 are met. "Balance of probabilities" means that the Kirk Session or Presbytery will be satisfied that on the evidence before them it is more likely than not that the allegation is true. This is in accordance with the requirements of 1 Timothy 3:2 and Titus 1:7 that an Elder must be blameless and above reproach.

5.3. *Witnesses.* The testimony of more than one witness shall be necessary to establish any Complaint in accordance with the standard set out in Deuteronomy 19:15 and 1 Timothy 5:19 where a single *witness* is insufficient.

5.3.1. However, it is understood that supporting evidence, such as documentary evidence or video evidence can serve as the equivalent of one of those *witnesses*, and this shall satisfy the principle expressed by the Biblical passages. A *witness* will be required to establish the authenticity of the supporting evidence, unless agreement is reached that the supporting evidence is authenticated.

5.3.2. It is necessary to establish the credibility and reliability of each *witness* before deciding whether there is sufficient evidence for the purposes of Paragraph 5.2 above. Deuteronomy 19:16-21 makes clear that a *witness* should be carefully examined and where a communicant member is proven to be a Malicious Witness, they themselves could be subject to disciplinary procedures.

5.3.3. In assessing the credibility and reliability of each *witness* it is competent to consider Hearsay evidence of statements made at the time of the incident to show whether a *witness* has been consistent in their evidence. Such evidence may also include a description of distress. However, this kind of Hearsay evidence will not qualify as a second *witness statement* for the purposes of Paragraph 5.3.

5.3.4. Previous signed *witness statements* can also be used to illustrate previously inconsistent statements which may assist the Church Court in determining the credibility and reliability of the *witness*.

5.4. *Hearsay.* Hearsay evidence is generally excluded from consideration except where either:

5.4.1. The *witness* is now deceased.

5.4.2. For the purposes of establishing credibility and reliability of a *witness* in accordance with Paragraph 5.3.3. above.

5.5. *Circumstantial Evidence.* Circumstantial evidence may be used in pursuing a Complaint. However, it is generally recognised that where circumstantial evidence alone is being used multiple strands of circumstantial evidence must be produced to establish a Complaint.

5.6. *A Course of Conduct.* A Complaint may relate to a course of conduct, as opposed to a particular incident. In such cases the testimony of multiple credible and reliable *witnesses* to the course of conduct will be sufficient, even where there are not multiple *witnesses* as to any individual incidents.

## **6. Companion**

It is open to anyone who appears before a Church Court or Committee to be accompanied by a Companion for support, although usually that person is not permitted to speak.

## **7. Potential Outcomes**

In all cases where the Complaint is admitted or established by a Church Court, the Kirk Session or Presbytery may decide on one of the following courses of action:

(1) *No Action* (Paragraph 7.1)

(2) *Minor Censure – Admonition or Rebuke* (Paragraph 7.2)

(3) *Major Censure - Suspension from Privileges, Suspension from Office, Deposition from Office, or Removal of Status* (Paragraph 7.3)

7.1. *No Action.* To take no further action due to the minor nature of the Complaint.

7.2. *Minor Censure.* For less serious offences, to impose a *minor censure* such as Admonition or Rebuke.

7.2.1. *Minor censure* may be accompanied with an instruction to the Respondent to undertake appropriate pastoral counselling.

7.2.2. *Admonition* is the lightest form of *minor censure* and involves counselling against sin and exhortation to more careful and worthy conduct.

7.2.3. *Rebuke*, which is a more serious form of *Admonition*, and may be administered before the Kirk Session or Presbytery or before the Congregation.

7.3. *Major Censure*. For more serious offences or for repeated minor offences, to impose a *major censure* such as *Suspension* or *Deposition*.

7.3.1. *Suspension from Privileges*. Suspension from Gospel privileges is the denial of participation in the Lord's Supper or Sacrament of Baptism for the Respondent's child for a fixed period to encourage repentance. In the case of a Minister, the Suspension of Privileges includes the Temporary Suspension of the right to preach the gospel but does not include the severance of the pastoral tie. The Minister suspended from privileges will continue to receive the stipend. Restoration of privileges at the end of the fixed period is not automatic but depends on the Court being satisfied that the offender is truly penitent. Where an offender is not penitent after a period of time a more severe censure may be imposed following a further meeting of the Church Court with the Respondent and the Presenter of the Case.

7.3.2. *Suspension from Office*. Suspension from Office includes suspension from Gospel privileges as in 7.3.1. above. In the case of a Minister, Suspension from Office includes the suspension of the licence to preach the Gospel, the severance of the pastoral tie for a Minister in a Congregation, and the termination of appointment for a Minister in a Free Church appointment.

7.3.2.1. Suspension from Office may be for a fixed period or indefinitely. Where suspension is for a fixed period, restoration is not automatic but depends on the Church Court being satisfied the person is truly penitent.

7.3.2.2. Where the party is paid a stipend, this will cease upon Suspension from Office.

7.3.2.3. Suspension of a Minister from Office will always include a declaration that the Minister is removed from his Congregation. Immediately on the Minister being suspended from Office, the outcome is to be intimated in his Congregation, the Congregation declared vacant, and another Minister appointed as Interim-Moderator.

7.3.3. *Deposition from Office or Removal of Status*. This is the most severe form of *censure*. This will be accompanied by removal of gospel privileges such as the Lord's Supper and the Sacrament of Baptism.

7.3.4.1. Where the party is paid a stipend, this will cease upon deposition.

7.4. *Restoration from Suspension*. A Minister or Probationer suspended from Office may apply by petition for restoration to the Presbytery which currently has Jurisdiction over him. The application for restoration will be intimated to all Presbyteries. Elders and Deacons suspended from Office will apply for restoration to the Kirk Session who has Jurisdiction over them, who will also notify the Kirk Session which imposed the suspension.

7.4.1. Any case for restoration will also be intimated to the Conduct and Complaints Committee.

7.4.2. A person suspended from Office may be restored to Gospel privileges without being restored to Office.

7.4.3. The name of a Minister whose suspension from Office is lifted will be added to the Roll of Ministers Eligible for Call. He will not be automatically restored to his previous congregation.

7.5. *Restoration from Deposition or from Removal of Status*. It is competent for a Minister to be restored to his status, and for a Probationer to have his licence restored, upon professions of repentance which seem to be borne out by a course of consistent conduct, but great caution is requisite in entertaining the question of such restoration.

7.5.1. A Minister deposed or Probationer removed may apply by petition for restoration to the Presbytery which currently has Jurisdiction over him. The application for restoration will be intimated to all Presbyteries.

7.5.2. A Minister or Probationer may be restored to Gospel Privileges without being restored to office or status.

7.5.3. The name of a Minister or Probationer restored to Office will be added to the Roll of Ministers Eligible for Call or the Roll of Probationers respectively.

7.5.4. Elders and Deacons deposed will apply for restoration to the Kirk Session who has Jurisdiction over them, who will also notify the Kirk Session which imposed the suspension.

7.5.5. Restoration of an Elder or Deacon who has been deposed is restoration of privileges which includes eligibility for election to office.

7.5.6. Any case for restoration will also be intimated to Conduct and Complaints Committee.

## **8. Appeals / Reviews / Dissents**

In order to ensure the integrity of the process an *appeal*, *request for review*, or a *dissent and complaint* will only be permitted at the point of disposal of a case.

8.1. **Process.** The decision of a Kirk Session may be appealed / reviewed by the Presbytery; and the decision of a Presbytery may be appealed / reviewed by the Commission of Assembly or directly to the General Assembly.

8.2. **Appeal.** An appeal is the procedure whereby the Respondent brings a matter under the review of a higher Church Court. A written appeal with reasons must be submitted within ten days of the Respondent being given the written decision of the Church Court.

8.3. **Request for Review.** A *request for review* is the procedure whereby the Complainant or the Presenter of the Case requests that a higher Church Court reviews the decision in the case. A written request for *review with reasons* must be submitted within ten days of the Complainant or the Presenter of the Case being given the written decision of the Church Court.

8.4. **Dissent and Complaint.** A Dissent and Complaint is the procedure whereby any member of a Church Court who has objected to the decision of the Church Court during the decision-making process may bring the matter under review by a higher Church Court.

8.4.1. The intention to dissent and complain must be stated immediately by the member of the Church Court, upon the pronouncement of a final decision.

8.4.2. The member of the Church Court will be given ten days from the date of pronouncement of the final decision to formally submit to the Church Court their written *dissent and complaint* with reasons.

8.5. **Simple Dissent.** A *simple dissent* is the procedure whereby any member of a Church Court whose conscience is aggrieved by the decision of the Church Court may have a dissent recorded in the Minutes of the Court. A *simple dissent* without a complaint does not bring the matter under the review of a higher Church Court.

8.6. **Grounds.** An *appeal*, *request for review* or a *dissent and complaint* may only be brought on the grounds of procedural irregularity, severity of *censure* or misapplication of Scripture or Church law. It is not usually appropriate for a higher Church Court to re-examine *witnesses* and accordingly no appeal can be brought in relation to the factual decision except where a finding has been made without support from the evidence or is plainly wrong.

8.7. **Sisting Proceedings.** Any *appeal*, *request for review* or *dissent and complaint* shall *sist* the carrying out of the *censure* until the higher Church Court has considered the case.

8.8. **Hearing.** An *appeal*, *request for review* or *dissent and complaint* shall be heard within one month of the relevant written document being received by the clerk of the higher Church Court. Where more than one party has raised an *appeal*, *request for review* or *dissent and complaint* in relation to the same matter they shall all be dealt with together by the higher Church Court.

8.9. **Independent Adviser at Hearing.** At the General Assembly or its Commission, the Principal Clerk will advise the Assembly on the procedure for the hearing. If the appeal, request for review or dissent and complaint is being considered by a Presbytery, the Principal Clerk will appoint an *Independent Adviser* to the Court to advise on procedure.

## **9. Re-opening a Case**

Once a final decision has been pronounced in the proper form, the case cannot be re-opened except on the presentation of new material evidence, which the Church Court could not have been aware of at the time of the original decision.

9.1. **Petition.** Where someone believes a case should be re-opened, a petition, outlining the new evidence that has come to light (“Petition”), should be submitted.

9.1.1. Where a case relates to a Minister, Probationer or Candidate the Petition should be submitted to the General Assembly or its Commission.

9.1.2. Where a case relates to an Elder or Deacon the Petition should be submitted to the local Presbytery.

9.2. **Triage Group.** In the event that the Church Court to which the Petition has been submitted decides to re-open a case it reverts to the Triage Group to put in place a new Investigation Group and begin the process.

9.3. *Restoration.* Where new evidence makes clear that the Respondent was innocent, they will be restored to their Office.

## **10. Sisting Proceedings**

10.1. *Situations.* The Presbytery or Kirk Session may *sist* proceedings under this Act, in whole or in part, in any of the following situations:

10.1.1. Pending the outcome of any civil or criminal proceedings or relevant investigations which relate to the Complaint with a decision whether to *sist* proceedings or not being taken on a case-by-case basis.

10.1.2. Due to the ill-health of the Respondent or of a material *witness* which prevents the Respondent or material *witness* from taking part in such proceedings. In the case of the Respondent a medical report should be provided.

10.1.3. For any other reason deemed appropriate.

10.2. *Request for Sist.* The Investigation Group, the Presenter of the Case or the Respondent may make a request to the Presbytery or Kirk Session that the proceedings be *sisted*.

10.3. *Duration of Sist.* Once a *Sist* has been imposed, it shall be presumed to continue until such time as the circumstances leading to its imposition no longer pertain, although the Moderator and Clerk of the Church Court who imposed the *Sist* should review the *Sist* every month to ensure that it is still required and may decide it is no longer appropriate.

10.4. *Review.* The appropriateness of the *Sist* continuing shall also be subject to review, upon request by the Respondent, at three-monthly intervals from the date of its imposition. Each of these reviews shall be undertaken and decided upon by the Principal Clerk, whom failing one of the Assistant Clerks, who shall have power to lift the *Sist* upon cause shown by the Respondent.

## **11. Absence of Respondent**

Where a Respondent repeatedly fails to appear before a Church Court or Committee, a charge of Contumacy may be brought against them.

11.1. *The Process.* This non-appearance need not prevent the Church Court considering the evidence before it and coming to a verdict on the original accusation. However, if they wish to proceed to deposition of a minister as a *censure*, they must report the matter to the General Assembly or its Commission as only the General Assembly has the authority to depose a Minister in his absence.

## **SECTION D – INITIAL PROCEDURE FOLLOWING A COMPLAINT**

### **1. Making a Complaint**

The following parties can raise a Complaint:

1.1. A communicant member of the Free Church of Scotland.

1.2. An adherent of the Free Church of Scotland.

1.3. A member of the public.

1.4. Any Church Court where circumstances come to their attention which indicate that an issue requires investigation.

1.5. In all cases, individuals will be identified within the church who can provide support to those considering making a Complaint.

### **2. Timely Manner**

A Complaint should be submitted in timely manner in order to preserve and maintain the quality of the evidence.

### **3. Receiving a Complaint**

Complaints should be submitted to the Chairman, the Vice-Chairman, and the Clerk of the Conduct and Complaints Committee.

3.1. *Acknowledgement.* A Complaint should be acknowledged within three days.

3.2. *Nominated Female Representative.* Parties may elect to report their Complaint to the Nominated Female Representative of the Committee, who will pass the Complaint to the Chairman and Vice-Chairman.

3.3. *Church Court.* Where a Church Court receives a Complaint the Clerk and / or Moderator will pass the Complaint to the Chairman and Vice-Chairman of the Conduct and Complaints Committee.

3.4. *Duty of Office-bearers.* It is the duty of every Office-bearer in the Church who receives notice of a Complaint to pass the Complaint to the Chairman and Vice-Chairman of the Conduct and Complaints Committee.

3.5. *Online Submission.* A Complaint may also be submitted via the Free Church website ([www.freechurch.org](http://www.freechurch.org)). Information will be provided on the website as to how complaints are dealt with and who will receive the information. An alternative route for the submission of a Complaint will be available for situations where contact with any of the named individuals may be inappropriate or unsuitable.

3.6. *Conflict of Interest.* In the event of a potential Conflict of Interest (such as where a Complaint relates to a member of the Conduct and Complaints Committee) the Complaint can be brought to the Principal Clerk whom failing another member of the Assembly Clerk's Office who will arrange for an independent Minister or Elder within the Free Church of Scotland with appropriate training and expertise to oversee the Complaint (the "Independent Person"). The *Independent Person* will follow the rest of the procedures outlined in this Act but shall be free to appoint appropriate independent individuals in consultation with the Assembly Clerks' Office.

3.7. *Safeguarding.* If the Complaint involves allegations of criminality or safeguarding concerns, the Church's safeguarding and criminality reporting processes should be followed alongside the Conduct and Complaints process.

3.8. *Temporary Suspension – Initial Stage.* Upon receiving the Complaint, the Chairman and the Vice-Chairman of the Conduct and Complaints Committee, in consultation with the CEO of the Free Church of Scotland ("CEO") and the Principal Clerk, will decide whether Temporary Suspension is appropriate.

3.8.1. *Respondent.* Where Temporary Suspension is considered appropriate the Chairman will inform the Respondent that they are temporarily suspended.

3.8.2. *Presbytery.* The Chairman will also inform the Presbytery who will hold a meeting within seven days to ratify the temporary suspension. At such a meeting, they will hear from the Respondent and the Chairman of the Conduct and Complaints Committee.

3.8.3. If the Respondent is a Minister, and he is placed under Temporary Suspension, the Presbytery will appoint an Interim-Moderator to the Respondent's Congregation.

3.8.4. Where the Respondent is a candidate or probationer, a Temporary Suspension on the Respondent may pause the candidate's training and will render the probationer ineligible to receive a call from a vacant Congregation or to respond to such a call.

3.9. *Temporary Suspension – Later Stages.* If at any later point during the investigation process the Chairman and the Vice-Chairman of the Conduct and Complaints Committee, in consultation with the CEO and the Principal Clerk, come to the view that Temporary Suspension is now required they may impose a Temporary Suspension and then seek Presbytery ratification under Paragraph 3.7.2.

3.10. *Temporary Suspension – Exception for Serious Cases.* In the most serious cases (such as those involving safeguarding concerns or criminality) the Chairman of the Conduct and Complaints Committee can impose immediate Temporary Suspension but will then inform the Presbytery for ratification under Paragraph 3.7.2.

#### **4. Resignation**

Once a Complaint has been received by the Committee, the Respondent will not be entitled to resign their status.

#### **5. Triage Group**

Upon receiving a Complaint, a Triage Group will be formed under the authority of the Committee to decide which category the Complaint falls under.

5.1. *Membership.* The membership of the Triage Group will be the Chairman and the Vice-Chairman of the Conduct and Complaints Committee, and one of the female members of the Conduct and Complaints Committee appointed by the chairman.

5.2. *Consultation.* The Triage Group will consult as follows when a case of alleged misconduct has been submitted to them for their consideration:

5.2.1. When a case has been submitted by a communicant member of the Church, by an adherent, or by a member of the public, the Group will invite the Clerk of the Presbytery in which the misconduct is alleged to have occurred.

5.2.2. When a case has been submitted by a Presbytery, the Group will invite the Clerk of the Presbytery to the Triage meeting.

5.2.3. When a case has been submitted by a Kirk Session, the Group will invite the Session Clerk to the Triage meeting.

5.2.4. In all situations, the Clerk will provide the Triage Group with background information on the case under consideration, but he will be excluded from the decision-making process.

5.3. *Complaint.* The Triage Group shall consider the Complaint and decide how best to proceed with the matter. They may consult with others as they deem it appropriate. Where a Complaint is not submitted timeously it is appropriate to consider the reasons why there has been a delay and the impact this may have had upon the quality of the evidence. They will decide into which category the Complaint falls.

## **6. Complaint Categories**

The Triage Group will place the Complaint into one of the following categories:

- (1) *A Low-Level Complaint* (Paragraph 6.1)
- (2) *A Disciplinary Offence* (Paragraph 6.2)
- (3) *A Heresy Complaint* (Paragraph 6.3)
- (4) *A Non-disciplinary Complaint* (Paragraph 6.4)

6.1. *A Low-Level Complaint.* The Triage Group will determine whether the Complaint is a *Low-Level Complaint*.

6.1.1. In determining whether a Complaint is *Low-Level* the Triage Group shall speak with the Complainant.

6.1.2. Where the Complaint is believed to be *Low-Level*, the Triage Group will report to the Kirk Session or Presbytery with Jurisdiction who will meet within twenty-one days to decide whether to declare the Complaint to be *Low-Level*.

6.1.3. Where the Kirk Session or Presbytery declares the Complaint is *Low-Level*, the procedures under this Act will cease unless there is a request for review or a dissent and complaint. Pastoral care will continue for all parties.

6.1.4. Where the Kirk Session or Presbytery does not believe the Complaint is *Low-Level* the Triage Group will appoint an Investigation Group.

6.2. *A Disciplinary Offence.* The Triage Group will determine whether the Complaint relates to a potential *disciplinary offence*.

6.2.1. Where the Triage Group decides that the matter does relate to a potential *disciplinary offence*, they will decide whether the matter relates to *conduct* or amounts to an allegation of Heresy.

6.2.2. Where the Triage Group determines that the matter relates to a potential Conduct Disciplinary Offence, they will (unless the matter is considered sufficiently minor) appoint an appropriate Investigation Group, led by a member of the Conduct and Complaints Committee, to investigate the circumstances and report in accordance with Sections E & F of this Act.

6.2.3. *Presenter of the Case.* The Triage Group will determine who will be the Presenter of the Case (usually the Chairman or the Vice-Chairman of the Conduct and Complaints Committee). The Presenter of the Case will normally have been the reviewer of the Case but will not have been part of the Investigation Group.

6.2.4. *Informal Resolution.* Where the Triage Group is of the view the conduct that is the subject of the Complaint is minor and can be dealt with informally, they will report to the Kirk Session or Presbytery with Jurisdiction and propose how best to deal with the matter. The Kirk Session or Presbytery will report back to the Triage Group the outcome of the informal resolution and whether the matter is resolved. The Triage Group will assess the report and decide if further intervention is required.

6.3. *A Heresy Complaint.* The Triage Group may determine that the Complaint relates to an allegation of Heresy.

6.3.1. The Triage Group will consult with the Principal Clerk and the Principal of Edinburgh Theological Seminary to consider if the General Assembly has a settled opinion on the theological question or if the issue is one on which the Church recognises a liberty of opinion. The Principal of Edinburgh Theological Seminary may consult with other faculty members at ETS.

6.3.2. If there is a settled position on the matter, the Respondent will be asked if he accepts the Church's position. If the Respondent accepts that he has made an error and resolves to correct his thinking, that is the end

of the matter (unless the same issue is raised again). If the Respondent refuses to change his opinion, then the *Triage Group* will proceed with a normal disciplinary procedure under Sections E-G of this Act.

6.3.3. Where the Church does not have a settled opinion on the matter, a Theological Committee will be appointed to investigate the question and report to the General Assembly or its Commission.

6.3.3.1. The Theological Committee will discuss the theological question with the Respondent.

6.3.3.2. The General Assembly or its Commission will receive a report from the Theological Committee and may sustain the report, seek further clarity, or make their own finding on the issue. It is open to the Theological Committee and the General Assembly or its Commission to declare the matter to be one on which Scripture allows liberty of conscience and accordingly make no ruling as to the correct interpretation of Scripture.

6.3.3.3. After a conclusion on the theological question has been reached, the Triage Group will again consider the accusation of Heresy. If the accusation is contrary to the now settled position of the Church, the Respondent will be asked if he accepts the Church's position on the matter. If the Respondent accepts the Church's settled position and confirms he has amended his thinking, that is the end of the matter (unless the same issue is raised again). If the Respondent refuses to change his opinion, then the Triage Group will proceed with a normal disciplinary procedure under Sections E-G of this Act.

6.4. *A Non-disciplinary Complaint.* The Triage Group will make an initial assessment as to whether the matter is a *Non-disciplinary Complaint*. Issues which will be deemed *Non-disciplinary* include Capability and issues of Congregational Health.

6.4.1. *Capability.* Where an issue relates to Capability for Ministry, the Triage Group will refer the matter to the Chair of the Board of Ministry who will support the Presbytery in proceeding under the Church's capability procedures. Where a Capability issue is raised in relation to a member of ETS Staff the Triage Group will refer the matter to the ETS Board to follow ETS's capability procedures. Where the Complaint relates to both conduct and capability the conduct aspects will be investigated first as a Disciplinary Complaint under Paragraph 6.2.

6.4.2. *Congregational Health.* Where an issue is related to Congregational Health, the Triage Group will consider what evidence they have that the health of the Congregation is unsatisfactory. Evidence of this may include an undue falling away of attendance at public worship and/or undue withdrawal of financial support of the Congregation. Congregational Health could also relate to a break down in the relationships in the Congregation, such as between the Congregation / Office-bearers and the Minister or between the Congregation and the Office-bearers. A Congregational Health issue will be reported to the Presbytery and the matter will be investigated in accordance with the procedure set out in Section H of this Act.

6.4.3. *POV Reports.* If in the process of carrying out a Presbytery Oversight Visit of a Congregation an issue of Discipline, Capability for Ministry or Congregational Health is identified, the Presbytery shall bring the matter to the attention of the Chairman of the Conduct and Complaints Committee who will convene the Triage Group.

## **7. Pastoral Care**

At the same time as a Triage Group is convened, the Chairman will contact the Church Court with Jurisdiction and the *Board of Ministry* to advise that a Complaint has been received and request that they ensure appropriate pastoral care is provided.

7.1. *The Presbytery.* The *Presbytery's Pastoral Team* will put in place arrangements for appropriate pastoral care with the approval of the *Board of Ministry*.

7.2. *The Kirk Session.* In a case involving an Elder or Deacon, a referral will be made by the Kirk Session to the *Presbytery Pastoral Team* to put in place appropriate pastoral care.

7.3. *Board of Ministry.* The *Board of Ministry* will ensure that appropriate pastoral care is in place through its *Reference Team*. Where the *Board* is not satisfied with the arrangement of the *Presbytery's Pastoral Team* or are of the view that it is more appropriate in the circumstances of the case to call on those out with the Presbytery to provide *Pastoral Care*, they may intervene and make alternative arrangements.

7.4. *Recipients of Pastoral Care.* A person who is unsatisfied with the *Pastoral Care* provided may also make their concerns known to the *Board of Ministry Reference Team*.

7.5. *Confirmation.* The *Board of Ministry* will report back to the Conduct and Complaints Committee that *Pastoral Care* is in place but will maintain confidentiality and will not be required to report on the content of any pastoral care.

7.6. *Recipients.* The following will be provided with appropriate pastoral care:

- 7.6.1. The Respondent and his family.
- 7.6.2. Any Complainant(s) and their family.
- 7.6.3. Any *witnesses* in respect of the *Complaint*.
- 7.6.4. The Congregation, bearing in mind the need for confidentiality.
- 7.6.5. Any Office-bearers involved in the *Complaint*.
- 7.7. *Congregational Health*. In cases involving Congregational Health, pastoral care will be provided to the Minister and the Elders of the Congregation.
- 7.8. *Caretaker Minister*. The *Board of Ministry*, in consultation with the Presbytery and the *Mission Board*, may appoint a Minister as caretaker to provide pastoral care to a Congregation for a defined period if they consider this necessary. They may request that the Board of Trustees makes available budgetary provision for the *Caretaker Minister*.
- 7.9. *Conflict of Interest*. Anyone appointed by the *Presbytery Pastoral Team* or by the *Board of Ministry* to provide pastoral care will not participate in any procedure before a Church Court relating to the discipline case even if they are members of the Church Court.

## **8. Adviser**

The *Board of Ministry* will also ensure that an Adviser has been appointed to assist the Respondent with matters of Church law and procedure.

- 8.1. *Powers of the Adviser*. During an investigation interview they are not permitted to answer questions on behalf of the Respondent but may ask questions or make clarifying statements. During a *Hearing* they may present the Respondent's defence.
- 8.2. *Privilege*. The relationship between the *Adviser* and the Respondent shall be governed by privilege and confidentiality in order to enable the Respondent to freely discuss the case with their *Adviser*. This means that *Advisers* cannot disclose the details of their conversations.

## **9. Notifying the Respondent**

If the Triage Group determines an *Investigation* is required, the Chairman of the Conduct and Complaints Committee will write to the Respondent to confirm that a Complaint has been received, advising as to its general nature, and providing a list of *Advisers* who the Respondent may approach to receive advice and guidance in relation to Church law and procedure. The Respondent will also be given an overview of the process written in plain English.

## **10. Reporting**

The outcome of the Triage Group's assessment will be reported for information to the Principal Clerk and the CEO. *The Investigation Group* will report to the Kirk Session or Presbytery on a monthly basis.

## **11. Investigation Group**

The Investigation Group will be appointed by the Conduct and Complaints Committee in consultation with the Triage Group.

- 11.1. *Membership*. Members of the Investigation Group will be appointed who have appropriate experience depending on the nature of the *Complaint*. At least one woman and one man will always be appointed to the Investigation Group.
- 11.2. *Co-opted Members*. Normally, members of the Conduct and Complaints Committee will be appointed to the Investigation Group. However, where the circumstances require it or particular expertise is required, others can be co-opted onto the Investigation Group or may act as *Consultants*. The typical size of an Investigation Group will be three people including a female member.
- 11.3. *Remit*. The remit of the Investigation Group is to investigate the matter and prepare a report on their findings.
- 11.4. *Exclusions*. No one will be appointed to the Investigation Group who is a member of the same Presbytery as the Respondent or a member of any local Congregation within the same Presbytery.
  - 11.4.1. *Exception*. The exception to the rule in Paragraph 11.4 occurs in a case of Capability or Congregational Health where the Investigation Group will be appointed by the Presbytery and will be supported by the Conduct and Complaints Committee. In these cases, the Chair of the Investigation Group will be a member of the Presbytery.



## **SECTION E – INVESTIGATION OF A POTENTIAL DISCIPLINARY MATTER**

### **1. The Court of Jurisdiction**

If the decision is made to commence with an *Investigation*, the Chair of the Investigation Group will report to the Kirk Session or Presbytery that they are conducting an *Investigation*.

### **2. The Respondent**

The Investigation Group will again intimate in writing to the Respondent the terms of the *Disciplinary Complaint* and advise on the next steps.

2.1. *Response*. They will ask the Respondent to provide a written response to the Complaint within fourteen days and they will invite the Respondent to an interview with the Group.

2.2. *Extension*. The Respondent may request in writing more time to respond to the Complaint and will be given a maximum of twenty-eight additional days to respond.

2.3. *Failure to Respond*. Where the Respondent fails to respond or refuses to respond this will be noted in the final report.

### **3. Respondent's Adviser**

At any investigatory interview the Respondent's *Adviser* may be present.

### **4. Witnesses**

The Investigation Group will also contact the Complainant(s) and any other *Witnesses* to take statements (which shall be read over by and signed by the *Witnesses*) and collect any other evidence. They may also record the full interviews with the *Witnesses* with the permission of the *Witnesses*.

### **5. Further Allegations**

If, during the investigation, the Investigation Group becomes aware of further allegations against the Respondent, which may constitute a Disciplinary Offence, then they shall also investigate those allegations.

### **6. Time Limits**

In the interest of all parties, the Investigation Group shall complete the Investigation as soon as reasonably practicable. They shall carry out an Investigation and prepare a report not later than three months from the date that the Chairman received the Complaint.

6.1. *Special Circumstances*. Where there are special circumstances which mean the *Investigation* cannot be concluded in three months, the Investigation Group will report to the Kirk Session or Presbytery the reason for the delay and will notify the Respondent and the Complainant.

6.2. *Delay*. The Kirk Session or Presbytery will decide whether the delay is reasonable and will declare a new time limit.

### **7. Support for those Investigating**

Members of the *Investigation Group* may require taking a leave of absence from other duties within the Church, including pastoral ministry, while investigating the case. The Principal Clerk in consultation with the Presbytery and the CEO is empowered to grant such requests.

## **SECTION F – REPORT OF THE INVESTIGATION GROUP**

### **1. Report**

The Investigation Group will prepare a report on their investigations to include the following:

1.1. *Parties*. The report will include details of the Complaint, the Complainant, and the Respondent.

1.2. *A Case to Answer*. The report will include the recommendations of the Investigation Group as to whether there is a Case to Answer.

1.3. *A Charge*. The report will include details of the appropriate *Charge*. The *Charge* may relate to a course of conduct instead of any one incident. The Investigation Group may consult the Church's Solicitor for advice on the wording of the *Charge*.

1.4. *Evidence*. The report will include the evidence on which the *Charge* is based but will, as far as possible, maintain the confidentiality of the *Witnesses*.

## **2. Review of Report**

The report will be reviewed by a member of the Conduct and Complaints Committee who has not been involved in the Investigation This will usually be the Presenter of the Case.

## **3. No Case to Answer**

Where the report concludes there is no Case to Answer this will be reported to the Kirk Session or Presbytery with Jurisdiction who will meet within 21 days to decide whether they agree there is No Case to Answer. Where the Kirk Session or Presbytery declares there is no Case to Answer, the procedures under this Act will cease unless there is a request for *Review* or a *Dissent and Complaint*.

## **4. Complainant**

The Investigation Group will update the Complainant on the progress of the Complaint. However, they will not provide the Complainant with a copy of the report to maintain confidentiality.

## **5. Respondent**

A copy of the report will be sent to the Respondent with a letter asking them to give an answer to the Complaint and the *Charge*. The Respondent will be asked to give their response to the letter in writing within twenty-one days.

5.1. *Office-bearers*. The Respondent as an Officer-bearer within the Church has agreed to subject himself to the judicatories of the Church and accordingly owes a duty of candour to Church Courts.

5.2. *A Meaningful Response*. The Respondent is therefore required to give a meaningful answer to the report and to either admit or deny the allegations. Silence is not a meaningful response, and a negative inference can be drawn from silence.

## **6. Confession.**

Where the Respondent admits the *Charge*, the Presenter of the Case, in consultation with the Chair of the Investigation Group, will consider the nature and extent of the confession to satisfy themselves as to whether or not it covers the total allegation or allegations.

6.1. *A Genuine Confession*. If they are satisfied the Confession covers the total allegation or allegations and that the Confession is genuine, they will ask the Clerk of the Kirk Session or Presbytery to convene a meeting to consider the report and the Confession, along with their recommendation as to an appropriate outcome in accordance with Section C Paragraph 7.

6.2. *Kirk Session or Presbytery*. In considering the appropriate outcome in accordance with Section C Paragraph 7, the Kirk Session or Presbytery will have due regard to whether they believe genuine repentance on the part of the Respondent.

6.3. *Mitigating Circumstances*. They will also hear from the Respondent and /or their *Adviser* as to whether there are any mitigating circumstances. It may be necessary to obtain a medical report or other evidence to support the existence of mitigating circumstances.

6.4. *Aggravation*. They will also consider whether there has been any aggravation as part of the offence. They may take up victim impact statements to assist in this process.

## **7. Denial**

Where the Respondent denies the Charge, the Presenter of the Case will notify the Clerk of the Kirk Session or Presbytery of the need for a *Disciplinary Hearing*.

## **SECTION G – THE DISCIPLINARY HEARING**

### **1. Preliminary Matters**

The Kirk Session or Presbytery will hold a special meeting immediately after receiving notification from the Presenter of the Case for the purpose of making arrangements for the *Disciplinary Hearing* to be held no sooner than twenty-eight days' time and no later than three months' time.

1.1. *Citation*. The Clerk of the Kirk Session or Presbytery will issue Citations to the Respondent, Complainant, and all *Witnesses*. He will also notify the Presenter of the Case of the date of the *Hearing*.

1.2. *Different Kinds of Citation*. There are two kinds of Citation:

1.2.1. The first kind is a *Citation* delivered openly in the Court to those involved who are present at the time when the decision is taken to issue the *Citation*. The *Citation* should be minuted.

1.2.2. The other *Citation* is a formal written summons requiring attendance at a Church Court and delivered to the person named or to his/her dwelling and the fact of its being so delivered duly certified. Such certification may be made by someone appointed by the Court to deliver the *Citation*, or by use of Registered Mail, or recorded delivery using the facility which involves official notice from the Post Office that delivery to the address has been made. The Court should minute at its next meeting the receipt of appropriate confirmation from the person appointed or the company so contracted.

1.3. *Failure to Appear*. When the Court is ready to proceed with the case and has been satisfied that all *Citations* have been duly delivered, it calls all parties concerned before it. If a person duly cited does not appear at the time and place specified, a second *Citation* should be served.

1.4. *Contumacy*. Where a person duly cited two times, fails to appear or to give a satisfactory reason for non-appearance they are liable for *censure* for *Contumacy*. For the avoidance of doubt, one of the two citations may be the *Citation* delivered openly before the Court.

1.5. *Female Consultant*. In any case proceeding to a *Hearing*, the Kirk Session or Presbytery should appoint a suitably experienced *Female Consultant* to the Court who can take part in any discussions of the Kirk Session or Presbytery regarding their decision but who will not have the right to vote.

1.6. *Training*. Prior to the *Hearing*, the Principal Clerk will arrange for appropriate training to be provided to members of the Church Court who will be making the decision. Only members of the Church Court who have participated in the training can take part in the *Hearing* and make the decision. The Principal Clerk will also appoint an *Independent Adviser* to the Court to advise on procedure.

1.7. *Questioning the Witness*. The Kirk Session or Presbytery should empower three people to question the Witnesses on behalf of the Court during the *Hearing*. One of these three people should be the *Female Consultant* to the Court. Any other member of the Kirk Session or Presbytery who has questions should pass them to these designated questioners. The Moderator shall not be one of these people as they will be responsible for chairing the *Hearing*.

1.8. *Disclosure*. The Presenter of the Case will note the requirement that each party in the *Hearing* is required to disclose any documents that may be considered relevant to the case. They will also provide the Respondent with a list of *Witnesses* for the *Hearing*. This disclosure should take place within seven days of a hearing being arranged.

## **2. Legal Representation.**

2.1. *The Presenter of the Case*. The Presenter of the Case, in consultation with the Principal Clerk and the CEO, may, owing to the complexity of a case, decide to appoint *Legal Representation* to prosecute the case on behalf of the Presenter of the Case.

2.1.1. In a case where it is decided to appoint *Legal Representation*, the Respondent will have an automatic right to appoint *Legal Representation* to ensure fairness.

2.1.2. In all cases where the Respondent appoints *Legal Representation*, the Presenter of the Case may also decide to appoint *Legal Representation*.

2.2. *Respondent*. The Respondent will be informed of their right to ask for *Legal Representation* where the case is sufficiently complex. In all other cases they must seek the permission of the Principal Clerk who will, in consultation with the CEO, determine if the case is sufficiently complex to warrant the appointment of *Legal Representation*.

2.2.1. Where permission to appoint *Legal Representation* as in Paragraph 2.2 above is not given, the Respondent may fund their own *Legal Representation*.

2.2.2. Where the Respondent does not have *Legal Representation*, their *Adviser* may assist in representing them or they may represent themselves. However, in a case involving sexual misconduct or abuse, the Respondent is prohibited from questioning any of the *Witnesses* (their *Adviser* or *Legal Representation* will question the *Witnesses*), although they may still choose to conduct their own defence, particularly making any closing statements.

2.3. *Budgetary Provision*. The Board of Trustees will make budgetary provision to cover the costs of *Legal Representation* for both parties where *Legal Representation* has been appointed in terms of Paragraphs 2.1. and 2.1.1. or where permission has been given to the *Respondent* in terms of Paragraph 2.2.

2.3.1. Where Permission is not granted, but the Respondent proceeds to appoint *Legal Representation* in terms of Paragraph 2.2.1., and the Presenter of the Case exercises their right to appoint *Legal Representation* in response under Paragraph 2.1.2., the Board of Trustees will make budgetary provision to only cover the costs of the Presenter's *Legal Representation*.

### **3. List of Witnesses**

Fourteen days before the *Hearing* the Respondent must provide the Investigation Group, the Presenter of the Case, and the Church Court with a list of any additional *Witnesses* whom they have asked to attend the *Hearing* and provide copies of any evidence upon which they intend to rely.

3.1. *Support for Witnesses.* In submitting lists of witness the Presenter of the Case and the Respondent will indicate to the *Church Court* whether any steps need to be taken to assist the witnesses in giving evidence. For example, a vulnerable witness may appear via video link from another room.

3.2. *New Evidence.* Where new evidence comes to light during the *Hearing*, the Court hearing the case must decide whether the evidence materially changes the case. They may suspend the hearing to allow time for all parties to consider the new evidence.

3.3. *Members of the Court.* Any *Witnesses* who are members of the Court will not be entitled to sit as members of the Court at the *Hearing*.

3.4. *Budgetary Provision.* The Board of Trustees will allocate a budget for the expenses of the *Witnesses* attending the *Hearing*.

### **4. Continuance**

It is competent for either party to ask the Kirk Session or Presbytery, up to seven days before the start of the case, for a continuance of the *Hearing* to allow more time for the preparation of the case. This may be required if additional *Witnesses* or evidence has been identified by the Respondent. Continuance will be granted at the discretion of Moderator and Clerk of the Kirk Session or Presbytery and will not be withheld unreasonably.

### **5. The Hearing**

5.1. *Proceedings.* On the date of the *Disciplinary Hearing*, both sides will be allowed to present their case, hear evidence from all *Witnesses*, and allow cross examination of the *Witnesses*.

5.1.1. The Presenter of the Case will present the report of the Investigation Group regarding the Complaint according to the provisions of Paragraph 2.1 above as required in each case.

5.1.2. The case of the Respondent will be presented according to the provisions of Paragraph 2.2 above.

5.2. *Recording.* The proceedings at the Hearing will be recorded. At the end of the proceedings all recordings will be securely stored by the Conduct and Complaints Committee.

5.3. *Private Hearing.* The *Disciplinary Hearing* will be conducted in private.

5.4. *Public Announcement.* The decision of the *Disciplinary Hearing* is public and will be communicated to the Church as a whole.

5.4.1. The Church Court, in consultation with the Free Church Communications Manager, will decide on any communication to the media or responses to requests for comment.

5.4.2. No member of a Church Court should discuss the matter with the media without the permission of the relevant Church Court.

### **6. Review**

Where an *Appeal, Dissent and Complaint* or *Request for Review* is made, no public statement of the outcome will be made either within the Church or to the media until after the Higher Court has considered the case.

### **7. Solemn Assurance**

All who are about to give evidence before a Kirk Session or Presbytery shall be required to give a solemn assurance before doing so that they will speak the truth, that they have no malicious motive and are not knowingly biased.

### **8. Closing Statements**

The Presenter of the Case and the Respondent or their representatives will be entitled to make closing statements to the Kirk Session or Presbytery once all the evidence has been heard. After which point, they will be asked to leave the room while a decision is reached.

## **9. Hearing Regulations**

The Principal Clerk, in consultation with Conduct and Complaints Committee, is empowered to prepare regulations on how a *Hearing* should be conducted, provided that such regulations shall be laid before and be subject to alteration, revocation, amendment or modification by the General Assembly or its Commission. These regulations will include rules of evidence, make provision for vulnerable *Witnesses* giving evidence, and give details on how evidence can be taken where a *Witness* is unable to attend the *Hearing* due to age, illness, or location.

## **10. Decisions**

At the end of the *Hearing* the Kirk Session or Presbytery will reach a decision on the formal *Charge* through private discussion in accordance with the principles of evidence in Section C Paragraph 5. The *Female Consultant* and the *Independent Adviser on Procedure* will be present at this discussion. The decision will be reached by majority.

10.1. *Complex Cases*. In complex cases, the Kirk Session or Presbytery may adjourn to give themselves time to consider their decision and shall appoint a date (within 7 days) for a future meeting where they will reach their decision.

10.2. *The Record*. The Kirk Session or Presbytery should record their decision along with the reasons for their decision. This will be an official minute of the Court.

10.3. *Not-guilty Verdict*. If the Respondent is found not guilty the reasons for this decision will be clearly stated and communicated within the wider Church - this is important for restoring the reputation of someone who has been wrongfully accused.

10.4. *Guilty Verdict*. If the Kirk Session or Presbytery find the Respondent guilty, they will then decide on the appropriate outcome. The outcomes available to the Court are outlined in Section C Paragraph 7.

10.4.1. Before deciding on the outcome, they will hear from the Respondent as to whether there are any mitigating circumstances and consider whether there has been aggravation.

10.4.2. It may be necessary to obtain a medical report or other evidence to support the existence of mitigating circumstances or aggravation. They may obtain victim impact statements.

10.5. *A Final Decision*. The decision of the Kirk Session or Presbytery will be final, unless an *Appeal*, *Request for Review* or a *Dissent and Complaint* is raised.

## **SECTION H – PROCEDURE IN CASES RELATING TO CONGREGATIONAL HEALTH**

### **1. Investigation**

Where the Triage Group concludes a matter relates to Congregational Health the *Investigation Group* will report on the matter to the Presbytery having responsibility for oversight of ministry in the area.

1.1. *Presbytery*. The Presbytery will appoint a Committee to consider the report of the Investigation Group and to carry out further investigation in seeking to resolve the situation. The Committee will be chaired by a member of the Presbytery.

1.2. *Investigation Group*. At least one member of the *Investigation Group* will be appointed to the Presbytery Committee.

### **2. Course of Action**

The Presbytery will decide on an appropriate course of action. The Conduct and Complaints Committee will produce guidance outlining options available to Presbyteries, particularly with a view to de-escalating the situation.

### **3. Support**

Mediation may be provided for the *Congregation*, and other forms of support which are deemed appropriate, to try and restore harmony in the *Congregation*.

### **4. The Record**

If the various steps to address the issues should fail, then the Presbytery must record in their minutes a statement of the facts, the steps taken by the Presbytery, and the results.

## 5. A Hearing

Presbytery may decide at this point to proceed with a *Hearing* at Presbytery of the various parties. The Investigation Group will continue to provide support to Presbytery on how best to proceed.

5.1. *The Finding.* If at the *Hearing*, the Presbytery conclude that the ends of the ministry are not being served, and that the state of the Congregation is due to defects or mismanagement personal to the Minister, and/or may be due to the fault of any Office-bearers or members of the Congregation, they will record this in their minutes.

5.2. *Improvement Plan.* The Presbytery will consider whether any additional steps may be taken to improve the situation. The Presbytery should consult the Mission Board for support in preparing an improvement plan.

5.2.1. Where the Presbytery is able to put in place an Improvement Plan, they will communicate their recommendations to the Congregation, Office-bearers and Minister and provide support in implementing the Plan.

5.2.2. The Presbytery will review the situation six months after the implementation of the Improvement Plan.

5.3. *Removal of Parties.* Where the Presbytery see no possibility of improvement without the departure of either the Minister, any of the Office-bearers, or Members of the Congregation, they will initiate appropriate action to remove those parties from the Congregation.

5.3.1. *The Minister.* Where it appears the issues relate to defects or mismanagement on the part of the Minister (but which does not amount to a disciplinary offence), they will hold a further *Hearing* for the purpose of deciding whether the pastoral tie should be dissolved. The Minister will be present at the *Hearing* and will be given an opportunity to address the Presbytery on the issues.

5.3.1.1. If the Presbytery decide to dissolve the pastoral tie, they will inform the Principal Clerk and the CEO by extract of proceedings giving the reasons and requesting that the Minister's name be added to the Roll of Ministers without Charge.

5.3.1.2. On the dissolution of the pastoral tie, the Minister will be entitled to six months stipend, or stipend until such time as they receive a call, whichever is sooner. If the Minister is within ten years of state pension age, has given at least ten years' service to the Church, and chooses to retire, a request may be made to the Board of Trustees for additional financial support.

5.3.1.3. The Minister will not be expected to immediately leave the manse and the Presbytery, Congregation and Minister will agree how long the Minister and his family may continue to occupy the manse.

5.3.2. *Office-bearers.* Where it is apparent that the issues relate to defects or mismanagement on the part of an Office-bearer, or Office-bearers, the Presbytery may remove the Office-bearer from office following a *Hearing* where the Office-bearer will be given the opportunity to address the Presbytery.

5.3.3. *Members.* Where it is apparent that the issues relate to a member or members of the Congregation, the Presbytery will consider what action is appropriate in each case. The members will be entitled to address the Presbytery on the matter before a decision is taken.

5.3.3.1. The Presbytery may consider an Admonition is appropriate in the circumstances of this case and the actions which have led to the current situation.

5.3.3.2. The Presbytery may order that they be relieved of all public functions entrusted to them in the Congregation.

5.3.3.3. The Presbytery may encourage the Member or Members to consider attending another Congregation in the interests of the gospel.

## 6. Disciplinary Offence

If at any time the members of *Investigation Group* become aware of evidence of a *Disciplinary Offence* on the part of anyone to whom this Act would apply, they will immediately refer the matter to the Chairman of the Conduct and Complaints Committee who will then proceed as in any other case of a *Disciplinary Offence*.

### SECTION I – GLOSSARY OF TERMS

The following definitions shall apply within this Act:

1. **Admonition** means an exhortation to more careful and worthy conduct, accompanied by counselling against sin. It is the lightest form of Church *censure*.

2. **Adviser** means a Minister or Elder, selected from a list maintained by the Conduct and Complaints Committee, who acts as an Adviser to a Respondent in relation to Church law and procedure.

3. **Assistant Clerk** means an assistant to the Principal Clerk of the General Assembly.
4. **Bullying** means conduct amounting to offensive, threatening, abusive, malicious, intimidating, or insulting behaviour that may be an abuse or misuse of power, position or knowledge through means that undermine, humiliate, denigrate, or injure the person concerned and which is behaviour occurring in circumstances where it would appear to a reasonable individual that it would amount to bullying of that person.
5. **Capability for Ministry** means the ability of a Minister to fulfil the requirements of ministry. Capability for Ministry is usually regarding an issue over which they have no control. For example, if a person becomes unable to fulfil their ministry due to an illness or disability and adjustments or support cannot help. However, Capability for Ministry is not exclusively related to health.
6. **Case to Answer** means that there is sufficient evidence (in accordance with Section C, Paragraph 5) to prosecute the Respondent based on the report.
7. **Church** means the Free Church of Scotland.
8. **Church Court** means the Kirk Session, the Presbytery, the Commission of Assembly, and the General Assembly, as the case may be.
9. **Citation** means an order given by the Session Clerk or Presbytery Clerk for the Respondent, Complainant, and all Witnesses to appear at a Hearing of a Church Court.
10. **Commission** means a Commission of the General Assembly as appointed from time to time.
11. **Companion** means the person who accompanies a Respondent, Complainant or Witness when they appear before any Church Court or Committee in the Church.
12. **Complainant** means the person making the Complaint.
13. **Complaint** means a notice of a potential Conduct Disciplinary Offence, or an allegation of Heresy against anyone to whom this Act applies (see Section C, Paragraph 3). A Complaint can also relate to a matter of Congregational Health. Where a Complaint relates to a decision of a Church Court, Deacons' Court, or Finance Committee, the Complaint should proceed under existing review processes such as Appeal and Dissent and Complaint and will not be dealt with by the procedures in this Act.
14. **Conduct and Complaints Committee** means a committee established under Section C, Paragraph 1 of this Act.
15. **Conduct Disciplinary Offence** means conduct which is either:
  - 15.1 Declared contrary to, and censurable by, the Word of God, or
  - 15.2 Declared censurable by an Act or universal custom of the Church which is agreeable to the Word of God.
  - 15.3 For the avoidance of doubt Harassment, Victimisation, and Bullying are censurable as they are contrary to, and censurable by, the Word of God and Contumacy is censurable as a Universal Custom of the Church.
16. **Congregation** means a congregation of the Free Church of Scotland.
17. **Congregational Health** means an issue in a Congregation where it is not always easy to identify the root cause – often we can observe the symptoms of an unhealthy situation, but investigation is required. Evidence of an issue of Congregational Health may include an undue falling away of attendance at public worship and/or undue withdrawal of financial support of the Congregation. It may also relate to a break down in the relationships in the Congregation.
18. **Consultant** means a person with specialised expertise appointed to assist the process at any stage to give a specialist perspective.
19. **Contumacy** means the deliberate defiance of the authority of a Church Court. This includes:
  - 19.1 A breach of an order or instruction of any Church Court (including failure to appear before a Church Court when duly cited).
  - 19.2 A refusal to accept, or an attempt to subvert, the authority of any Church Court.
  - 19.3 Breach of the confidentiality of a Church Court or Committee (this includes the issuing by any person of any form of statement about, or details concerning, an alleged offence, or participating in any interview or discussion with the media or publishing any material on social media regarding an alleged offence unless authorised to do so by the Court); and

19.4 Covert recording of Church Court proceedings.

**20. Conflict of Interest** means a connection between either the Complainant, or the Respondent, or any Witness involved in the process, and anyone acting at any stage under this Act, which could compromise that person's judgment, decisions, or actions. For example, a family relationship or a personal friendship is be classed a connection that raises potential conflict.

**21. Deacon** means an ordained Deacon as defined in Section C, Paragraph 3.5 of this Act.

**22. Elder** means an ordained Elder as defined in Section C, Paragraph 3.4 of this Act.

**23. ETS** means Edinburgh Theological Seminary.

**24. General Assembly** means the General Assembly of the Free Church of Scotland.

**25. Harassment** means unwanted physical, verbal, or non-verbal conduct which has the purpose or effect of violating the dignity of another person made in the image of God or creating an intimidating, hostile, degrading, humiliating or offensive environment for that person. In deciding whether conduct has that effect, consideration shall be given to the perception of that person, the other circumstances of the case and whether it is reasonable for the conduct to have the said effect.

**26. Hearsay** means information that an individual has heard from other people but does not know from their own experience whether or not it is true. An example would be a Witness telling you what they saw – in that case you can give evidence that they told you what they saw but not whether or not they actually did see it.

**27. Heresy** means a gross error of doctrine held and divisively maintained by someone within the Church which is in opposition to any substantial truth or truths grounded upon the Word of God and the system of doctrine found in the Westminster Confession of Faith. Where an error is pointed out to someone from Scripture, and they allow their thinking to be transformed by Scripture, they are not guilty of Heresy.

**28. Independent Adviser** means a person appointed by the Principal Clerk to assist the Presbytery at a Hearing.

**29. Investigation Group** means an investigation Group appointed in accordance with Section D, Paragraph 10 of this Act.

**30. Jurisdiction** means the power to make decisions and judgements in relation to particular matters or individuals over which the Church Court has oversight as defined in Section C, Paragraph 4 of this Act.

**31. Kirk Session** means the kirk session of a Congregation.

**32. Legal Representation** means suitably professionally qualified individuals who can present a case on behalf of either the *Presenter of the Case* or the *Respondent*. This may include the involvement of solicitors and/or advocates.

**33. Low-Level Complaint** means a Complaint that has no serious purpose or value. Often a Low-Level Complaint is one about a matter so trivial or one so meritless on its face that investigation would be disproportionate in terms of time and cost. Someone who repeatedly brings Low-Level Complaints could themselves be subject to discipline procedures.

**34. Malicious Witness** means a Witness who has been shown to have deliberately given false testimony with the intention of causing harm to an individual or their reputation. Deuteronomy 19:16-21 makes clear a Malicious Witness should themselves be subject to discipline. However, it is not the case that every mistaken Witness is automatically malicious, and care should be taken not to discourage Complainants from bringing Complaints through the fear of discipline. The intention to cause harm and to act with malice requires to be proven to the same standard of evidence as any other discipline case.

**35. Minister** means an ordained minister as defined in Section C, Paragraph 3.1 of this Act.

**36. Nominated Female Representative** means a female member of the Conduct and Complaints Committee appointed by the Conduct and Complaints Committee to receive Complaints in accordance with Section C, Paragraph 1.3.4 of this Act.

**37. Presbytery** means the presbytery to which the Congregation of the Respondent belongs.

**38. Presenter of the Case** means a member of the Conduct and Complaints Committee who will serve as prosecutor to present the case before the Church Court. Usually this will be the Chairman or Vice-Chairman of the Committee. The Presenter of the Case must not have been involved in the Investigation Group. They will also review the report of the Investigation Group before it is presented to the Presbytery or Kirk Session.



- 39. Principal Clerk** means the Principal Clerk of the General Assembly.
- 40. Rebuke** means a more serious form of Admonition, declaring conduct sinful, and exhorting the Respondent to cease such sin in the future. It may be administered before the Kirk Session or Presbytery or before the Congregation.
- 41. Respondent** means the person who is the subject of a Complaint.
- 42. Sist.** To *sist* a case means to delay or suspend proceedings for a period. (See Section C, Paragraph 10)
- 43. Subjects of Discipline** means the parties who are subject to investigation and discipline in terms of this Act as detailed in Section C, Paragraph 3.
- 44. Suspension from Office** means a suspension of a person's status as an office-bearer of a Congregation. Suspension from Office may endure for a limited period of time or indefinitely.
- 45. Suspension of Privileges** means denial of access to the Lord's Supper and to be denied the Sacrament of Baptism for one's children. Suspension of Privileges may endure for a limited period of time or indefinitely. Restoration of Privileges is not automatic but depends on the Court being persuaded that the offender is truly penitent.
- 46. Temporary Suspension** means suspension of a Respondent while awaiting the outcome of a Complaint process. For the avoidance of doubt, Temporary Suspension shall not constitute or form a part of any form of *censure* and is without prejudice to the matter under investigation. In the case of a Minister or staff member of ETS, the stipend will continue to be paid as long as he remains in his Congregation or appointment. Temporary Suspension is not required in every Complaint. It depends on the seriousness of the allegation and the need to protect the public.
- 47. Theological Committee** means a body established from time to time to prepare a report on any theological question relevant to a charge of Heresy. The Theological Committee will be appointed by the Principal Clerk, the Principal of Edinburgh Theological Seminary, and the Chairman of the Conduct and Complaints Committee. They can appoint as many people as they deem appropriate. Those who are not Office-bearers in the Free Church of Scotland can be appointed as Consultants to the Committee.
- 48. Triage Group** means a group formed under the authority of the Conduct and Complaints Committee in terms of Section D, Paragraph 5 of this Act.
- 49. Victimisation** means subjecting another person to a detriment because that person has brought a Complaint under this Act, given evidence or information in connection with proceedings under this Act, or done any other thing for the purposes of or in connection with this Act, unless that person acted with malicious intent in so doing.

## SECTION J – REPEALS

The General Assembly hereby repeal:

1. Act 1, 2008 (Class I) – Act anent interviewing Women, Children and Vulnerable Adults.
2. Act 8, 1994 – Act anent the Practice – Supplement to Chapter on Discipline.
3. Act 1, 1990 (Class I) – Act anent Problem Ministries (Repealing Act 3, Class I, 1892).
4. Act 27, 1978 – Act anent Definitions for Inclusion in “The Practice”.
5. Act 28, 1978 – Act anent Statement of Principle in regard to Discipline.
6. Act 6, 1912 – Act anent Revision of Libels.
7. Act 14, 1860 – Act anent Revisal of Libels when a Presbytery are the Libellers.
8. Act 15, 1860 – Act anent Revisal of Libels when any party or parties other than the Presbytery, are the Libellers.
9. Act 8, 1854 – Act anent Correction of a Libel by the General Assembly.
10. Act 4, 1853 – Act anent Complaints and Appeals not Sisting Procedure in Cases of Libel against a Minister.
11. Act 5, 1853 – Act anent Judging as to the Relevancy of a Libel against a Minister where the Presbytery are Libellers.

12. Act 6, 1852 – Act anent The Form of Process in respect to a Minister ceasing to exercise his Functions after being served with a Libel.
13. The ancient practice of an “Oath of Purgation” is also abolished as not having any Scriptural warrant.

## **CLASS 2 ACTS – ACTS WHICH ARE OF GENERAL INTEREST TO THE CHURCH**

### **Act 3 – Examination of Records**

Number 1 of Class 2

*Category: Governance*

*Monday 20<sup>th</sup> May 2024*

1. The General Assembly, noting the recommendation of the Assembly Business Committee, declare that the practice of appointing a Committee of the Assembly to examine the records of Boards and Committees be discontinued. They instruct the Assembly Business Committee to carry out the annual examination of such records along with the examination of Presbytery records.
2. The General Assembly declare that, in the future, the Assembly Business Committee do not publish an appendix detailing their findings in regard to Presbytery Records. The Examination Report should be provided directly to all Presbytery Clerks. The Assembly grants the Committee the authority to require Presbyteries to take corrective action and to resubmit records for further examination.

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### **Act 4 – Data Protection**

Number 2 of Class 2

*Category: Governance*

*Monday 20<sup>th</sup> May 2024*

The General Assembly note the Church’s legal requirement to conform to the terms of the Data Protection Act 2018 and the UK GDPR, which controls how personal information is used by organisations, businesses, or the government. They approve of the action taken by the Principal Clerk and the Legal and Compliance Officer to erase personal data from Church records in response to a request under the said legislation. They authorise the Assembly Clerks’ Office to process such requests in the future, in consultation with the Legal and Compliance Officer, and to deal with such requests according to the terms of Section 47 and Article 17 on a case-by-case basis. They instruct Clerks of Presbyteries and Kirk Sessions to seek the advice of the Assembly Clerks’ Office and the Legal and Compliance Officer when such requests are received.

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### **Act 5 – Marriage, Separation and Divorce**

Number 3 of Class 2

*Category: General Assembly*

*Monday 20<sup>th</sup> May 2024*

The General Assembly appoint a group to study the theology of marriage, separation, and divorce in the life of Minister’s and Office-bearers. They declare that the group shall include one representative each from the Board of Ministry, ETS, and the Mission Board, plus the Principal Clerk and up to three additional members. They instruct the group to report to the 2025 General Assembly with a biblical statement and with recommendations regarding a settled position on the matter.

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### **Act 6 – *In hunc effectum* Presbytery Meetings**

Number 4 of Class 2

*Category: Governance*

*Monday 20<sup>th</sup> May 2024*

The General Assembly note the difficulties encountered by Presbyteries when appointing *in hunc effectum* meetings arising from the restriction in *The Practice of the Free Church of Scotland*, Chapter 2, Part 1, Paragraph 10.1., that the resolution appointing such a meeting must be engrossed in the minutes of the immediately preceding ordinary meeting at which also public intimation of the *in hunc effectum* meeting must be made. They remove the said restriction in the case of *in hunc effectum* meetings appointed for moderating in a Call to fill a vacancy, for ordinations and inductions, and for meetings with congregations appointed for routine business. They declare that it shall be competent for Presbyteries to appoint an *in hunc effectum* meeting in such cases when there is not more than one ordinary meeting in the intervening period between the date of appointment the meeting and the date of the *in hunc effectum* meeting taking place.

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### Act 7 – Amending Act 4, Class 2, 2018

Number 5 of Class 2

**Category:** Governance

**Monday 20<sup>th</sup> May 2024**

The General Assembly note the increasing costs of transferring all Church records to hardcover sewn-bound format every five years. They also note that all permanent records are also stored electronically and are easily accessible. They declare that the requirement to have permanent records transferred to the hardcover sewn-bound format applies to the records of the Courts of the Church only and that Boards and Committees are excluded.

They amend Act 4, Class 2, 2018, Paragraph 4.2 to read as follows: ‘All minutes and records of Church Courts and Congregational Finance Committees shall be transferred from the Ergogrip or similar 4-ring A4 binder to hardcover sewn-bound format for the permanent record on a regular basis. This shall be done at least every five years.’ They insert the following as new Paragraph 4.3: ‘All minutes and records shall be stored electronically and backed up to an external drive or cloud space for secure, long-term storage.’

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### Act 8 – Nominations to Fill Vacancies on Boards and Committees

Number 6 of Class 2

**Category:** General Assembly

**Monday 20<sup>th</sup> May 2024**

The General Assembly, seeking to revise and update the arrangements for filling vacancies on Boards and Committees, enact and ordain as follows:

#### **A. OVERVIEW**

##### **1. General Assembly**

1.1. *Principle.* It is a principle of biblical Presbyterianism that the government of the Church is in the hands of the *presbyters*, the ordained ministers and elders of the Church.

1.1.1. *General Assembly.* The General Assembly is the highest court of the Church. It is a representative body comprised of Commissioners elected and appointed by Presbyteries.

##### **2. Boards & Committees**

2.1. *Assembly Business.* The General Assembly appoints Boards and Committees to carry out the business of the Assembly between meetings of the Assembly.

2.2. *Remits.* The Assembly determines the remits of each Board and Committee.

2.3. *Membership.* The Assembly appoints the membership of each Board and Committee.

2.4. *Presbyteries.* Members are appointed to Boards and Committees on the basis of nominations from the Presbyteries to reflect their role in the governance of the Church.

##### **3. Assembly Clerks’ Office**

3.1. *The Role.* The role of the Assembly Clerk and the Assembly Clerks’ Office (hereafter, ACO) includes implementing the Assembly’s instructions, arranging practically whatever is required for the convenience of the

Assembly or its Commission, and organising the business coming before the Assembly for the purpose of the order and efficiency of the Assembly when it meets.

3.2. *Vacancies on Boards and Committees.* In the governance structure of the Church, it is the duty of the ACO to receive nominations from Presbyteries for vacancies on Boards and Committees when they occur, and, following consultation with the relevant Board or Committee, to make recommendations from these submissions to the General Assembly.

## **B. MEMBERSHIP OF BOARDS AND COMMITTEES**

### **1. General**

1.1. *Annual Appointments.* Members are appointed to Boards and Committees by the General Assembly annually.

1.2. *Authority.* Boards and Committees do not have the authority to appoint members.

1.3. *Unexpected Vacancies.* Boards and Committees will inform the ACO whenever an unexpected vacancy arises during the year. In such cases, the procedure in Paragraph 4.3 to 4.6 below will be followed.

1.4. *Priority.* When making recommendations to the General Assembly to fill vacancies on Boards and Committees, priority will be given to persons nominated who possess the skills set and experience desired by the relevant Board and Committee.

1.5. *Presbytery Representation.* Consideration will also be given to the overall representation of Presbyteries on Boards and Committees with the exception of the ETS Board and the Ecumenical Relations Committee.

### **2. Eligibility**

2.1. *Eligibility.* Membership of Boards and Committees shall be confined to Ministers holding a seat in a Presbytery of the Church or to *bona fide* acting Elders of the Church.

2.2. *Exceptions.* There is an exception regarding eligibility for membership of Boards and Committees in the following cases:

2.2.1. Regarding the Board of Trustees, according to Act 6, Class 2, 2014, Paragraph 1.1.4., in that up to two of the six office-bearers appointed may be Deacons.

2.2.2. Regarding the Conduct and Complaints Committee, according to Act 24, Class 2, 2023, in that six members of the Committee must be Ministers or Elders of the Church, four additional members must be members of the Free Church of Scotland and at least three of those additional members must be female.

2.3. *Restriction.* In accordance with Act 24, Class 2, 2003, Paragraph 5, the ACO shall not normally nominate any Minister to membership of an Assembly Board or Committee during the first three years of his ministry. This restriction also applies to a Minister admitted from another denomination during the first three years of ministry in the Free Church.

### **3. Term of Service**

3.1. *Term.* Members will normally be appointed to Boards and Committees for a four-year term, renewable for a second and final four-year term.

3.2. *Re-appointment.* A person serving a full term on any Board or Committee specified in this Act, shall not be eligible for nomination to any Board or Committee until at least one year has elapsed from the date at which the full term of appointment ended.

3.3. *Phased Terms.* The ACO will seek to ensure that initial appointments of Board and Committee members provide for a phased programme of retirement from service.

### **4. Termination of Appointment**

Appointments to Boards and Committees may be terminated at any time for any of the following reasons:

4.1. *Miscellaneous.* The appointment may be terminated due to resignation, death, or discipline.

4.2. *Uninterrupted Absence.* Uninterrupted absence from meetings by any member of a Board or Committee during the period from the General Assembly to 31st December in any calendar year, without good reason given by him and sustained by the relevant Board or Committee, shall be considered a resignation of his membership of that Board or Committee.

4.3. *Notification.* The termination of the appointment of any member of a Board or Committee, for any of the reasons mentioned above, shall be reported to the ACO as soon as possible after the event.

4.4. *Temporary Appointment.* Upon notification of a vacancy, the ACO shall consult with the relevant Board or Committee and shall proceed to appoint a replacement who shall serve on a temporary basis until the ensuing General Assembly.

4.5. *Presbytery Support.* The ACO will contact the relevant Presbytery to ensure that the temporary appointment has their support.

4.6. *Reporting.* The ACO will report on the termination and on the temporary appointment to the General Assembly in the Nominations Report.

## **5. Additional Appointments**

5.1. *Clerks.* Boards and Committees shall appoint their own clerks, in consultation with the ACO, except where an Act of Assembly specifies who shall hold the role.

5.1.1. In cases where an Act of Assembly specifies who holds the role of clerk, and a Board or Committee wish to change the arrangement, they shall bring a report to the General Assembly seeking such a change.

5.1.2. The ACO shall provide training for all Clerks to Boards and Committees.

5.1.3. The appointment of Clerks to Boards and Committees will be in accordance with the terms of Act 10, Class 2, 2015.

5.2. *Consultants.* Boards and Committees may appoint consultants and advisers for a three-year term to add expertise to the decision-making process. The appointment will be reviewed at the end of the three-year term and may be renewed for a second and final three-year term.

5.2.1. Consultants or advisers may be male or female and need not be members of the Free Church of Scotland.

5.2.2. Consultants or advisers will be selected based on their expertise and what they can add to the skill set of the Board or Committee to assist them in fulfilling their remit.

## **C. NOMINATIONS PROCESS**

### **1. Boards and Committees**

1.1. *Skill Set.* It is the responsibility of Boards and Committees to prepare, and keep under review, an outline of the skills and expertise required for fulfilling their remit.

1.2. *Skills Audit.* Boards and Committees will conduct an audit of the skills and experience required when vacancies arise in their membership, keeping such an audit under review.

1.3. *Skills Gap.* Boards and Committees will provide the ACO with updated information on the audit of skills and experience by 31<sup>st</sup> October annually.

1.4. *Recommendation.* When carrying out the skills audit, and identifying a skills gap, Boards and Committees may identify a person who in their view possesses the gifts and experiences required. In such cases, they may make a recommendation to the ACO.

### **2. Assembly Clerks' Office**

2.1. *Assessment.* The ACO shall, in October annually, consider vacancies on Boards and Committees due to arise at the forthcoming General Assembly.

2.2. *Communication.* They shall inform each Board and Committee of upcoming vacancies and the steps which are to be followed.

2.3. *Presbytery Nominations.* They shall notify each Presbytery, not later than 14<sup>th</sup> November, requesting nominations to fill the vacancies which require nominations by their Presbytery.

2.4. *Documentation.* They will provide Presbyteries with a suitable form for completing the nominations process.

2.4.1. They will also furnish Presbyteries with the revised and updated skills information received from each Board and Committee in the light of impending vacancies.

### **3. Presbyteries**

3.1. *Responsibility.* Presbyteries will give due diligence to securing nominations for vacancies on Boards and Committees as requested by the ACO.

3.2. *Nominations.* Presbyteries will normally nominate Ministers and Elders from within their own bounds.

3.2.1. Presbyteries may nominate Ministers and Elders from other Presbyteries when there is a shortage of eligible and available nominees within their own bounds.

3.3. *Skills and Experience.* Presbyteries will give careful consideration to the information on the set of skills expected of nominees for each vacancy before making a nomination.

3.3.1. Presbyteries will submit reasons for the suitability of the persons whom they nominate in the Form issued by the ACO.

3.4. *Availability.* Presbytery will ensure that the persons to be nominated are available and willing to serve before returning the Nominations Form to the ACO.

3.5. *Submission.* Presbyteries will submit their nominations to the Principal Clerk by the 31<sup>st</sup> of January.

### **4. Consultation and Reporting**

4.1. *Returns.* The ACO will collate and summarise nominations to fill vacancies received from Presbyteries and shall include this summary in its report to the General Assembly.

4.2. *Consultation.* The ACO will consult with each relevant Board or Committee regarding the suitability of nominations to fill vacancies received from Presbyteries.

4.3. *Alternative Nominations.* The ACO may recommend the appointment of a person to a Board or Committee not nominated by a Presbytery, in consultation with the relevant Board or Committee, when (1) when the needs of Boards and Committees appear to them to require such action; (2) when suitable persons have not been nominated by Presbyteries; or (3) when Presbyteries have not submitted nominations for a vacancy.

4.4. *Assembly Report.* Having completed the steps above, the ACO will report to the General Assembly with recommendations for filling the vacancies arising at the time.

### **D. REPEALS**

1. The General Assembly repeal Act 29, Class 2, 2010 anent Audit of Skills and Experience.

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## **Act 9 – Loyal and Dutiful Address**

Number 7 of Class 2

**Category:** *General Assembly*

**Tuesday 21<sup>st</sup> May 2024**

The General Assembly called for the Report of the Committee appointed to prepare a Loyal and Dutiful Address to His Majesty the King, which was given by the Moderator. The Report was adopted and in accordance therewith, the address was agreed and appointed to be duly signed and transmitted to the Secretary of State for Scotland with a letter from the Clerk.

May it please Your Majesty.

We, the Ministers and Elders of the Free Church of Scotland, met in General Assembly on the 20th day of May 2024, humbly offer Your Majesty the expression of our continued loyalty to Your Majesty's Person and Throne and to the Constitutional Monarchy of which you are the honoured Head and Representative.

We congratulate Your Majesty on the celebration of your 75th birthday on 14th November 2023. We were shocked to learn 6th February 2024 that Your Majesty was receiving treatment for cancer. We rejoiced to hear on 26th April 2024 that Your Majesty was able to return to public-facing duties after a period of treatment and recuperation. We are thankful to our God for the fortitude and grace with which Your Majesty faced your illness and that you have now recovered sufficiently to resume your public duties. We pray that God will confirm, strengthen, and establish Your Majesty, and Her Majesty, the Queen, in fulfilling your role as Monarch of our nation.

We were further shocked by the announcement on 23rd March 2024 that Her Royal Highness, the Princess of Wales, was also undergoing treatment for cancer. We are thankful for the courage and sensitivity with which Her Royal Highness, the Princess of Wales, addressed the nation as she announced the news. We pray for her full

recovery. We also pray for His Royal Highness, the Prince of Wales, and for their three children, Prince George, Princess Charlotte and Prince Louis.

We are thankful for the way in which Your Majesty addressed the nation at Easter, emphasising the importance of extending the hand of friendship in a time of need, inspired by the example of the Lord Jesus and His disciples in the Gospel of John Chapter 13. We trust that you Your Majesty will know presence of Jesus and the promise of the Holy Spirit to sustain your faith.

We congratulate Your Majesty on the first anniversary of your Coronation on 6th May 2024. We give thanks to God for Your Majesty's service and for your contribution to the life of our nation in that first year. May the Lord grant Your Majesty a 'wise and discerning mind' as He gave to King Solomon as you continue to bear the burden of leading our nation. May Your Majesty know that 'God's grace is sufficient for you, and that His power is made perfect in weakness.'

We pray for Your Majesty's Parliaments in Westminster and Holyrood, committing to our Great God, the Prime Minister and the First Minister, and their respective Governments, in the many responsibilities that devolve upon Your Majesty's servants at home and abroad.

We pray for the Commonwealth and the 56 nations represented therein. We pray that the bonds of shared history and mutual affection would be deepened and strengthened. We pray that Your Majesty, as Head of the Commonwealth, would continue to foster constructive and harmonious relations between nations which have a combined population of over 2.5 billion people.

We pray for Your Majesty's Armed Forces serving at home and abroad. We give thanks for the dedication and sacrifice both present and past of Soldiers, Sailors, Airmen, and Marines who have secured and safeguarded the freedoms we enjoy today. We remember in our prayers all who have lost loved ones, and those who have suffered injury in mind and body. We thank Almighty God for the work of Your Majesty's Chaplains to the Armed Forces, and the ministry of the Soldiers and Airmen's Scripture Readers Association.

We are grateful to God for the measure of peace, security, and stability that we enjoy as a nation, but we are very much aware that throughout this world, warfare, oppression, and want, are the daily experience of countless millions. We pray that the 'God of peace' will restore peace to all nations and that 'the peace of God would guard our hearts and minds in Christ Jesus.'

Your Majesty, as Ministers and Elders of the Free Church of Scotland, be assured that we pray regularly for Your Majesty's person, family, and Governments. We commit ourselves and our congregations to do so willingly as we are encouraged to do so by God's Word.

We give thanks to God for our Saviour, Jesus Christ, and our shared faith. 'The Lord bless you and keep you, the Lord make His face shine on you and be gracious to you; the Lord turn His face toward you and give you peace.'

So pray Your Majesty's most faithful subjects, the Ministers and Elders of the Free Church of Scotland, in General Assembly convened.

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## **Act 10 – Castletown Community Church**

Number 8 of Class 2

**Category: Mission & Ministry**

**Tuesday 21<sup>st</sup> May 2024**

The General Assembly receive the Petition of the Northern Presbytery regarding the congregation of Castletown Community Church and grant its crave. They declare that the ministry of Rev. Howard Stone in the congregation of Castletown and Community will continue on a full-time basis under the provisions of Act 14, Class 2, 2014 anent Establishment of Locally Subsidised Charges with effect from 1st July 2024 with the shortfall in the Ministry Levy covered by the release of funds from the congregation of Lybster. They note that the terms of the said Act make provision for a three-year appointment. They declare that in this case, the locally subsidised arrangements will come to an end on 31st August 2025.

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## **Act 11 – Church Planting Director**

Number 9 of Class 2

**Category:** *Mission & Ministry*

*Tuesday 21<sup>st</sup> May 2024*

The General Assembly note that Rev. Neil MacMillan has stepped down from the role of Church Planting Director and thank him for his services. They recognise the ongoing need to have a dedicated worker to support the work of Church Planting and the Church's vision to plant 30 churches by 2030. They instruct the Mission Board to review the post, considering how best to fulfil this supporting role, and if appropriate to proceed to make a suitable appointment, subject to budgetary provision and the agreement of the Board of Trustees. They repeal Act 30, Class 2, 2018.

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## **Act 12 – National Day of Prayer**

Number 10 of Class 2

**Category:** *Mission & Ministry*

*Tuesday 21<sup>st</sup> May 2024*

1. The General Assembly instruct the Mission Board, in consultation with the Public Engagement Group, to arrange and coordinate an annual National Day of Prayer and fasting for the nation and the church of Jesus Christ throughout our nation.
2. The General Assembly repeal Act 12, Class 2, 2017 appointing a National Day of Prayer.

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## **Act 13 – Amending Act 10, Class 2, 2023 – Christian Education Group**

Number 11 of Class 2

**Category:** *General Assembly*

*Tuesday 21<sup>st</sup> May 2024*

The General Assembly amend Act 10, 2023 to read as follows:

The General Assembly establish a Christian Education Group as a sub-group of the Board of Trustees for an initial two-year period.

### **1. Remit**

The remit of the sub-group will be:

- 1.1. To discuss and respond to ongoing developments in Education in Scotland, particularly as it relates to Christian worldview, Relationship, Sexual Health, and Parenting Education (RSHP) and other issues of morality in the Curriculum for Education in Schools and early childhood centres in Scotland.
- 1.2. (2) To explore and develop partnerships with other organisations in Scotland who are engaged in Christian education.
- 1.3. (3) To continue to equip and support local parents and churches to engage with Local Authorities, schools and early childhood centres in relation to these issues.
- 1.4. To support parents who have opted for home education.
- 1.5. To support Christian teachers and staff in state schools and early childhood centres.
- 1.6. To educate and inform the wider Church of what is currently being taught in Scottish Schools and early childhood centres.

### **2. Convener**

The General Assembly declare that the Convener of the group will be appointed for a two-year term by the General Assembly, on the recommendation of the Board of Trustees.



### **3. Membership**

The membership of the sub-group will be appointed by the Board of Trustees in consultation with the Convener.

- 3.1. The group shall have at least four members (including the Convener *ex officio*) and not more than eight.
- 3.2. At least 50% of the members of the group must be Ministers or Elders of the Free Church of Scotland.
- 3.3. Where possible some of the members of the sub-group should be either teaching practitioners or those who have recent experience of delivering the Health and Wellbeing and the RSHP elements of Curriculum for Excellence in Scottish schools.
- 3.4. The group may appoint consultants according to the usual practices for Boards and Committees.

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### **Act 14 – Mearns New Church**

Number 12 of Class 2

*Category: Mission & Ministry*

*Tuesday 21<sup>st</sup> May 2024*

1. The General Assembly receive the Petition of the Presbytery of Glasgow and Argyll regarding the group worshipping as Newton Mearns New Church and grant its crave. They establish the body of Christians presently worshipping at Belmont House School under the name of Newton Mearns New Church as a fully sanctioned pastoral charge of the Free Church of Scotland, under the terms of Act 1, Class 1, 2018, anent the Sustentation Fund, effective from the rising of the Assembly. They declare that the new congregation shall be known Mearns Free Church within the Presbytery of Glasgow and Argyll under the ministry of the Rev. Dr Scott Kirkland on his admission as a Minister of the Free Church of Scotland. They further declare Dr Kirkland's appointment to be without restriction according to the provisions of the said Act and grant him a seat in the Presbytery of Glasgow and Argyll.
2. The General Assembly instruct the Presbytery of Glasgow and Argyll to meet on the Lord's Day 26th May 2024 and, prior to the public worship of God, to appoint General Assessor Elders to form a Kirk Session with Dr Kirkland after he has answered the Questions and signed the Formula and to become Minister of the newly established congregation, and thereafter to meet with the congregation for a service of public worship for the purpose of formally establishing the congregation and welcoming them into the Presbytery.
3. The General Assembly instruct the Presbytery, having formally established the congregation, to proceed with the arrangements for Dr Kirkland to answer the Questions and, on receiving satisfactory answers, to sign the Formula, in the presence of the congregation, before welcoming him as the minister of the newly established congregation.
4. The General Assembly instruct that the Kirk Session be constituted immediately following the adjournment of the Presbytery, and that they proceed with the arrangements for Messrs. Charles Amery Behr, Jack Geddes, Andrew Little, David Merriman, Sandy McDougall, Alastair McLellan, Murray McNicol and John McNicol to answer the Questions and, on receiving satisfactory answers, to sign the Formula, in the presence of the congregation, before admitting them as Elders in the congregation.

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### **Act 15 – Rev. Dr Scott Kirkland**

Number 13 of Class 2

*Category: Mission & Ministry*

*Tuesday 21<sup>st</sup> May 2024*

1. The General Assembly receive the application for admission to the Free Church ministry from Rev. Dr Scott Kirkland. They admit him as an ordained minister of the Free Church of Scotland on receiving satisfactory responses to the prescribed Questions and his signing of the Formula.
2. The General Assembly instruct the Presbytery of Glasgow and Argyll, at their meeting held on Lord's Day 26th May 2024, having established the new congregation of Mearns Free Church, to proceed with arrangements for Dr Kirkland to answer the prescribed Questions and to sign the Formula on receiving satisfactory responses.

3. The General Assembly declare Dr Kirkland, having signed the Formula, to be the Minister of the newly established congregation of Mearns Free Church.
4. The General Assembly instruct the Presbytery to inform the Principal Clerk by extract of the proceedings that Dr Kirkland has signed the Formula. They direct the Principal Clerk to add the name of Rev. Dr Scott Kirkland to the Roll of Ministers in Charges on receipt of the Extract.
5. The General Assembly direct that documents supporting the application to be held *in retentis*.

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## Act 16 – Consolidating Act on Edinburgh Theological Seminary

Number 14 of Class 2

**Category:** ETS

**Tuesday 21<sup>st</sup> May 2024**

The General Assembly, seeking to consolidate the Constitution and Governance Arrangements of Edinburgh Theological Seminary, enact and ordain the following:

### **A. THE SEMINARY**

#### **1. History.**

As the Free Church of Scotland is in continuous descent from the Free Church of 1843, so is Edinburgh Theological Seminary heir to the theology, principles, and traditions of the Disruption Church and of the Colleges instituted in her early years. Prior to 2014 Edinburgh Theological Seminary was known as the Free Church College and the Seminary Board was known as the College Board.

**2. The Seminary.** Edinburgh Theological Seminary (hereafter ‘the Seminary’) is a non-residential Seminary, Reformed, Evangelical and Presbyterian. Its aim is to produce a fully equipped ministry, prepared in all the disciplines of the Reformed tradition. It is the successor of the Free Church of Scotland College.

**3. Accountability.** The Seminary is not an independent body corporate: it is under the exclusive control of, and is responsible to, the Free Church of Scotland acting through its General Assembly and boards and committees appointed by that Assembly.

**4. Doctrine.** Doctrinally, the Seminary is committed to an unswerving loyalty to the Scriptures of the Old and New Testaments which are the Word of God, and an unqualified subscription to the Westminster Confession of Faith. Academically, it is loyal to the Disruption policy of maintaining a high standard, comparable normally to that of the universities, in its curriculum, teaching and examinations.

**5. Validation.** The Seminary is authorised to have its degrees validated by the University of Glasgow provided the Seminary Board is satisfied that the agreement between the Seminary and the University of Glasgow safeguards the Confessional position of the Seminary, the sole jurisdiction of the Senate over course content and the rights of the General Assembly.

### **B. THE PRINCIPAL**

**1.** The Principal is the Chief Executive of the Seminary. He is accountable to the General Assembly through the Seminary Board.

**2. Remit.** The Principal is expected to carry out the following duties:

2.1. To provide leadership for the strategic development of the Seminary with a view to managing its affairs and ensuring that it delivers the outputs set out in its strategic plan, agreed by the Seminary Board and by the General Assembly.

2.2. To chair the Senate and ensure that the Senate fulfils its remit.

2.3. To assist the Seminary Board in recruiting staff of appropriate talent, competence, and Christian standing who best meet Seminary objectives.

2.4. To organise the Seminary staff, departments, and structures for the optimal delivery of Seminary objectives.

2.5. To manage the academic and non-academic staff and ensure the satisfactory performance of their duties.

2.6. To participate in the teaching of undergraduate and postgraduate programmes.

- 2.7. To deal with all human resources issues including disputes, complaints, and grievances within the prescribed legislation.
- 2.8. To ensure that all management and supporting functions meet the Seminary's needs in an effective and efficient manner.
- 2.9. To establish and maintain good internal communications, both formal and informal, with the General Assembly, its Boards and Committees, Presbyteries and Congregations.
- 2.10. To establish and maintain relations with external individuals and institutions.
- 2.11. To liaise as required with the Seminary Board and Senate and secure for both bodies the reports and information which they require to fulfil their remits.
- 2.12. To establish and maintain good external communication and relations with accreditation bodies and users of the services of the Seminary.
- 2.13. To represent the Seminary effectively to all relevant external constituencies.
- 2.14. To ensure the financial viability of the institution and support the Seminary Board in this task.
- 2.15. To oversee and directly support efforts to raise funding and major gifts for the Seminary from private donors, charitable organisations and other sympathetic individuals and institutions.
- 2.16. To produce a draft strategic plan and to procure the reports required to sustain the functions of Senate and the Seminary Board.
- 2.17. To implement the Seminary policies as these are approved by the Seminary Board and Senate.

### **3. The Authority of the Principal**

- 3.1 *Authority.* The Principal as Chief Executive carries the prime burden of ensuring the success of the institution as a whole and must have authority commensurate with the accountability described above.
- 3.2 *Uncertainty.* Any uncertainty or dispute over the extent of the Principal's authority shall be brought to the attention of the Chairman of the Seminary Board, who will resolve the matter in conjunction with the Principal Clerk.

### **4. Appointment of the Principal**

- 4.1 *The Resignation of the Principal.* A Principal who is due to retire, or who intends to resign from his duties, shall intimate this fact, whenever possible, to the Seminary Board by 1st May of the year which precedes his final year in office.
- 4.2 *Nominations for the New Principal.* The Seminary Board shall write to Presbyteries informing them of the impending vacancy in the office of Principal, drawing attention to the Remit of the Principal and the following requirements and asking for two nominations:
  - 4.2.1. All suitable candidates must subscribe to the whole doctrine contained in the Westminster Confession of Faith and be ordained ministers in the Free Church of Scotland.
  - 4.2.2. As the role of Principal will normally include part-time teaching and supervision within the undergraduate and postgraduate programmes, the Seminary Board must ensure that the teaching of core subjects is carried out by staff who are suitably qualified at postgraduate level and reformed in doctrine, worship and practice.
  - 4.2.3. The Principal is expected to uphold the witness, dignity and prestige of the Seminary without detriment to good relations, and also takes note of any actions or proposed actions on the part of others that could either benefit or prejudice the Seminary.
- 4.3 *Interviews for New Principal.* The Seminary Board shall appoint an interview panel from its own members and identify a suitable list of candidates for interview from the nominations listed above, in addition to any new Seminary Board nominees.
  - 4.3.1. Upon completion of all interviews the interviewing panel will make a recommendation to the Seminary Board. If the Seminary Board agrees with the recommendation, the successful candidate will be informed as soon as possible as to the Board's decision and asked if he is prepared to accept the appointment. The Board will report their decision and the candidate's willingness to be appointed to the General Assembly who will have the final decision on whether to make the appointment.

4.4 *Appointment of New Principal.* In the event of his willingness to take up the appointment, and if the appointee is already an ordained minister of the Free Church of Scotland, he will be inducted to the position by the Presbytery of Edinburgh and Perth after following a procedure on the analogy of a call to a pastoral charge.

4.4.1. All parties retaining the right of Appeal or Dissent and Complaint to the General Assembly.

4.4.2. The new Principal will be granted a seat on the Presbytery of Edinburgh and Perth.

4.5 *Remuneration.* A full-time Principal will be remunerated at a salary set by the Seminary Board in keeping with its budget constraints. The total remuneration package of a Principal must not be less than that of a Minister in a pastoral charge in the Free Church of Scotland.

4.6 *Terms of Appointment.* The newly appointed Principal must sign Terms of Appointment as agreed by the Seminary Board.

4.7 *Term of Office.* The term of office for a Principal will normally be five years, renewable with the consent of the Principal and the Seminary Board.

4.8 *Call to Principal.* In the event of a Principal of the Seminary accepting a Call to a pastoral charge, the Presbytery of Edinburgh and Perth are empowered to release him from his charge. The Presbytery shall immediately inform the Seminary Board of such a Call.

## C. COURSE ORGANISERS

1. **Course Organisers.** Course Organisers are heads of departments within the Seminary. The number of Course Organisers in the Seminary and the subjects attached to them will be determined by the Seminary Board.

2. **Senate.** A majority of the Senate will normally be ordained Ministers of the Free Church of Scotland.

3. **Doctrinal Subscription.** All Course Organisers must subscribe to the whole doctrine contained in the Westminster Confession of Faith and must be office-bearers in a church which, to the satisfaction of the Seminary Board, exercises biblical discipline in matters of heresy or immorality.

4. **Duties.** The duties of the Course Organisers are, in general, to teach their subjects conscientiously and competently in accordance with the requisite standards and with the curriculum approved by the Senate.

4.1. *Cooperation.* The Course Organisers will co-operate with each other, formally in Senate and informally in the daily life of the Seminary, so as to promote its internal welfare and its external prestige; and by their labours in their chosen fields of study to edify the Church and to defend the faith.

4.2. *Programmes of Study.* Each Course Organiser shall, at the time of his appointment and at other times as circumstances may require, prepare programmes of studies for his classes within the framework of the Seminary curriculum and in consultation with the Senate and the Seminary board, the aim of such consultation being to ensure that a proper balance is preserved within the curriculum and to avoid unnecessary duplication of effort.

4.3. *Annual Update.* At the end of each session, he shall supply the Senate and Seminary Board with a record of classwork covered, objectives and achievement in research and any work published by him.

5. **Charges.** Charges of heresy or immorality against any Course Organiser who is an office-bearer in the Free Church of Scotland shall be dealt with in accordance with the principles and practice of the Free Church in relation to such charges against ministers.

5.1. *Consideration.* Charges of failure to comply with academic duties shall be considered by the Seminary Board and referred, if necessary, to the General Assembly to whom he is ultimately responsible.

5.2. *Non-Free Church Office-bearers.* Where a Course Organiser is not an office-bearer in the Free Church of Scotland, they will be subject the disciplinary and complaints policy approved by the Seminary Board.

6. **Entitlement.** Each Course Organiser is entitled to adequate accommodation, furniture and equipment for teaching purposes, and to a retiring room with its necessary furnishings.

6.1. *Changes.* Changes of accommodation or furniture and equipment should not be made without his knowledge and consent.

6.2. *Freedom.* In the organisation of his own department in his teaching and studies he enjoys traditional academic freedom within the framework of the Seminary standards and the curriculum.

7. **Standards.** In his academic work, both in his teaching and in his studies, each Course Organiser is expected to maintain, during his tenure of office, the standards of application and achievement expected of him by the Church which appoints him and by the students who look to him for instruction.

**8. Student Life.** The Course Organisers, being the senior members of a theological Seminary, are called to promote, by all suitable means, the spiritual life of the students under their charge.

**9. Appointment of Course Organisers.**

9.1 *Resignation of Course Organiser.* A Course Organiser who is due to retire, or who intends to resign from his academic duties, shall intimate this fact whenever possible to the Seminary Board not later than 31st December, prior to the end of the academic year.

9.2 *Nominations for New Course Organiser.* The Seminary Board shall write to Presbyteries informing them of the impending vacancy, drawing attention to the fact that Candidates who are nominated must normally already possess, or be willing to work towards, a degree at postgraduate level in disciplines relevant to their nomination and asking for two nominations.

9.2.1 Members of the Seminary Board may also nominate suitable candidates, giving reasons for their nominations. The Seminary Board may also advertise the position inviting applications.

9.2.2 The Seminary Board will write to each candidate informing them that they have been nominated and asking them to indicate their willingness, in principle, to teach at the Seminary, either on a full-time or part-time basis. If a candidate is willing, he should submit his CV to the Board.

9.3 *Process of Appointment for the New Course Organiser.* The Seminary Board will intimate the impending vacancy to the Clerk of Senate at the University of Glasgow, inviting the Faculty to nominate a representative to be associated with the Board in making a new appointment.

9.3.1 The names which have been nominated will be interviewed by a panel appointed by the Seminary Board, with the representative from Glasgow University in attendance.

9.3.2 Upon completion of all interviews the interviewing panel will, after ascertaining that each of the candidates are acceptable to the University of Glasgow, make a recommendation to the Seminary Board. If the Seminary Board agrees with the recommendation, the successful candidate will be informed as soon as possible as to the Board's decision and asked to indicate his willingness to accept the appointment within a timeframe set by the Board.

9.3.3 Where the Course Organiser is already an ordained minister of the Free Church of Scotland, he will be inducted to the position by the Presbytery of Edinburgh and Perth following a procedure on the analogy of a call to a pastoral charge, all parties retaining the right of Appeal or Dissent and Complaint to the General Assembly.

9.4 *Remuneration.* A full-time Course Organiser will be remunerated at a salary set by the Seminary Board in keeping with its budget constraints. The total remuneration package of a full-time Course Organiser must not be less than that of a Minister in the Free Church of Scotland.

9.5 *Terms of Appointment.* Each newly appointed Course Organiser must sign Terms of Appointment as agreed by the Seminary Board.

9.6 *Term of Office.* The term of office will normally be five years for a Course Organiser, renewable with the consent of all parties.

9.6.1 Where the Course Organiser is not an office-bearer in the Free Church of Scotland, the Seminary Board must ensure that his Terms of Appointment include doctrinal subscription showing unqualified acceptance of the whole teaching of the Westminster Confession of Faith.

9.6.2 Where the Course Organiser is not an office-bearer in the Free Church of Scotland, the Seminary Board must ensure that his Terms of Appointment refer to the Disciplinary and Complaints Policy approved by the Seminary Board, including the process to suspend him from his position in the event of him falling short of behavioural or theological standards of morality and orthodoxy, pending appropriate disciplinary procedures.

9.7 *Call to Course Organiser.* When a Course Organiser, who is a minister of the Free Church of Scotland and inducted to his position at the Seminary, receives a Call to a pastoral charge, the Presbytery of Edinburgh and Perth have the authority to release him from his charge. The Presbytery shall immediately inform the Seminary Board of this fact.

**10. Absence from Duty of a Course Organiser or the Principal.** Absence from duty will fall into four categories as follows: (1) Leave due to illness; (2) Annual Leave; (3) Compassionate Leave; (4) Special Leave.

10.1 *Absence because of Illness.* All illness which prevents a Course Organiser from taking a scheduled class shall be reported immediately to the Principal (or, in the case of his illness, to the Vice-Principal) as soon as

practicable. The Course Organiser, failing whom the Principal, shall ensure that appropriate arrangements are in place for the conduct of classes and other duties during such illness.

10.1.1 Absence because of illness will be managed according to the same scheme applying to Ministers under Act 21, Class 2, 2023 - Ministers' Absences due to Ill-health with the Principal (or, in his absence, the Vice-Principal) taking the role assigned to the Presbytery Clerk and the Seminary Board functioning in the place of the Presbytery.

10.1.2 Where there is a need to release the Course Organiser from his chair due to long term illness, this shall be reported to the General Assembly or its Commission by the Board.

10.2 *General provisions.* All discussions on personnel matters should be held in camera, and any papers distributed should be returned to the Clerk by the close of the meeting. The Clerk should proceed to shred all documentation, other than papers retained for the purposes of the minutes. All discussions on personnel matters should be treated as strictly confidential.

10.3 *Annual Leave Entitlement.* Full-time Course Organisers are entitled to annual leave according to the same principles that apply to ministers under Section 2 of Act 22, Class 2, 2023 on Leave of Absence for Ministers.

10.3.1 The holiday entitlement is for seven weeks annual leave.

10.3.2 There is no additional entitlement for public holidays.

10.3.3 Annual leave may not be taken during teaching term time. Also, a Course Organiser shall arrange his annual leave in such a way that it does not impede his examination and other Seminary commitments.

10.3.4 No holiday period shall exceed 28 successive days without the Course Organiser informing the Senate of his proposed arrangements and obtaining their consent.

10.3.5 All holiday entitlement shall be taken up before 31st December or extended to 28th February of the following year with the agreement of the Senate.

10.4 *Compassionate leave.* Compassionate leave may be granted by the Senate following the same principles applicable to ministers under Section 4 of Act 22, Class 2, 2023 - Leave of Absence for Ministers.

10.4.1 In a case involving Special Circumstances the Senate must consult with the Chairman of the Seminary Board in order to extend the period of compassionate leave.

10.5 *Special Leave.* A Course Organiser may be granted special leave, outwith teaching term time, by the Senate, at the specific request of a department of the Church. This will be dealt with in accordance with the principles set out in Section 6 of Act 22, Class 2, 2023 – Leave of Absence for Ministers.

10.5.1 A Course Organiser's primary responsibility is to the Seminary, and this should be recognised by all who seek his services for other work in the Church. Every effort should, therefore, be made so that disturbance to the work of the Seminary is kept to a minimum.

10.5.2 Interchange has always played an important and useful role in the academic world and, while it is to be encouraged, primary consideration must be given to the work of the Seminary.

10.5.3 A Course Organiser may not, without the permission of the Senate and the concurrence of the Seminary Board, undertake any engagements during teaching term time which would preclude him from his responsibilities in the Seminary.

**11. CPD.** The Seminary Board should take steps to ensure that all Course Organisers undertake continued professional development programmes.

**12. Designation of Professor.** The Seminary Board has the authority to confer the academic designation of Professor on a Course Organiser or lecturer who substantially meets the following criteria: 'The lecturer has published three monographs (or fifteen academic articles or equivalent); has shown academic leadership within the Seminary and outside (involvement in learned bodies, speaking at academic conferences, leading an international research project); has experience of teaching at Postgraduate level; is asked by others to write references for book proposals, research proposals; has done PhD examining, or has been an external examiner in more than one institution.'

## **D. CHURCH HISTORY PROGRAMME LEADER**

**1. Authority.** The Seminary Board are empowered to appoint a full-time MTh Programme Leader / Lecturer in the department of Church History instead of the appointment of a Church History Course Organiser.

2. **The Appointee.** The Programme Leader / Lecturer may be male or female and the person will be appointed based on suitability and qualifications for the post. The appointee should hold a relevant doctorate and, if possible, some track record of relevant publications.

3. **Church Affiliation.** The Programme Leader / Lecturer in Church History must be a communicant member under the pastoral discipline of a Reformed Church, shall give unqualified subscription to the Westminster Confession of Faith, and shall be in full sympathy with the doctrinal position of the Free Church.

4. **Responsibilities.** The Programme Leader / Lecturer's responsibilities shall include the following:

- 4.1. Providing supervision in MTh (Taught) in Scottish Church History and Theology.
- 4.2. Engaging in research and publications, particularly in the field of Scottish Church History
- 4.3. Assisting in the delivery of lectures, seminars and tutorials in the Church History Department.
- 4.4. Assisting in the general administration responsibilities at Seminary.
- 4.5. Providing pastoral and academic support to BTh and MTh students.

5. **Post Graduate Studies.** The Programme Leader / Lecturer will work alongside the Director of Post Graduate studies in supervising post graduate students and will work within existing BTh structures in delivering an agreed programme of lectures under the management of the Principal.

6. **A Full-time Member of Staff.** The General Assembly declare that the Programme Leader / Lecturer will be a full-time member of staff. They will be appointed in the same way as Course Organisers and be subject to the same terms of appointment.

#### **E. CENTRE FOR MISSION**

1. **General.** The Centre for Mission is a department of Edinburgh Theological Seminary with a full-time lecturer in Mission Studies who will be appointed in the same way as a Course Organiser and be subject to the same terms of appointment.

2. **Remit.** The remit of the Seminary Centre for Mission is as follows:

2.1 To promote serious engagement with mission studies, and reflective participation in mission practice, among Seminary staff and students by means of formal academic courses and other mission-focused events.

2.2 To engage in, and foster, constructive interaction with students, mission agencies, and serving missionaries (local and global) so as to ensure effective training for those preparing for, or engaged in, various forms of mission service.

2.3 To encourage serving missionaries (local and global) by providing opportunities for theological development and biblical research in topics of relevant interest.

2.4 To provide education in mission studies to the wider Church.

2.5 To respond to specific requests for theological and practical training of leaders and key workers by the wider church, mission agencies, and, in particular, by the Mission Board and the Board of Ministry of the Free Church of Scotland.

#### **F. OTHER LECTURERS**

1. It will be the responsibility of the Seminary Board to oversee and determine the appointment of lecturing staff at the Seminary.

2. Course Organisers may plan to utilise part-time or guest lecturers in the delivery of their courses.

3. **Part-Time Lecturers.**

3.1 All part-time lecturers must be communicant members under the pastoral discipline of a Reformed Church, shall give unqualified subscription to the Westminster Confession of Faith, and shall be in full sympathy with the doctrinal position of the Free Church.

3.2 A Part-time Lecturer's appointment will be approved by the Seminary Board.

3.3 A Part-time Lecturer will be remunerated by way of honoraria at a level set by the Seminary Board.

4. **Guest Lecturers.**

4.1 A Guest Lecturer will deliver no more than three lectures in any one academic year.

- 4.2 A Course Organiser will have the authority to appoint a Guest Lecturer.
- 4.3 A Guest Lecturer will be remunerated by way of honoraria at a level set by the Seminary Board.

#### **5. Modular Lecturers in Practical Theology**

- 5.1 Within the Practical Theology department practitioners can be called upon to deliver particular modules.
- 5.2 A Modular Lecturer in Practical Theology must subscribe to one of the reformed confessional standards or the Doctrinal Statement of Affinity to which the Free Church of Scotland belongs.
- 5.3 A Modular Lecturer in Practical Theology will be nominated by the Practical Theology Course Organiser and approved by the Senate.
- 5.4 A Modular Lecturer in Practical Theology will be remunerated by way of honoraria at a level set by the Seminary Board.

**6. Temporary Replacement Lecturers.** A Temporary Replacement Lecturer is willing to provide cover in the case of the absence of a Course Organiser in an emergency or due to sick leave. The Principal is empowered to make arrangements for temporary replacement lecturers and will report to the Senate and the Board.

#### **G. THE SENATE**

1. **The Senate.** The Senate is the Seminary's senior academic authority and is authorised to oversee the academic governance of the Seminary through its remit, membership and terms of reference as set out below.
2. **Remit.** The remit of the Senate is to oversee the academic activity of the Seminary; to uphold its academic standards, quality and programmes; to approve its academic policies; and to advise the Seminary Board on the academic and strategic direction of the institution.
3. **Membership.** The membership of the Senate shall comprise the Principal (Chairman), Vice-Principal, the Course Organisers, the Church History programme leader, the full-time lecturer in Mission, two external members appointed by the joint agreement of the Senate and of the Seminary Board, the President or a nominee of the President of the Students' Representative Council, the Chair of the Seminary Board or his nominee, two external advisers from the Church community as determined by the joint agreement of the Senate and Seminary Board.
- 3.1 The External Members and Advisers will be appointed for three years in the first instance and may be appointed for a further three years period. Beyond this they shall not be appointed for a further period without a break of at least one year.
- 3.2 The External Members should subscribe to the whole doctrine of the Westminster Confession of Faith.
4. **Powers.** The powers of the Senate shall be as follows:
- 4.1 The Senate may formulate standing orders for the transaction of its business with a view to ensuring collegiality and equality on the principle that all members have one vote. Advisers to the Senate have no vote.
- 4.2 The Senate may appoint groups and sub-committees as it determines necessary for the fulfilment of its remit. It may access such papers and documents within the Seminary as it deems expedient for the transaction of its business. These can include reports from the Principal and Vice-Principal, other staff and staff groups.
- 4.3 The Senate shall appoint the Seminary Secretary to procure agenda, papers and reports and ensure that actions arising from meetings are communicated as necessary.
- 4.4 The Senate shall regulate student discipline and execute an appellate function in the case of disharmony between members of teaching staff and one or more of their students. In matters of discipline relating to private students the Senate's decision shall be final.
- 4.5 The Senate shall meet at least three times a year and may determine such number of meetings as it deems expedient.
5. **Terms of Reference.** Subject to the requirements of the Board of Ministry of the Free Church of Scotland, of validation and accrediting bodies, the Senate's Terms of References shall include:
- 5.1. Approving and directing the Academic Strategy of the Seminary.
- 5.2. Advising and participating in the production of the Seminary's Vision, Mission Values and Strategic Plan.
- 5.3. Securing appropriate arrangements for assuring quality and standards of provision.



- 5.4. Ensuring that student experience enables successful outcomes.
- 5.5. Approving and regulating schemes of study and schemes of assessment leading to all awards.
- 5.6. Appointing external examiners and determining their conditions of service.
- 5.7. Approving and regulating a pedagogic framework for teaching and learning and setting up a coherent assessment framework across all departments.
- 5.8. Ensuring coherent student experience across all departments encompassing both pedagogy, assessments, and pastoral issues.
- 5.9. Prescribing conditions under which persons may be admitted to the Seminary and the regulations under which students shall be permitted to continue their studies in the Seminary.
- 5.10. Regulating the discipline of students and producing such codes of conduct and appropriate structures for this purpose.
- 5.11. Ensuring and maintaining an appropriate academic support service for libraries and IT.
- 5.12. Ensuring that appropriate counselling and pastoral arrangements are in place for students and promoting a Christian culture amongst students and staff.
- 5.13. Advising on student feedback, reviewing feedback data and taking such actions as are deemed necessary.
- 5.14. Advising the Principal and the Seminary Board on reputational and other risks arising out of the academic activities.
- 5.15. Maintenance and control of Senate finances.
- 5.16. Advising the Principal and the Seminary Board on the effectiveness of the academic programmes and in particular their fitness in respect of candidates for Free Church ministry.
- 5.17. Advising on external partnerships, linkages and memoranda of understanding.
- 5.18. Advising on such other matters as the Seminary Board and/or the Principal may refer to the Senate.
6. **Accountability.** The Senate is accountable for the fulfilment of its remit to, and reports, to the Seminary Board. Accountability will normally be exercised through the Chairman who is, *ex officio*, the Principal of the Seminary.

## H. THE SEMINARY BOARD

1. **General Assembly.** The Edinburgh Theological Seminary Board is appointed by the General Assembly to oversee the operation of the Seminary.
2. **Membership.** The membership shall be comprised of ten members including the Principal, one member of the Senate appointed by the Senate, the Chairman of the Board of Ministry and the President of the Students' Representative Council, all *ex officio*. The ordinary membership shall comprise three Elders and three Ministers appointed by the General Assembly for a four-year term renewable for one further term of four years.
  - 2.1. *Elders.* Elders appointed to the Board shall have suitable qualifications or experience in education, preferably tertiary education, or in the administration or promotion of education.
  - 2.2. *Chairman.* The Chairman shall be appointed from the membership of the Board by the General Assembly for a four-year term, renewable for one further term of four years.
  - 2.3. *Restriction.* The Chairman of the Board shall not be a member of the Senate.
  - 2.4. *Advisers.* The Board may appoint advisers from time to time as deemed expedient.
  - 2.5. *Quorum.* The quorum shall be three members of the Board.
3. **The Remit.** The remit of the Seminary Board be as follows:
  - 3.1 *Finance.*
    - 3.1.1 To be responsible for the financial function of the Seminary including fund-raising, financial control and liaison with the Board of Trustees.
    - 3.1.2 To administer the finances of the Seminary (always excepting income from donations or bequests placed by donors or legatees at the disposal of the Senate).
    - 3.1.3 To administer the College Endowment Fund subject to the following terms and conditions:

- 3.1.3.1 All donations to the College Endowment Fund shall be added to the capital of the Endowment Fund.
- 3.1.3.2 At the end of each financial year the Seminary Board will, at its discretion, decide on the amount of the Endowment Fund which is to be invested in the Share Pool.
- 3.1.3.3 The Seminary Board may, at its discretion, allocate sums from the College Endowment Fund to cover Seminary Board approved Special Projects or any unforeseen items of College related expenditure not provided for in the annual budget of the College Seminary Fund Account.
- 3.1.3.4 At the discretion of the Board, annual interest on the College Endowment Fund shall either be credited to the Ordinary Revenue of the Seminary Fund or be added to the capital held on behalf of the Endowment Fund in the Share Pool.
- 3.1.3.5 The Board shall engage in appropriate activities to solicit contributions to the College Endowment Fund.
- 3.1.4 To prepare the Seminary Budget and submit it to the Board of Trustees during the annual budgeting cycle.
- 3.2 *Planning.*
- 3.2.1 To produce and approve a Strategic Plan for the Seminary, to revise the plan as required and to maintain 3 to 5 years' planning horizon.
- 3.2.2 To discuss with the Board of Trustees, in conjunction with the Principal, the funding implications of the Seminary plans.
- 3.3 *Promotion*
- 3.3.1 To promote the interests of the Seminary within and outwith the Free Church and to implement a strategy designed to heighten awareness of the Seminary as a study destination.
- 3.3.2 To maintain the Seminary as a centre of Biblical and Reformed teaching.
- 3.4 *Property, Facilities and Administration*
- 3.4.1 To maintain and improve the fabric and furnishings of the Seminary.
- 3.4.2 To maintain and oversee the provision of a library function and such other academic and student support services including IT, pastoral support, as are required for the effectiveness of the Seminary.
- 3.4.3 To ensure an adequate administration function.
- 3.4.4 To set the starting and closing dates of Seminary sessions, giving due notice of any change in the pattern thereof.
- 3.5 *Relations with the Senate.*
- 3.5.1 To ensure that the Senate fulfils and is enabled to fulfil its remit.
- 3.5.2 To examine all measures of output in respect of standards, quality, assessment, pedagogy and student experience in respect of feedback, student satisfaction and reports from the Principal and from Senate including student attrition statistics.
- 3.5.3 To take such steps as are necessary for the maintenance of institutional excellence.
- 3.5.4 To adjudicate in staffing disputes and staffing difficulties which Senate may refer to it.
- 3.5.5 To support and maintain such relations with other institutions and accrediting bodies as are proposed and approved by the General Assembly and the Senate.
- 3.6 *Staffing.*
- 3.6.1 To adjudicate with regard to disciplinary or disputed matters affecting College non-Senate staff, both full-time and part-time.
- 3.6.2 To recruit and appoint all staff and to determine the terms and conditions of employment of all, other than as determined by Act of Assembly.
- 3.6.3 To keep the salaries of the Principal and of all full-time academic staff under regular review and, if necessary, to bring proposals there anent to the attention of the Assembly.
- 3.6.4 To formulate staffing contracts and conditions of service.
- 3.6.5 To review the performance of the Principal on an annual basis.

3.6.6 To receive a report of the operation by the Principal of a review system for academic and non-academic staff.

**4. General Assembly.** The Seminary Board shall report to the General Assembly annually. Their report shall include a Report from the Principal. The Principal's Report shall include developments in educational strategy, curriculum development, assessment reviews and pedagogical methodology as standing items so that the Assembly is fully apprised as to the teaching practices and curriculum at the Seminary.

## **I. THE STUDENTS**

**1.** The Seminary exists primarily for the training of Free Church Students who are admitted in accordance with regulations and procedure laid down from time to time by the General Assembly. Students who are not of the Free Church but whose church connections and personal characteristics are acceptable to the Free Church may also be admitted as private students.

**2.** The Senate will also provide facilities in the Seminary for Students and Ministers undertaking a post-graduate course of study.

**3.** The responsibility for admitting private students lies with the Senate. The students must satisfy the Senate that their spiritual and academic qualifications are such as to enable them to benefit from a course in the Seminary. Normally three members of academic staff will interview prospective private students.

**4.** All the students who enter the Seminary are understood to profess their faith in Christ and obedience to Him. They will participate in the spiritual life of the Seminary.

**5.** During their attendance at Seminary courses all students are expected to behave with the decorum worthy of their profession and their aspirations, and to comply with the internal code of conduct prepared by the Senate.

**6.** Complaints by individual students will be dealt with according to the complaint's procedure approved by the Senate, which shall be published annually and given to all students.

**7.** A Seminary Students' Representative Council exists within the Seminary as a recognised body. Its functions are to represent the students in matters affecting their interest as a whole; to afford a recognised means of communication between the students and the Church authorities; and to promote academic unity among the students.

## **J. FIVE-YEAR REVIEW**

**1.** Every five years the General Assembly will appoint a committee to carry out a Five-year Review of the Edinburgh Theological Seminary.

**1.1** *Membership.* The membership of the Review Committee shall comprise a convener, a representative appointed from the membership of the Board of Trustees, from the Board of Ministry and from the Mission Board, and at least one other Minister or Elder.

**1.2** *Advisors.* The Review Committee will make use of suitable advisers, including the chairmen of the Board of Ministry and the Board of Edinburgh Theological Seminary, as well as a student from Edinburgh Theological Seminary, and a Free Church minister having recently graduated from the Seminary.

**2.** The Review Committee will not engage in an assessment of the quality of the academic provision given in the Seminary or to consider the doctrinal orthodoxy of Seminary Staff.

**3.** The Review Committee will consider the governance, academic strategy, and sustainability of the Seminary as well as the opinions of the various customers who use the Seminary. Further, the Committee will consider the place of the Seminary within the wider ministry training structures and strategy of the Church.

**4.** The Review Committee will also investigate whether recommendations from previous Reviews have been implemented.

**5.** The Review Committee will produce a report for the General Assembly in which they shall make a judgement as to the fitness of the education and the training provided by the Seminary and make such recommendations as they see fit for ensuring that the education and training meets the needs of the students and those who send the students to the Seminary.

## **K. REPEALS**

The General Assembly repeal the following Acts of Assembly: Act 5, 1852; Act 2, Class 1, 1879; Act 1, Class 1, 1888; Act 21, Class 2, 1967; Act 23, Class 2, 1970; Act 14, Class 2, 1974; Act 20, Class 2, 1977; Act 4, Class 2, 1979; Act VII, Class 2, 1979; Act VIII, Class 2, 1979; Act 9, Class 2, 1979; Act 22I, Class 2, 1980; Act 20, Class

2, 1986; Act 21, Class 2, 1988; Act 16, Class 2, 1995; Act 26, Class 2, 1999; Act 17, Class 2, 2001; Act 18, Class 2, 2001; Act 40, Class 2, 2006; Act 42, Class 2, 2006; Act 50, Class 2, 2006; Act 47, Class 2, 2008; Act 45, Class 2, 2012; Act 46, Class 2, 2012; Sections 1 – 7 of Act 26, Class 2, 2014; Act 32, Class 2, 2015; Act 27, Class 2, 2017, Act 6, Class 2, 2018; Act 32, Class 2, 2018; Act 14, Class 2, 2019; Act 16, Class 2, 2019; Act 17, Class 2, 2020; Act 16, Class 2, 2021.

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**Act 17 – Commemorating the 1700<sup>th</sup> Anniversary of the Nicene Creed and the 500<sup>th</sup> Anniversary of the Tyndale New Testament**

Number 15 of Class 2

**Category:** *ETS*

*Tuesday 21<sup>st</sup> May 2024*

The General Assembly instruct the ETS Board to help the denomination celebrate the 1700th anniversary of the Nicene Creed and the 500th anniversary of the Tyndale New Testament. This could include lectures, articles, conferences, and/or recommended resources as is fitting.

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**Act 18 – Interchurch Relations Committee**

Number 16 of Class 2

**Category:** *General Assembly*

*Tuesday 21<sup>st</sup> May 2024*

1. The General Assembly, seeking to revise and update its legislation regarding the Church's ecumenical relations, re-constitute the Ecumenical Relations Committee as the Interchurch Relations Committee and enact as follows:

**A. GENERAL**

**1. The Church**

The visible church of Christ is 'catholic or universal under the Gospel (not confined to one nation as before under the law) and consists of all those throughout the world that profess the true religion, along with their children, and is the kingdom of the Lord Jesus Christ' (WCOF 25:2).

**2. The Unity of the Church**

We recognise the unity of the church as grounded in the truth of the apostolic gospel as it is given in the Word of God (John 17; Ephesians 4).

2.1. This unity is attained by growing in spiritual maturity. This maturity is the result of mutual, loving admonition and joint submission to the Word of God.

2.2. The unity of the church is manifested by speaking and acting the truth in love.

2.3. Each member is essential to the church as the body of Christ, and the growth of the body depends on the active participation of each individual part.

2.4. The church is visible and manifested through the world in larger or smaller assemblies. The unity of the church is, therefore, to be sought at the level of the local church and in regional, national, and international assemblies.

**3. The Purity of the Church**

The catholic (universal) Church is the one body of Christ. The purity of the church is its commitment to the teaching and practice of the doctrine of the Gospel, the administration of the Gospel ordinances, the public worship of God consistent with the Word of God, and the practice of church discipline.

3.1. This commitment to the Gospel is found in varying degrees across the world. In the words of the WCOF, 'This catholic Church has been sometimes more, sometimes less visible. And particular Churches, which are members thereof, are more or less pure, according as the doctrine of the Gospel is taught and embraced, ordinances administered, and public worship performed more or less purely in them' (WCOF 25:4).

#### **4. The Mandate**

The Free Church of Scotland recognises the scriptural mandate (Ephesians 4) to express the unity of the church in terms of our relationship with other churches.

4.1. The Church will seek, through its ecumenical relations activity, and by entering fellowship with other churches, to express and promote the unity of the faith. This fellowship will be consistent with biblical unity and truth as a visible demonstration of the unity of the church both to the church and to the world.

4.2. The Church recognises its responsibility to the maturity and unity of the whole church as the body of Christ (Ephesians 4:15). It is committed to call all churches, including our own, to faithfulness, for the purpose of seeking unity of the whole church.

4.3. The principle that the unity of Christ's church must be manifested as fully as possible renders our cooperation with churches with a lesser commitment (qualified subscription) to the WCOF both desirable and even obligatory. As members of the body of Christ with us we have a twofold responsibility to them: (1) to express our common membership in Christ and our family love for them in every way we can; and (2) to instruct and learn from one another to the end that we may supply to each other what each is lacking in love, faith, knowledge, and obedience.

#### **5. The Basis of Unity**

5.1. The basis of the Church's Interchurch relationships will be the Holy Scriptures of the Old and New Testament, as summarised in the Westminster Standards (Confession of Faith, the Larger and Shorter Catechism) and confessed in the three forms of unity – the Heidelberg Catechism, the Belgic Confession, the Canons of Dort.

5.2. The Church, in its cooperation with other churches, will not sacrifice or compromise its distinctiveness. The Church will always maintain and uphold its faithfulness to the doctrine of the Gospel, its subscription to the WCOF, and its Presbyterian form of church government.

5.3. Our ecumenical vision requires a balance between our duty (1) to endeavour to effect the unity of the true body of Christ; and (2) to do so without compromising the doctrines of the Gospel.

### **B. THE COMMITTEE**

#### **1. The Purpose**

1.1. The general purpose of Interchurch Relations is to promote, foster, and develop relations with other denominations and likeminded believers in seeking the propagation of the gospel and the advancement of Christ's kingdom in Scotland and beyond. The Committee will carry out its remit as defined by this Act and as the General Assembly may appoint.

1.2. The purpose of the Committee will be:

1.2.1. To express and promote the unity of faith the member churches have in Christ.

1.2.2. To encourage the fullest ecclesiastical fellowship between member churches.

1.2.3. To facilitate and promote cooperation among the member churches in such areas as missions, theological education, and ministries of mercy.

1.2.4. To study the common problems and issues that confront the member churches.

1.2.5. To present a reformed testimony to the world.

#### **2. The Membership**

2.1. The Committee will have a total of eight members comprising the Mission Director, the Mission Board Chairman, the Principal Clerk, Assistant Clerk Representative, the Moderator, the Principal of Edinburgh Theological Seminary, and two Elders, appointed for a four-year term.

2.2. The Convener will be appointed by the General Assembly and the Principal Clerk will be Clerk to the Committee, *ex officio*.

### **C. INTERCHURCH CHURCH RELATIONS**

The Committee's remit and activities regarding categories of relationship with other churches and organisations shall be exercised as follows:

#### **1. Mutual Eligibility.**

Mutual Eligibility is a relationship which involves the mutual exchange of Ministers in the due process of calling Ministers for the filling of ministerial and other vacancies in the respective denomination.

## **2. Ecclesiastical Fellowship (Fraternal Relations)**

2.1. *The Relationship.* Ecclesiastical Fellowship is a mutually recognised relationship in which the churches involved are Reformed in their confessional standards, church order, worship, and discipline but where there are such differences that union or mutual eligibility are not possible at this time. It is desirable, but not essential, that the churches are members of the International Conference of Reformed Churches.

2.2. *Implementation.* This relationship is implemented where possible and desirable by:

2.2.1. The exchange of fraternal delegates at major Assemblies on a regular basis.

2.2.2. Joint action in areas of common responsibility.

2.2.3. Consultation, exhortation, and cooperation, on all matters of mutual interest in promoting Christian unity and advancing the work of the Gospel at home and abroad.

2.2.4. Consultation on issues of joint concern, particularly before instituting changes in polity, doctrine, or practice that might alter the basis of the fellowship.

2.2.5. The exercise of mutual concern and admonition with a view to promoting Christian unity.

2.2.6. Agreement to respect the procedures of discipline and pastoral concern of one another.

## **3. Corresponding Relations**

3.1. *The Relationship.* Corresponding Relations is that relationship in which mutual contact with another denomination, which has an unqualified subscription to the Reformed faith, but with which we do not have Ecclesiastical Fellowship. The relationship is undertaken in order to become better acquainted with one another with a view towards entering Ecclesiastical Fellowship at some time in the future.

3.2. *The Implementation.* The relationship is implemented where possible and desirable by:

3.2.1. Exchange of official representatives at major assemblies.

3.2.2. Joint action in areas of common responsibility.

3.2.3. Consultation on issues of joint concern, particularly before instituting changes in polity, doctrine, or practice that might alter the basis of the relation.

## **4. Ecumenical Contact**

4.1. *The Relationship.* Ecumenical Contact is a relationship of mutual contact with other denominations with which we have common ground regarding the Gospel, but with whom we differ regarding subscription to the WCOF and the historic confessions in A.5.1. above. This mutual contact is established and maintained in fulfilment of our stated responsibility to call all churches, including our own, to faithfulness for the purpose of seeking the unity of the whole church (*see Paragraph A.4.2 above*).

4.2. *The Implementation.* This relationship will be maintained by:

4.2.1. Meetings from time to time to discuss areas of common mission interest such as church planting, church development, and missionary activities overseas.

4.2.2. Meetings to consider areas of theological education and the development of discipleship.

4.2.3. Sharing resources and experience of developments in Gospel mission and theological education.

## **5. Gospel Partnership**

5.1. Gospel Partnership is a relationship with Christian organisations who are Reformed and evangelical but with whom we may disagree on secondary matters.

5.2. This relationship will be established on the basis of our biblical mandate in the Great Commission and in our desire to advance the work of the Gospel at home and abroad.

5.3. There will be a particular focus on co-operation in the local context, at home and abroad, and meetings will take place, and updates received from time to time as required.

## **D. GENERAL**

1. **Forming Relationships.** It will be the responsibility of the Committee to make decisions to enter, adjust, or withdraw from fellowship with other denominations and gospel partners. The Committee will report to the General Assembly on all such changes.
2. **Resources.** The undertaking of a bilateral relationship of either Ecclesiastical Fellowship or Corresponding Relations with other denominations carries with it a commitment of substantial resources, in both time and expense, for its implementation. The exchange of officials and delegates at General Assemblies and Synods of such denominations inevitably incur significant costs to the Church. Good stewardship of limited resources is required when the Committee engage in such relationships.
- 2.1. *Budgetary Provision.* The Board of Trustees will make appropriate budgetary provision to enable the Committee to maintain meaningful interchurch relations with other churches and denominations. The budgetary provision will be reviewed annually and revised as required in consultation with the Committee.
3. **Review.** The Committee will review its relationship with other denominations and gospel partners annually to ascertain whether the desired substantial contact is being (or given the limited resources, is able to be) maintained. If there has been no active relationship or meaningful correspondence for five years, the Committee will consider terminating the relationship and reporting on the same to the General Assembly.
4. **Annual Review.** The Committee will seek that balance between promoting biblical unity on the one hand and protecting the interests and ethos of the Free Church on the other in its ecumenical activities. The Committee will receive updates on developments, on an annual basis, from all the denominations and organisations with which it is engaged. This will assist the Committee in carrying out an annual review of its activities on which a report will be brought to the General Assembly.
5. **Repeals.**

The General Assembly hereby repeal Act 8, Class 2, 2017.

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### **Act 19 – Legal Advisers and Law Agents**

Number 17 of Class 2

*Category: Governance*

*Wednesday 22<sup>nd</sup> May 2024*

The General Assembly grant the Board of Trustees the authority to approve legal advisers and law agents for the Free Church of Scotland, its Presbyteries, and congregations.

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### **Act 20 – Amending Act 13, Class 2, 2015**

Number 18 of Class 2

*Category: Governance*

*Wednesday 22<sup>nd</sup> May 2024*

The General Assembly note the wide remit of the Mission Board and the Board's request to increase its membership from eight members to ten. They revise the terms of Act 13, Class 2, 2015, to the extent that the membership of the Mission Board is seven Ministers and three Elders. They declare that the revised Act reads as follows:

‘The General Assembly, noting that no substantive issues have been identified that would prevent the appointment of a unified Mission Board, appoint a Mission Board to discharge the functions of the Home Missions Board and the International Missions Board as presently constituted. The Board shall assume responsibility for developing appropriate denominational partnerships at home and abroad, as well as partnerships with other organisations and agencies, in order to enhance the Church's ability to reach out with the Gospel. Membership of the Board shall be ten members in total, comprising seven ministers and three elders appointed by the General Assembly for a four-year term renewable for one further term of four years. The Chairman shall be appointed from the membership of the Board by the General Assembly for a four-year term, renewable for one further term of four years, subject to any member not serving more than eight years on the Board. The quorum shall be three members of the Board.’

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### **Act 21 – Invalid Ministers Fund**

Number 19 of Class 2

*Category: Governance*

*Wednesday 22<sup>nd</sup> May 2024*

The General Assembly approve the winding up of the Invalid Ministers Fund and declare that the remaining balance be moved to the general fund to help with supply costs in congregations where the minister is absent through ill-health. They delete paragraph E5.5 from Act 21, Class 2, 2023 to allow for assistance with supply costs in line with the rules for vacant congregations.

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### **Act 22 – Manses for Church Planters**

Number 20 of Class 2

*Category: Mission & Ministry*

*Wednesday 22<sup>nd</sup> May 2024*

The General Assembly instruct the Board of Trustees, in co-operation with the Mission Board and in conversation with current church planters, to consider how the Church might assist in the funding of manses for church plants to help ensure their long-term financial health.

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### **Act 23 – Pension Scheme**

Number 21 of Class 2

*Category: Governance*

*Wednesday 22<sup>nd</sup> May 2024*

The General Assembly thank the Board of Trustees, Pension Trustee Directors, and Central Office Staff for all the work that has been done to progress a buy-out of the pension scheme. The General Assembly approve the decision of the Board of Trustees to use reserves to cover the buy-out costs.

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### **Act 24 – Statement Relating to Slavery**

Number 22 of Class 2

*Category: General Assembly*

*Wednesday 22<sup>nd</sup> May 2024*

The General Assembly approve and adopt the following statement in relation to slavery:

The Free Church of Scotland is firmly opposed to all forms of racism and slavery. The Bible teaches that everyone is made in the image of God and worthy of inherent dignity and respect. We are all equal in the eyes of God and the Bible urges us to love one another without partiality. Many of our congregations and individual members are financially, prayerfully, and actively engaged with organisations working to release and protect people from modern-day slavery and trafficking.

The Free Church recognises and freely admits the historical sins of members of the denomination in relation to slavery. In particular we express regret over the interaction between members of a Free Church delegation that visited the USA in 1844 and some of their US associates. We grieve that the Free Church decided to receive funds as a result of the delegation.

Even though we, as the Free Church today, are unlikely to be the beneficiaries of these funds due to the various transfers of property to other denominations, yet as their successors we acknowledge with sorrow the actions of our forebears who held the name of Free Church office holders. We express gratitude for the many Free Church members and office holders who actively opposed the slave trade and expressed opposition to it.

The Free Church affirms the necessity for constant watchfulness against oppression in various forms, and we continue to commit ourselves to the opposition of modern-day slavery and racism.



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## Act 25 – Establishment Principle

Number 23 of Class 2

**Category:** *General Assembly*

*Wednesday 22<sup>nd</sup> May 2024*

1. The General Assembly instruct the Assembly Clerk's Office, Boards of the Church, and the Public Engagement Group to consider national strategies to (a) enhance understanding of the Biblical and Theological basis for the Establishment Principle and (b) to implement the practical application of the Establishment Principle outlined in section (E) of the Report.
2. The General Assembly instruct Presbyteries of the Church to consider locally relevant strategies to (a) enhance understanding of the Biblical and Theological basis for the Establishment Principle and (b) to implement the practical application of the Establishment Principle outlined in section (E) of the Report.

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## Act 26 – David F. Macdonald

Number 24 of Class 2

**Category:** *Governance*

*Wednesday 22<sup>nd</sup> May 2024*

1. The General Assembly thank the members of the Judicial Commission for their work in processing the Libel and for their report.
2. The General Assembly endorse the procedure followed by the Judicial Commission in the circumstances.
3. The General Assembly note Mr Macdonald's contumacious behaviour in refusing to attend a hearing on the evidence, and that such behaviour in the case of a minister is deemed to be a confession of guilt according to the terms of Act 2, Class 1, 2010 anent the Appointment of a Judicial Commission, Section C, Paragraph 3.14.
4. The General Assembly also note the terms of Paragraph 3.14 of the said Act declare that, in such cases of contumacy, the judicatory which cited him shall either suspend him *sine die* from the duties of office and from sealing ordinances, or else recommend that the General Assembly depose him from office, as suits the gravity of the case, and that the General Assembly alone has authority to depose a Minister in his absence.
5. The General Assembly accept the judgement of the Judicial Commission that, on the basis of the whole evidence before them, it was beyond reasonable doubt that Mr Macdonald was guilty of all three of the Charges laid against him in the Libel.
6. The General Assembly, taking cognisance of Mr Macdonald's deemed guilt and of the Judicial Commission's finding of actual guilt, do hereby solemnly depose Mr David F. Macdonald, Minister of the Free Church of Scotland, from the office of the holy ministry, prohibiting and discharging him from exercising the same, or any part thereof, at any time in the future. They also suspend him *sine die* from the sealing ordinances of the gospel.
7. The General Assembly approve the following statement to be publicly communicated on the Free Church website:

“Following formal complaints made by three women against Rev. David F. Macdonald, formerly Assistant Minister at Back Free Church, Isle of Lewis, involving attempts by him to extort from them inappropriate images, the General Assembly found these complaints to be well-founded. The General Assembly noted with sadness the seriously adverse impact of this behaviour on the women concerned. The General Assembly abhors all such behaviour and given its seriousness and the level of deceit involved, determined that in this case the only course open to it was to depose Mr Macdonald from the office of minister. Consequently, on Wednesday 22<sup>nd</sup> May 2024, the General Assembly solemnly deposed Mr David F. Macdonald from the office of the holy ministry.”

**Act 27 – Rev. Dr Alistair Donald**

Number 25 of Class 2

**Category: Mission & Ministry**

**Thursday 23<sup>rd</sup> May 2024**

1. The General Assembly receive the application for admission to the Free Church ministry from Rev. Dr Alistair Donald. They admit him as an ordained minister of the Free Church of Scotland on receiving satisfactory responses to the prescribed Questions and his signing of the Formula.
2. The General Assembly instruct the Presbytery of Edinburgh and Perth to meet with Dr Donald as soon as practically possible to ask the prescribed Questions and to sign the Formula on receiving satisfactory responses.
3. The General Assembly instruct the Presbytery to inform the Principal Clerk by extract of the proceedings that Dr Donald has signed the Formula. They direct that the Principal Clerk add the name of Rev. Dr Alistair Donald to the Roll of Retired Ministers.
4. The General Assembly direct that documents supporting the application to be held *in retentis*.

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**Act 28 – Rev. Colin Buchanan**

Number 26 of Class 2

**Category: Mission & Ministry**

**Thursday 23<sup>rd</sup> May 2024**

1. The General Assembly receive the application for admission to the Free Church ministry from Rev. Colin Buchanan. They admit him as an ordained minister of the Free Church of Scotland on receiving satisfactory responses to the prescribed Questions and his signing of the Formula.
2. The General Assembly instruct the Presbytery of Glasgow and Argyll to meet with Mr Buchanan as soon as practically possible to ask the prescribed Questions and to sign the Formula on receiving satisfactory responses.
3. The General Assembly instruct the Presbytery to inform the Principal Clerk by extract of the proceedings that Mr Buchanan has signed the Formula. They direct that the Principal Clerk add the name of Rev. Colin Buchanan to the Roll of Retired ministers.
4. The General Assembly direct that documents supporting the application to be held *in retentis*.

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**Act 29 – Amending Act 23, Class 2, 2021**

Number 27 of Class 2

**Category: Mission & Ministry**

**Thursday 23<sup>rd</sup> May 2024**

The General Assembly declare that the provisions for ending a Candidacy in Act 23, Class 2, 2021 anent Journey to Ministry, be revised. They amend the said Act to the extent that the following paragraph is added as new Paragraph 11 of Section F – Ending a Candidacy: ‘If a Candidate wishes to resign, he will write to his Presbytery to submit his resignation. If the Presbytery accepts the resignation, the Presbytery will notify the Board of Ministry. The Board will arrange for an exit interview involving the Candidate, representatives of the Presbytery, and representatives of the Board. If employed by a Training Church, the Candidate will also be required to serve a due notice period in accordance with his contract.’

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**Act 30 – Amending Act 21, Class 2, 2022**

Number 28 of Class 2

**Category: Mission & Ministry**

**Thursday 23<sup>rd</sup> May 2024**

The General Assembly declare that the provisions for the expectations of a Training Church in Act 21, Class 2, 2022 anent Training for Ministry, be revised to the extent that the following paragraphs are added to Section C – Training Churches and Presbyteries, Paragraph 2 - Training Church Initial Steps:

2.5 *Training Church Accreditation.* Training Churches must be accredited by the Board of Ministry, to ensure good support for both trainees and supervisors. Accreditation involves the following steps:

2.5.1 The Kirk Session must complete the Training Church Accreditation Form.

2.5.2 The Minister and representatives from the Kirk Session will meet with the Board of Ministry Student Team. The Student Team must be satisfied that the congregation is willing and able to meet the expectations set out above.

2.5.3 Prior to receiving a first Minister-in-Training, the minister (and, where appropriate other members of the Kirk Session) must complete a one-day induction organised by the Board of Ministry. This induction will include training in giving sermon feedback, training in supervision and line management, and guidelines for planning a training year.

2.5.4 Accreditation lasts for 5 years or a major change in a Kirk Session (e.g. change of minister), after which it must be renewed.

2.6 *Training Churches: Ongoing Training and Support.* All supervisors in training churches with a Minister-in-Training are required to attend In-Service Training every year.

2.6.1 Annual In-Service Training will include an element dedicated to training.

2.6.2 All supervisors are appointed a trainer's mentor by the Board of Ministry. These will meet four times per year with supervisors.

2.6.3 All supervisors and ETS teaching staff are required to meet together with the Board of Ministry Student Team twice a year.

2.6.4 Supervisors are also encouraged to attend additional training opportunities arranged by the Board of Ministry and other partner institutions.

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### **Act 31 – Training Handbook**

Number 29 of Class 2

**Category:** *Mission & Ministry*

*Thursday 23<sup>rd</sup> May 2024*

The General Assembly welcome the Training Handbook 2024/25. They instruct the Board of Ministry to update and publish this Handbook on an annual basis to provide a clear summary of all legislation and guidelines related to training.

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### **Act 32 – Amending Act 33, Class 2, 2018 – Continuous Professional Development**

Number 30 of Class 2

**Category:** *Mission & Ministry*

*Thursday 23<sup>rd</sup> May 2024*

1. The General Assembly note that the standards expected for Continuous Professional Development (CPD) contained in Act 33, Class 2, 2018, have been superseded by the CPD provisions introduced by the Board of Ministry in 2022 in their *Continuous Professional Development – Guidelines for Good Practice Handbook*. They revise the said Act to the extent that Paragraph 1 is amended to reflect the changes in the CPD expectations in the said Handbook, and that Paragraph 2.1 is deleted, and the following paragraphs renumbered. They declare the revised Act to be as follows:

The General Assembly note the advice of the Board of Ministry on the need for Continuous Professional Development in the ministry (CPD). The General Assembly enact as follows:

1. The General Assembly direct that all serving ministers commit to ongoing learning and Continuous Professional Development (CPD), to refresh and further equip their ministries. CPD shall include the four

broad categories of: Character (Christlikeness), Conviction (theological and doctrinal), Competence (preaching, pastoring and leadership), and Contemporary Thought and Culture.

2. The General Assembly issue the following six directives for CPD within the Free Church of Scotland:

2.1. Presbyteries are encouraged to create space in their agenda for CPD activities.

2.2. Presbyteries will normally appoint a CPD Committee, or empower an existing Presbytery Committee to coordinate CPD. In exceptional circumstances, where there are limited resources, Presbyteries may instead appoint a CPD Coordinator who will assist the Presbytery in meeting the CPD requirements.

2.3. Presbyteries should ensure that members are aware of appropriate resources for CPD.

2.4. Deacons' Courts shall normally make provision to cover reasonable costs for CPD activities. Presbyteries are encouraged to provide support for CPD for ministers in charges with limited funds.

2.5. Ministers should strive to achieve a measure of balance in the various categories of CPD and endeavour to formally record their activities in a log.

2.6. The General Assembly instruct the Board of Ministry to liaise with other Boards and ensure that future General Assemblies shall normally include items in the programme relevant to CPD designed to be relevant and helpful to the Ministers, Elders and members of the Church.

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### **Act 33 – Christian Education Group Convener**

Number 31 of Class 2

**Category:** *Governance*

*Thursday 23<sup>rd</sup> May 2024*

The General Assembly appointed Rev. Allan Shearer as the Convener of the Christian Education Group.

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### **Act 34 – Appointing the Commission of Assembly**

Number 32 of Class 2

**Category:** *General Assembly*

*Thursday 23<sup>rd</sup> May 2024*

The General Assembly hereby appoint a Commission consisting of all the members of this General Assembly along with Principal Iver Martin appointed by the Moderator. They declare that the Moderator will be in the Chair for all meetings of the Commission and, in his absence, the immediate past Moderator.

#### **1. Appointment**

This Commission is appointed to meet at Edinburgh on Tuesday 1<sup>st</sup> October 2024 and on Tuesday 4<sup>th</sup> March 2025 at 7 o'clock in the evening, and at other times and places as may be required with power to choose their own Moderator.

1.1. *Quorum.* The quorum shall be any twelve or more of their number, of whom four at least are always to be ministers.

1.2. *Continuance.* This Commission shall remain in being until another Commission is appointed. All members are required to attend the diets of the Commission.

1.3. *Other Church Courts.* The General Assembly declare that no other Court of the Church may meet on the dates on which the Assembly has appointed its Commission to meet.

1.4. *Submission of Documents.* Items of business to be included in the Note of Business of the Commission shall be submitted to the Assembly Clerks' Office at least ten days before the Commission is due to meet.

#### **2. Constituted Meetings**

The General Assembly declare that it shall be competent for the Assembly Clerks, in consultation with the Assembly Business Committee and the Moderator, to decide whether the Commission of Assembly should meet in-person or virtually.

### **3. General Powers**

The General Assembly empower this Commission to take up and dispose of any matter referred to them by the General Assembly or arising out of any Act or finding of the Assembly in accordance with the instructions given by the Assembly.

3.1. *Interests of the Church.* The Commission shall give attention to the interests of the Church in every respect to ensure that the Church does not suffer or incur any prejudice which it is possible for their powers to prevent, as they will be answerable.

3.2. *Public Engagement.* The Commission shall take up a report from the Public Engagement Group as required to give such a lead as they are able on moral issues and provide advice and assistance to Presbyteries, Board and Committees of the General Assembly.

3.3. *Ministerial Rolls.* The said Commission is authorised to receive and dispose of petitions received from Presbyteries regarding the transference of the name of a minister from the Roll of Resigned Ministers to the Roll of Ministers Without Charge Eligible for Call.

3.4. *Exclusions.* The powers granted above shall not apply to particular affairs or processes before Presbyteries which have only a local relevance and have no reference to the whole Church.

### **4. Review**

The General Assembly empower this Commission to receive appeals, complaints, petitions and references from individuals and from the lower courts of the Church, and all such matters as were previously directed to Provincial Synods.

4.1. *Northern Presbytery Review Group.* The General Assembly also empower this Commission to take up any matters arising from the Northern Presbytery Review Group appointed by the February 2024 Commission of Assembly and reappointed by the 2024 General Assembly to prepare a report on the congregational health at Bonar Bridge and Lairg and the relationship with the Minister.

4.2. *Procedure.* The General Assembly declare that the procedure for the submission of papers, etc., regarding references, appeals, complaints, and petitions be such that these be forwarded to the Principal Clerk of Assembly for inclusion in the business of the Commission as this is set out in the 2020 Act on the Dissolution of Synods.

### **5. Admissions**

The General Assembly empower this Commission to receive applications for admission to the Free Church as follows:

5.1. *Applications from Ministers.* The said Commission is hereby authorised to receive and dispose of applications duly submitted through Presbyteries and the Board of Ministry from ministers of other denominations seeking admission to the Free Church ministry

5.2. *Applications from Congregations.* The said Commission is authorised to receive and dispose of applications through Presbyteries from any congregation wishing to join the Free Church of Scotland submitted in accordance with the procedures laid down by the General Assembly.

### **6. Mission Board**

The General Assembly empower this Commission to receive applications from the Mission Board as follows:

6.1. *Church Development.* The said Commission is empowered to receive and dispose of applications from church plants to be raised to fully sanctioned charges submitted through the Mission Board.

6.2. *Consolidation.* The said Commission is empowered to receive and dispose of applications from the Mission Board to link or unite two or more congregations following upon a Report from Board.

6.3. *Global Mission.* The said Commission is empowered to receive and dispose of applications from the Mission Board to appoint Ministers and workers in fulfilling the Church's commitment to global mission following a report from the Board.

6.4. *Assistant Ministers.* The said Commission is empowered to receive and dispose of applications for the appointment of an Assistant Minister in a congregation.

## **7. Limited Powers**

The General Assembly declare that it is not competent for the Commission to become involved in matters other than those committed and referred to them as above. All their proceedings shall be conducted in accordance with the Acts and Constitution of the Church, avoiding anything which is contrary or prejudicial to such Acts and Constitution.

7.1. *Accountability.* The General Assembly further declare that in all their proceedings they shall be accountable to and censurable by next General Assembly as they may find reason arising from the above introduction to Paragraph 6.

7.2. *Appeals.* The General Assembly affirm that in general terms the findings of the Commission of Assembly are final and not subject to appeal. However, they declare that, in the case of Complaints, Appeals, Petitions, and References, it shall be competent for parties in the review process to appeal to the General Assembly.

7.3. *Review Group.* They also declare that, in the case of any matters taken up by the Commission relating to the Review Group appointed by the February 2024 Commission of Assembly, it shall be competent for parties to appeal to the General Assembly.

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### **Act 35 – Appointing the 2025 General Assembly**

Number 33 of Class 2

**Category:** *General Assembly*

**Thursday 23<sup>rd</sup> May 2024**

The General Assembly appointed the next General Assembly to meet in Edinburgh on Monday 19th May 2025 at 6.00pm.

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## ACTS OF THE COMMISSION OF ASSEMBLY

### Act 1 – Crow Road Free Church

Number 1 of Class 2

*Category: Mission & Ministry*

*Tuesday 3<sup>rd</sup> October 2023*

The Commission of Assembly receive the Petition of the Presbytery of Glasgow and Argyll regarding the united congregation of Glasgow City and Partick Free Church and grant its crave. They declare that the said united congregation be renamed Crow Road Free Church. They amend Act 8, Class 2, March 2023 accordingly.

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### Act 2 – Fully Sanctioned Charge for Bishopbriggs

Number 2 of Class 2

*Category: Mission & Ministry*

*Tuesday 3<sup>rd</sup> October 2023*

The Commission of Assembly receive the Petition of the Presbytery of Glasgow and Argyll regarding the congregation of Bishopbriggs and grant its crave. They declare that the congregation be granted the status of a fully sanctioned charge. They remove the five-year restriction on the ministerial appointment of Rev. Garry Brotherston. They declare his appointment be unrestricted under the terms of Act 1, Class 1, 2018, Paragraph 3.3, with immediate effect, and that his appointment be continuous with his original induction to the charge.

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### Act 3 – Fully Sanctioned Charge for Hope Church Coatbridge

Number 3 of Class 2

*Category: Mission & Ministry*

*Tuesday 3<sup>rd</sup> October 2023*

The Commission of Assembly receive the Petition of the Presbytery of Glasgow and Argyll regarding the congregation of Hope Church Coatbridge and grant its crave. They declare that the congregation be granted the status of a fully sanctioned charge. They remove the five-year restriction on the ministerial appointment of Rev. Ivor Macdonald. They declare his appointment be unrestricted under the terms of Act 1, Class 1, 2018, Paragraph 3.3, with immediate effect, and that his appointment be continuous with his original induction to the charge.

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### Act 4 – Fully Sanctioned Charge for Haddington Community Church

Number 4 of Class 2

*Category: Mission & Ministry*

*Tuesday 3<sup>rd</sup> October 2023*

The Commission of Assembly receive the Petition of the Presbytery of Edinburgh and Perth regarding Haddington Community Church and grant its crave. They grant Haddington Community Church the status of a fully sanctioned charge under the ongoing ministry of Rev. Ali Sewell with immediate effect. They declare that the minister's appointment be without restriction according to the terms of Act 1, Class 1, 2018, Paragraph 3.3, and that his appointment as minister of the fully sanctioned charge be continuous with his induction to the Church Plant.

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### Act 5 – Assistant Minister at Tain and Fearn

Number 5 of Class 2

*Category: Mission & Ministry*

*Tuesday 3<sup>rd</sup> October 2023*

The Commission of Assembly receive the Petition of the Northern Presbytery regarding Tain and Fearn and grant its crave. They extend the congregation's permission to appoint an Assistant Minister for a third three-year term

according to provisions of Act 18, Class 2, 2013, Paragraph 8. They declare that such permission will come under review if the congregation fails to meet the requirements of Act 18, Class 2, 2013, Paragraph 2, during the term of the appointment.

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**Act 6 – Rev. Ben Fiddian**

Number 6 of Class 2

**Category: Mission & Ministry**

**Thursday 8<sup>th</sup> February 2024**

1. The Commission of Assembly note the petition from Rev. Ben Fiddian and express their sadness and prayerful concern over the matters raised.
  2. The Commission of Assembly note the serious concerns raised by the petitioner over the process followed by the Northern Presbytery in relation to the POV process commenced on 22nd March 2023 and in the management of the petitioner's absence from work.
  3. The Commission of Assembly note with sadness the apparent breakdown in trust between the petitioner and the Northern Presbytery and the need for the intervention from the wider church to enable a just and equitable resolution.
  4. The Commission of Assembly declare that further investigation is required before they can make an informed decision on the issues raised by the petitioner and the Northern Presbytery.
  5. The Commission of Assembly set up and empower a Group to investigate all matters raised in the petition, to interview all parties involved, to assess the state of the congregation of Bonar Bridge and Lairg and to prepare recommendations as to how reconciliation and resolution can be achieved.
  6. The Commission of Assembly instruct the Group to report to the Assembly Clerks' Office on its findings and with recommendations within two months of its appointment. They authorise the Assembly Clerks' Office to take such immediate steps as in their judgement are necessary in the light of the said report and recommendations. They instruct the Clerk's Office to report to the 2024 General Assembly on the whole matter.
  7. The Commission of Assembly appoint a mediator from the wider church to meet with the petitioner and the Northern Presbytery Pastoral Team by 23rd February 2024 and to support them in coming to a reasonable agreement on a return-to-work plan which takes account of the independent medical report findings. They instruct the Northern Presbytery to implement the plan within seven days of the said meeting.
  8. The Commission note that under the terms of Act 21, Class 2, 2023, Section E, Paragraph 5, the petitioner's right to be paid the full stipend came to an end on 25th January 2024. They declare the Petitioner's right to payment of the full stipend be extended from the said date up to a maximum of twelve weeks from the commencement of the plan to allow for a phased return to full-time duties.
  9. The Commission of Assembly, noting the terms of the said Act, Section E, Paragraph 1, regarding the minister's failure to consent, declare that if acceptance of the return-to-work plan cannot be reached by 23rd February 2024 and the mediator is of the view that the failure to agree is due to unreasonableness on the part of the petitioner, instruct the Presbytery to complete the process for managing the Minister's absence from work under the terms of the said Act. If the mediator is of the view that the failure to agree a plan is due to unreasonable conditions imposed by the Northern Presbytery, he will report the matter to the Commission of Assembly scheduled to meet on Tuesday 5th March 2024.
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