

CLERKS OF ASSEMBLY

Interim Report, 2020

STRATEGIC PLAN IMPLEMENTATION

The Clerks of Assembly continue to serve within the scope of the strategic plan of The Presbyterian Church in Canada. Daily, they address wide-ranging governance issues as they respond to enquiries from individuals, courts of the church and communities of faith. The Clerks conduct workshops and prepare resources designed to enhance the mission and ministry of the church and to encourage its leadership. They often emphasize the rich theology that undergirds our governance and they help the church consider how to implement legislation in ways that are gracious and fair. The Clerks consult with other church bodies, produce *Equipping for Eldership* as a resource for sessions and host the biennial Clerks' Consultation to support the work of presbytery and synod clerks and foster strong connections amongst them.

2019 GENERAL ASSEMBLY REFERRALS

OVERTURE NO. 8, 2019 (A&P 2019, p. 513, 239, 17)

Re: Right to dissent

Overture No. 8, 2019 asks that inconsistencies in the law of the church touching upon dissent be rectified. The inconsistencies have to do with recent Assembly decisions regarding sections 12.1 and 8.1 as described later in this report.

The overture requests that the General Assembly reaffirm the right of a presbyter to record dissent from an action taken by any court of which the presbyter is a member under any of the following circumstances: (a) the presbyter has participated in the vote and is dissatisfied with the result; (b) the presbyter has been absent with leave of the court and is dissatisfied with an action taken while so absent; or (c) the presbyter has been absent having expressed prior regrets and is dissatisfied with an action taken while so absent.

What is meant by dissent?

A dissent is a held or expressed opinion that differs from an officially held position. When a court of the church makes a decision, those who vote against that decision may: (a) be content that their vote is sufficient expression of their disagreement or, (b) have their names noted in the minutes of that court as having dissented from the decision. In addition, they may ask that reasons for their dissent be entered into the minutes.

While dissent relieves a person from the responsibility for the adoption of the decision, as a member of the court, the person is still dutybound to honour any action that flows from that decision.

The foundational statement regarding dissent is expressed in Book of Forms, 91 where it is clearly stated that it is a member of a court "who has voted on a question" that is entitled to have their dissent recorded.

91. Any member of a court who has voted on a question and is not satisfied with the decision is entitled to have his/her dissent recorded. By so doing he/she relieves himself/herself from responsibility for the decision and saves himself/herself from censure on account of it. The dissent must be given in when the decision is announced. Reasons for dissent may be given in at that time or within ten days. If in proper language, they are entered in the minutes. When deemed necessary the court prepares answers that are disposed of by being entered in the appropriate minutes.

Book of Forms, 12.1 and 8.1

The 2016 General Assembly removed Book of Forms, 12.1 from the General Rules for Church Courts. The section indicated that if a person was absent from a meeting of a court without permission, then the member could not dissent from any decision made in the member's absence. (A&P 2016, p. 286)

The General Assembly removed section 12.1 because it implied that, as long as the member received permission to be absent, they could dissent from decisions made by the court even though they did not participate in the discussion related to the decision nor did they vote on it.

Here are sections 12, which remains in the Book of Forms, and the now deleted section 12.1.

12. A member of the court ought not to withdraw from attendance without leave.

12.1 If he/she does so, he/she cannot dissent from any decision of the court arrived at in his/her absence.

This is contrary to the principle expressed in section 91 which clearly states that only those who vote on a decision may have their dissent recorded. Therefore, those who do not vote on a recommendation in any circumstance, may not have their dissent recorded.

The rationale for this legislation is that the church discerns the mind of Christ together. Decisions are made after hearing the views of others. Positions held on a topic can be altered through the exchange of ideas. If the member had been present for the discussion, it is possible they may have been convinced to change their mind regarding a recommendation under consideration which could eliminate their need for dissent. If a member of a court is not present for the discussion that leads to a decision, they cannot vote on it nor dissent from it in an informed way.

In 2018, the Clerks of Assembly drew attention to a similar legislative conflict. The conflict was found in section 8.1 that grants permission for a session to meet at the same time that a General Assembly is being held. That part of the legislation is fine. That section also states, however, if a session member misses a session meeting because they are a commissioner to a General Assembly, they may dissent from session decisions taken in their absence. (A&P 2018, p. 256–58)

This creates the same conflict that led to the deletion of section 12.1. Section 8.1 allows an elder, who was a commissioner to a General Assembly when their session met and made a decision, to dissent from a decision they neither discussed nor voted on. For this reason, the Clerks proposed that section 8.1 be amended by deleting the words that related to dissenting to a decision taken while they were at the Assembly. The amendment would have brought the section in line with the church's understanding of dissent and make it consistent with other legislation: that a member of a court may only dissent from a decision upon which they have voted.

An amendment to this effect was made and defeated. As a result, section 8.1 is still in conflict with the principle expressed in section 91 that a member of a court must vote on a matter before being entitled to have their dissent recorded. This is the inconsistency raised by the overture.

The only way to eliminate this inconsistency and satisfy the primary legislation regarding dissent, is to amend section 8.1 by deleting everything after the words "General Assembly". The section would then state that a session has standing leave to meet during the sitting of the General Assembly illustrated below.

8.1 A session has standing leave to meet during the sittings of the General Assembly. ~~provided always that in the event of such a meeting, any member who was a commissioner to the Assembly shall have liberty, on his/her return, or when the minutes are confirmed, to dissent or dissent and complain (see sections 381, 382) from any decision taken during his/her absence while attending the Assembly.~~

The Clerks offer two practical observations. First, the Clerks cannot remember a single case of a registered dissent being needed to protect a presbyter from censure by a higher court in the past 20 years that they have served in the Clerk's office. Second, it is likely a rare situation that would compel a session to meet at the same time as the General Assembly. Normally, sessions would be able to shift a meeting date to accommodate an elder commissioned to the Assembly.

The Clerks of Assembly believe it is self-evident that section 8.1 needs to be amended to honour our understanding of decision making in our courts and to bring it into harmony with section 91. Nevertheless, the Clerks recommend that the amendment be forwarded to the church at large for study and report.

Recommendation No. 1 (will be presented in final report to the General Assembly)

The overture notes two other concerns. The Clerks of Assembly offer these brief responses.

May Young Adult Representatives express dissent?

The overture observes that young adult representatives attending the 2018 General Assembly were permitted to have their dissents recorded. Young adult representatives have an advisory vote that is not counted with commissioner

votes. That means, on recommendations of particular interest to them, they are given the opportunity to express their support or opposition to those recommendations before commissioners are asked to vote on them. In this way the young adults “advise” commissioners. Even though their vote is not counted towards the adoption or defeat of any recommendation, the Assembly allowed these young people to record their dissent when they asked to do so. This was a courtesy extended by the Moderator and not challenged by the Assembly.

Decisions Regarding Dissent and the Barrier Act

It is true that the Barrier Act exists as a safeguard against rushed or careless changes to law or rule relative to doctrine, discipline, government or worship by engaging the wider church approving or disapproving changes. On occasion, however, when a recommendation to amend a section of the Book of Forms is deemed to be self-evident, a necessary revision that does not alter the meaning of the legislation or unlikely to require debate, Assemblies have chosen to make the amendment without reference to sessions or presbyteries. Clearly, this choice is made not to avoid session and presbytery examination, but with an understanding that to engage the broader church in decisions deemed obvious by the Assembly is poor stewardship of the time of those who serve the courts of the church. It is a judgement call an Assembly sometimes makes.

OVERTURE NO. 13, 2019 (A&P 2019, p. 515, 240, 17)

Re: Ministers of other denominations in ecumenical shared ministries on the constituent roll

It is the prayer of Overture No. 13, 2019 that clergy from a denomination other than The Presbyterian Church in Canada who are serving a Presbyterian congregation in an authorized ecumenical shared ministry, be eligible to be added to the constituent roll of that congregation’s presbytery for the term of their appointment.

In 2006, Presbyterian Church in Canada representatives were part of a task force with representatives from the Anglican Church of Canada, Evangelical Lutheran and the United Church of Canada. The goal of the task force was to prepare a resource that would provide congregations of these dominations with an orderly way of entering into shared ecumenical ministries. The guide, entitled *Ecumenical Shared Ministries Handbook*, was published in 2011 and undated in 2019. It is available in print or may be downloaded at presbyterian.ca. Legislation enabling ecumenical shared ministry agreements was approved in 2011. (See Book of Forms 200.13–200.13.4)

Ecumenical shared ministries, which must be authorized by the judicatory bodies of each participating denomination, take on a variety of configurations. By way of example:

1. Congregations from two or more denominations share a building while otherwise maintaining their own denominational ministry and services.
2. Two or more denominations are served, in their own separate buildings, by a minister from one of the participating denominations.
3. Congregations of two denominations share a building and administrative, caretaking and musical staff. They worship together under the leadership of a minister from each of these denominations.

Approximate 14 Presbyterian congregations are currently engaged in an ecumenical shared ministry.

Currently, clergy from a denomination other than The Presbyterian Church in Canada who are serving a Presbyterian congregation in an ecumenical shared ministry may be invited to attend presbytery meetings and take part in discussions, but they do not vote. (Book of Forms 200.13.4) The overture would like such non-Presbyterian clergy to be granted full membership on the constituent roll of the presbytery.

The overture refers to Book of Forms, 213.3. This section allows a non-Presbyterian minister who is a member of a denomination represented in the *Ecumenical Shared Ministries Handbook* (Anglican, Lutheran, United) to be appointed as an interim minister for a Presbyterian congregation. While it is true that an interim minister who is employed by a congregation on a half-time or more basis, can be added to the constituent roll of a presbytery, section 213.3 also states that this privilege and responsibility does not apply to non-Presbyterian interim ministers. They remain subject to the restrictions stated in the *Ecumenical Shared Ministries Handbook*. To reiterate, that means they are welcome to attend presbytery meetings and may speak, but they are not added to the roll and cannot vote on decisions.

213.3 When the presbytery considers the situation in a pulpit vacancy to require interim ministry, or when the minister has been placed on an extended leave of absence, presbytery may appoint an interim minister for a period not exceeding two years. Ordained ministers with demonstrated good standing in denominations represented in the *Ecumenical Shared Ministries Handbook* may be so appointed, with the

approval of the appropriate judicatory in the minister's denomination. Such ministers are subject to the same restrictions as those serving under ecumenical shared ministry agreements, as outlined in sections 200.13–200.13.4.

The Ecumenical Shared Ministries Handbook (p. 22–23) also supports the principle that, while clergy may have some involvement in the workings of another denomination, their participation is normally limited. For example, the handbook includes these questions and answers.

- Question: Will ecumenical shared ministry clergy be expected to attend all meetings of all churches and all governing bodies?
- Answer: The Ecumenical Shared Ministry Agreement should set out the expected level of participation in these meetings. It should provide for adequate connection with governing bodies without detracting from the pastoral ministry that is to be provided.
- Question: Does the Book of Forms still provide the basis for governance in an ecumenical shared ministry?
- Answer: Nothing in an ecumenical shared ministry should contravene the governance of any of the participating denominations. Within that broad principle, the ecumenical shared ministry will need to select which specific form of polity will be used in its day-to-day governance and be sure that it is properly reflected in the Ecumenical Shared Ministry Agreement.

Being a responsible member of more than one ecclesiastic body would make extraordinary demands on a minister.

In part, the overture makes this request with the hope of strengthening the quorum of smaller presbyteries. While the Clerks of Assembly sympathize with the challenges facing some small presbyteries, especially those with few ministers, they remind the court that the presbytery quorum only requires three members of the court, one of whom is a minister. Legislation adopted by the 2019 General Assembly permits ministers on the appendix to the roll, who are also serving as interim moderators, to be added to the constituent roll for the duration of the interim moderator appointment. This will help to alleviate concerns about quorum in some presbyteries.

The Assembly should not lose sight of the considerable importance the church places on the constituent roll of the presbytery. Membership on the roll is foundational to our model of church governance. The church has stated that membership on the constituent roll of the presbytery is restricted to ordained ministers of The Presbyterian Church in Canada who are serving in eligible ministries that are being carried out on a minimum half-time basis or are serving as equalizing ministers and to ruling elders representing pastoral charges or serving as equalizing elders. These ministers and elders are fully accountable to the denomination and could be members of a session, synod or be commissioned to a General Assembly. They are also eligible to be appointed to membership on the boards and committees of the denomination. Non-Presbyterians are not able to serve in this way.

Granting further responsibility to non-Presbyterian clergy for the work of a presbytery was not authorized by those who participated in the creation of this program of ecumenical cooperation. For the Assembly to grant the prayer of the overture would create an inequality within the ecumenical shared ministry landscape.

No doubt presbyteries that are involved in an ecumenical shared ministry are blessed by the presence and perspective of those from other denominations. The rich ecumenical sharing that happens through these ministries can be a beneficial to all participants and is not dependent on full membership of the clergy in governing bodies beyond their own.

As directed by the 2019 General Assembly, the Clerks of Assembly have consulted with the Life and Mission Agency. The Associate Secretary for Canadian Ministries, with whom the Ecumenical Shared Ministries portfolio lies, made helpful comments and concurs with this response.

Recommendation No. 2 (will be presented in final report to the General Assembly)

SPECIAL COMMITTEE ON IMPLICATIONS OF OPTION B – REC. NO. 3, 2019 (A&P 2019, p. 48, 52)
Guidelines to facilitate calls and election of LGBTQI candidates (Provisional)

The 2019 General Assembly approved the following recommendation as part of the report that approved sending remits to the church that would permit same-sex marriage and the ordination of LGBTQI persons, married or single:

That the Clerks of Assembly be instructed to provisionally prepare guidelines to ensure that calls to LGBTQI ministers and the election of LGBTQI elders are facilitated in presbyteries and congregations. (A&P 2019, p. 48)

The Clerks interpret the term ‘provisionally’ to mean that the guidelines would be considered only after a decision has been made on the remits by the church. Nevertheless, if the remits pass, there will be a need to provide support to congregations, sessions and presbyteries, along with LGBTQI individuals, regarding how calls to ministers and the election of elders can be facilitated.

In many cases, the Clerks expect this would happen naturally through the usual process of discernment that our church uses for calling and ordaining ministers and electing elders. Presbyteries and congregations will continue to make decisions regarding the suitability of individuals for providing ordained leadership and service within the church. These guidelines provide direction regarding considerations to keep in mind while following these usual steps.

The Clerks of Assembly hope these guidelines will help with this period of transition. They are not intended to be the final word on how our church will live into these remits but are suggestions for beginning that journey. Recommendations following these guidelines invite feedback from the church on the lived experience that will be considered in future versions.

GUIDELINES

Ministry

The Lord continues his ministry in and through the church.

All Christians are called
to participate in the ministry of Christ.
As his body on earth
we all have gifts to use
in the church and in the world
to the glory of Christ, our King and Head.

Through the church God orders this ministry by calling some to special tasks
in the equipping of the saints
for the work of ministry,
for building up the body of Christ.
(Living Faith 7.2.1-2)

Living Faith affirms that it is Christ’s ministry that is exercised through the church and all Christians are called to this ministry. It also affirms that God orders ministry by calling some to particular tasks. We understand some of these tasks to be the purview of ministers of Word and Sacraments and ruling elders. Both these orders of ministry are part of the sacred task that God gives the church for building up the body of Christ.

These guidelines seek to assist the church to be a more diverse and inclusive community, encouraging hospitality, respect and welcome to all. At the same time, they seek to address liberty of conscience and action for those who believe, in accordance with our churches’ policy, that marriage is between a man and a woman. (Remit B 2019)

Remit C

With the decision of the 2020 General Assembly to approve Remit C, a previously understood barrier to being called to ordained ministry in the church has been removed:

That congregations and presbyteries may call and ordain as ministers and elect and ordain as ruling elders LGBTQI persons (married or single) with the provision that liberty of conscience and action regarding participation in ordinations, inductions and installations be granted to ministers and ruling elders. (Remit C, 2019)

Interviews and Human Rights considerations

Candidates for these ministries should not be asked anything about their status as an LGBTQI person, just as non-LGBTQI persons are not asked questions related to their sexuality. Indeed, for many years, the document Calling a Minister – guidelines for presbyteries, interim moderators and search committees (1999, updated 2019) has included

guidance on questions permitted under Human Rights Legislation (see below). This is a reminder of the approach our church has taken for decades.

With the approval of Remit C, LGBTQI persons should be free from what has been, for some, an uncomfortable or even untenable silence about this important aspect of their life. Therefore, in the same way that non-LGBTQI have been able to speak comfortably of their family situation, LGBTQI persons should not face discrimination or alienation within the church for being open about their relationships.

The 2019 General Assembly asked that these guidelines be prepared to ‘ensure facilitation’. The Clerks believe that the facilitation of calls, ordinations and inductions still must be within the context of our usual discernment processes. These guidelines therefore do not make special provisions but seek to ensure equality of consideration.

Equality of consideration and liberty of conscience and action

This consideration will need to take place within the framework of liberty of conscience as contained within the remits.

Equality of consideration means that a presbytery or a session would not ask questions any differently of someone based on their sexual orientation or gender identity.

If a candidate freely chooses to disclose that they are LGBTQI it should make no difference in our process. Sexuality itself has never been a barrier to office in our church (A&P 2003, p. 526–47, 26, 34, 37–41, 43–45). If a candidate discloses that they are LGBTQI and married, it should still make no difference in our process.

However, since Remit B, 2019 approved the acceptability of two parallel definitions of marriage, members of courts are permitted to believe that marriage is between a man and a woman, or between two adults.

With the passing of the remits, the policy of the church allows for the acceptability of same-sex marriage and the ordination of LGBTQI persons (married or single). A church court should therefore respect the right of such a person to be welcomed to leadership, provided they have the usual and necessary skills and gifts for ministry.

An individual who holds the belief that marriage is between a man and a woman is permitted to exercise liberty of conscience and action in this situation and be assured that they will not be censured on account of this exercise.

Exercising liberty of conscience and action

How does a member of a church court exercise liberty of conscience and action regarding the potential calling, ordination or induction of an LGBTQI person? The legislation in Remit C stipulates that liberty of conscience and action applies to ‘participation’ in ordinations (ruling and teaching elders), inductions (teaching elders) and installations (ruling elders).

Such a person may, without fear of censure:

- Abstain from voting for the ordination, induction or installation
- Vote against the ordination, induction or installation
- Send regrets to any meeting dealing with the ordination, induction or installation

This would apply in the context of a presbytery considering a call, ordination or induction of a minister of Word and Sacraments, or of a session, considering candidates for ruling eldership.

This does not apply in any situation where a candidate has chosen not to disclose their sexual orientation or gender identity. Under no circumstances it is appropriate to inquire or pry into that part of a person’s life (note Human Rights considerations, below).

Liturgical and pastoral considerations

The presbytery is responsible for the conduct of worship at an ordination or induction and this is normally left in the hands of the moderator. As usual, care should be taken that the language used in any service is appropriate and pastoral. The Clerks of Assembly do not anticipate the need for changes to the ordination and induction services found in the Book of Common Worship but suggest that each liturgy be conducted with sensitivity. For example, if a candidate has identified a preference for the use of a particular identifying pronoun that should be respected. The

Life and Mission Agency is available for consultation on liturgy. When there is an opportunity to welcome members of a family (perhaps at a reception), care should be taken to acknowledge and welcome a same-sex spouse, if appropriate, after consulting with the candidate.

Once an ordination has been approved by a presbytery or session and taken place through prayer and the laying on of hands, the ordination is deemed valid throughout the church.

Recommendation No. 3 (will be presented in final report to the General Assembly)

Recommendation No. 4 (will be presented in final report to the General Assembly)

Legislation

The Clerks of Assembly have considered the possible need for new legislation as a result of the passing of the remits. It is common for remits to be based upon an amendment to a specific section of the Book of Forms. Then, when the remit passes, the Book of Forms is automatically updated. This is not always the case. The fact that Remits B and C do not attach to a specific section of the Book of Forms does not diminish their legal standing. Once approved through the process of the Barrier Act, they become the law of the church. In order that the wording remits B and C be readily available, the Clerks of Assembly recommend that a new Appendix L be added to the Book of Forms containing the remits and the date they were adopted.

APPENDIX L

POLICY REGARDING MARRIAGE AND THE ORDINATION OF LGBTQI PERSONS

The 2020 General Assembly approved the following remits under the Barrier Act:

Remit B, 2019

The Presbyterian Church in Canada holds two parallel definitions of marriage and recognizes that faithful, Holy Spirit filled, Christ centred, God honouring people can understand marriage as a covenant relationship between a man and a woman or as a covenant relationship between two adult persons.

That congregations, sessions, ruling and teaching elders be granted liberty of conscience and action on marriage.

Remit C, 2019

That congregations and presbyteries may call and ordain as ministers and elect and ordain as ruling elders LGBTQI persons (married or single) with the provision that liberty of conscience and action regarding participation in ordinations, inductions and installations be granted to ministers and ruling elders.

Recommendation No. 5 (will be presented in final report to the General Assembly)

Book of Forms, 11.2

There is one section of the Book of Forms that the Clerks of Assembly believe to be possibly in conflict with the remits.

Section 11.2 is a Declaratory Act (a decision of a General Assembly that provides an authoritative interpretation on an existing church law) adopted in 1989 at the time that liberty of conscience and action regarding participation in the ordination of women was being discussed. At that time, legislation was proposed that stipulated ministers were not permitted to absent themselves from the ordination of a woman. And presbyteries, though not permitted to condone disobeying church law, were enjoined to deal with cases of conscience pastorally. On the floor of the Assembly, the reference to women was removed, leaving the Act to stipulate that ministers were not permitted to absent themselves from any ordination:

11.2 The following Declaratory Act was adopted by the 1989 General Assembly and ordered inserted in the Book of Forms (A&P 1981, p. 90; A&P 1989, p. 271, 65): By virtue of their ordination vows, all ministers and elders are obliged to exercise full ministry including, among other things, active participation in the ordination of candidates to the eldership and to the ministry of Word and Sacraments. Though presbyteries have no authority to grant permission to disobey church law and doctrine, yet they are enjoined

to deal with cases of conscience on any question with pastoral care and understanding for the parties involved, with concern and sensitivity for the peace and unity of the whole church.

In today's context, section 11.2 could be taken to restrict the freedom of conscience and action related to participating in ordinations and inductions that is permitted in Remit C.

The Clerks of Assembly believe that this legislation is no longer necessary regarding the ordination of women and could pose a conflict to those who wish to claim the freedom of conscience and action granted in Remit C.

It is possible for this Assembly to remit the deletion of section 11.2 to presbyteries under the Barrier Act to seek their approval. It is also possible for this Assembly to adopt an interim act that would allow the church to function as if section 11.2 was deleted until the presbyteries have responded with their judgment about the deletion. By approving Remit C, however, the church has expressed its support for freedom of action as it pertains to ordinations. Deleting this section immediately would bring the legislation in line with the approved remit and provide a degree of comfort to ministers and elders who may wish to exercise freedom of conscience and action regarding participation in ordinations, inductions and installations. Therefore, the Clerks of Assembly are prepared to recommend that section 11.2 be deleted from the Book of Forms.

Recommendation No. 6 (will be presented in final report to the General Assembly)

Human Rights Matters

(Calling a Minister – Supplement 4 – Guidelines for Interviewing Candidates)

One critical pre-interview task is for the interviewers to ensure they are well informed about the limitations placed on employers by human rights legislation. The underlying principle is that employment decisions should be based on criteria relating to the applicant's ability to do the job in question – and not on factors unrelated to job performance. In particular, employers are prohibited from enquiries that, directly or indirectly, classify or indicate qualifications on the basis of any of the grounds protected against discrimination. These “prohibited grounds of discrimination” include characteristics such as: race; ancestry, place of origin, or ethnic origin; colour; creed or religion; sex (including pregnancy); sexual orientation; gender identity; age; marital status; family status; and disability (physical or mental).

In preparing for conversation with the candidates, interviewers should discuss together and come to agreement on: “What topics are we permitted to raise? What questions may we ask?” Employers are expected to evaluate the suitability of the different candidates based on the position's essential duties and bona fide requirements. Therefore, seeking information that falls outside this scope is not appropriate.

Typically, employers are not permitted to ask questions, either directly or indirectly, about one of the protected grounds. By way of illustration, this rules out enquiries such as the following:

Category	Prohibited Inquiries during Selection Process
Sex	- marital status
Marital Status	- maiden or birth name
Family Status	- children or dependents
	- arrangements for child-care
	- child-bearing or adoption plans
	- pregnancy
	- information about spouse (e.g. is spouse willing to transfer), second income
	- sexual orientation
Age	- age
	- date of birth
Citizenship	- birthplace
	- nationality of ancestors, spouse, or other relatives
	- asking whether born in Canada
	- asking for proof of citizenship
Disability	- health, illnesses, medical history, or medication
	- physical disabilities, learning disabilities, limitations or health problems
	- applicant's use of alcohol or drugs

- mental disorders and conditions, history of psychiatric care or hospitalization
- whether the applicant has received worker's compensation
- requirement that applicants undergo pre-interview medical examination

The same limitations apply to employer communication with the confidential references named by the applicant. References may be asked for information pertinent to job performance. However, it is prohibited to make any enquiry of a reference that would reveal the applicant's race, colour, sex, sexual orientation, age, marital status, family status, ethnic or national origin or ancestry, disability, or any other ground protected against discrimination.

After hiring, it should be noted that employers are permitted to ask the successful candidate:

- to answer enquiries about sex, marital status, dependents or age that are pertinent to an employee's superannuation, pension or insurance plan;
- to present documentation of eligibility to work in Canada;
- to answer genuine and reasonable enquiries about disabilities that are pertinent to legitimate personnel purposes such as relating to superannuation, pension, disability, life insurance or other benefit plan.

Since human rights legislation is enacted provincially, some differences exist across Canada in the list of grounds that are protected against discrimination. As an example, some but not all provinces prohibit discrimination based on criminal conviction that is unrelated to employment or for which a pardon has been received.

GENERAL ASSEMBLY REFERRALS

OVERTURE NO. 1, 2020 (see Referred Overtures – 2020, p. 1)

Re: Statement of faith from nominees for Moderator of General Assembly

Overture No. 1, 2020 requests that the General Assembly Office be directed to ask all nominees for Moderator of the General Assembly to submit a statement of faith relating to the ecumenical creeds and confessions of the Reformation and our subordinate standards.

The General Assembly Office compiles biographical information on nominees for Moderator based on information submitted by the nominees and their nominators. A brief synopsis is circulated along with the ballots to members of presbytery. The Life and Mission Agency has posed a selection of questions to each of the nominees to introduce them more fully to the church. These questions relate to the faith of the nominees and their responses are posted on the denomination's website.

All nominees must be members of a court of the church and so have responded positively to ordination questions. That means they have publicly made a threefold commitment: first, to Jesus Christ, the only King and Head of the Church; second, to scripture as the canon of all doctrine by which Christ rules faith and life; and third, to the creeds, confessions and subordinate standards of the church. The Clerks of Assembly suggest that to require an additional formal statement of faith may be seen as questioning the sincerity of those who take such vows. This should be avoided.

In addition, during the installation of the Moderator, the following question must be responded to in the affirmative: Do you promise to be faithful to the constitution and laws of The Presbyterian Church in Canada?

In this way, each Moderator does, in fact, promise to be faithful to the subordinate standards of the church, since they are a part of our constitution.

These formal acts of affirming the standards of our church are currently an essential part of the process of electing a Moderator.

The Clerks of Assembly believe this is a sufficient declaration of the faith and belief of nominees for Moderator and answers the prayer of the overture.

Recommendation No. 7 (will be presented in final report to the General Assembly)

OVERTURE NO. 11, 2020 (see Referred Overtures – 2020, p. 6)

Re: Establishing new courts and structures

Overture No. 11, 2020, from the Session of St. Andrew's, Moncton, was referred to the Clerks of Assembly (without comment) by the Presbytery of New Brunswick. This overture proposes the construction of theological relief courts and allowing sessions to choose to affiliate their congregations with such courts.

Pathway C, one of four pathways proposed to the 2019 General Assembly by the Special Committee of Former Moderators describes a structure for our church based on "One Denomination – Three Streams" (A&P 2019, p. 471). One of those streams would provide a place for those who hold what the special committee called a 'traditional' understanding of marriage and ordination. This is similar to the relief court notion proposed in this overture.

Organizing the denomination on the basis of theological understanding marriage and ordination was rejected at the 2019 General Assembly three times. First, Pathway C was one of three pathways dismissed by the 2019 General Assembly in the context of answering remits related to sexuality. Then, two proposed amendments, that would have replaced the pathway selected by the majority of commissioners with a polity based on theological streams, were defeated. (A&P 2019, p. 22, 50).

While it is important to keep these decisions in mind, it remains possible for the church to be open to the concept as we continue to consider the implications of Remits B and C. Nevertheless, the Clerks of Assembly are not convinced it is appropriate to place an alternative pathway before the church at this time. They believe the current process regarding Remits B and C should proceed to its conclusion unencumbered by proposals such as these.

The Clerks of Assembly request permission to hold this overture in abeyance while listening for further direction from the Assembly in light of decisions made by the General Assembly.

Recommendation No. 8 (will be presented in final report to the General Assembly)

LEGISLATION

BOOK OF FORMS, 176.1

Book of Forms, 176 and following, defines who of the church's elders, diaconal ministers and ministers of Word and Sacraments are eligible to be placed on the constituent roll of a presbytery. The first subsection reads as follows.

176.1 Ordained ministers within the bounds, whose ministry is carried out on a minimum of a half-time basis and not as a complement to some other vocational pursuit and:

The Clerks of Assembly think that the words "and not as a complement to some other vocational pursuit" are no longer necessary given the realities of the church today. The inclusion of this phrase dates back to a time when the church questioned whether a candidate for ministry could be ordained to anything less than full-time ministry. This discussion eventually concluded that such an ordination was valid.

Part of the commentary surrounding this decision was that a call to part-time ministry should not be a supplement to some other vocational pursuit and that the other vocational pursuit should be something that is "fitting" for a minister and not distract from the ministry of Word and Sacraments. (A&P 1988, p. 391, 21). There seemed to be a concern that some ministers might consider their "other vocational pursuit" as their primary occupation, while serving a congregation, for example, on the side. The phrase, "... and not as a complement to some other vocational pursuit ..." appears to be an attempt to protect against such prioritization.

While both full-time and part-time ministry is deemed by the church to be a response to a call of God, it is reasonable to expect the call to require a serious commitment from the minister. Nevertheless, it is understandable that ministers called to part-time ministry may very well require other work in order to supplement a part-time stipend. To try to determine which vocation is the primary and which is the secondary, seems an unnecessary distinction when determining a person's eligibility to be placed on a presbytery's constituent roll.

With these considerations in mind, the Clerks make the following recommendation.

Recommendation No. 9 (will be presented in final report to the General Assembly)

BOOK OF FORMS, 125.4 AND 213.4

It was recently brought to the attention of the Clerks of Assembly, that Book of Forms sections 125.4 and 213.4, make reference to “ordained missionary” appointments. This term refers to a system for appointing and ordaining seminary students to congregations upon graduation. The appointments were made by what was then called the Board of World Mission. The system was discontinued by the General Assembly in 1986. (A&P 1986, p. 462–63, p. 24, 25)

Section 125.4 is found in the Session portion of the Book of Forms and deals with the revision of the congregation’s membership roll. It refers both to an annual revision and the revision that is to take place prior to calling a minister or “requesting the appointment of an ordained missionary”. Since ordained missionaries are no longer appointed, it is reasonable to delete this phrase contained within the parenthesis.

That said, the Life and Mission Agency, on occasion, makes appointments of previously ordained ministers as well as candidates for ministry who are eligible for ordination. Therefore, the words “or when requesting an appointment by the Life and Mission Agency” could be added to this legislation. The legislation would be amended as shown in Recommendation No. 10 below.

Section 213.4 is found in the Presbytery portion of the Book of Forms and deals with who may be appointed to serve a pastoral charge as interim moderator. The section includes the statements:

1. “An appointment as ordained missionary does not automatically constitute him/her interim moderator. Neither does it debar him/her.”
2. “... and he/she may be either the missionary in charge or some other minister as the presbytery may deem wise.”

Since ordained missionaries are no longer appointed, it is reasonable to delete the portion of this legislation referring to ordained missionaries and shown in Recommendation No. 11 below.

The Clerks do not believe these amendments represent a change to the law of the church but rather cause the legislation to harmonize with the church’s current practice. Therefore, they are of the opinion the General Assembly could approve these amendments immediately.

Recommendation No. 10 (will be presented in final report to the General Assembly)

Recommendation No. 11 (will be presented in final report to the General Assembly)

BOOK OF FORMS, 280

Section 280 is found in the portion of the Book of Forms that addresses the appointment of commissioners to the General Assembly. According to the parenthetical Assembly reference at the end of the section, the section dates back to the Acts and Proceedings of the 1890 General Assembly, which was the sixteenth Assembly following the formation of The Presbyterian Church in Canada.

280. In the case of a composite presbytery in the overseas mission field, which comprises members of this and other Presbyterian Churches, the General Assembly has declared that any representative to the Assembly “must be connected with this church, and the presbytery shall not be entitled to representation in the General Assembly beyond what is due to the number of its members who are professing members in this church.” (A&P 1890)

The minutes of the 1890 Acts and Proceedings provide some background for this piece of legislation. They include a discussion regarding a minister who was commissioned to the Assembly by the Presbytery of Trinidad. On minute page 9, a question is raised about whether the name of that commissioner, a Mr. K.J. Grant, had been entered on the Roll of the Assembly. The Clerk of the Assembly stated that “no communication in reference to the representation of said presbytery” had been received. On page 22, a report, adopted by the Assembly, noted “... the Presbytery of Trinidad comprises members connected with the Free Church of Scotland and the United Presbytery Church of Scotland, as well as with this Church.” On page 23, the General Assembly “... instructs the Foreign Mission Committee to consider the whole question of the relation of composite Presbyteries in the Mission Field, such as that of Trinidad, to the Home Church, with the view of determining questions as to representation, discipline and other important matters necessarily involved and to report to the General Assembly.”

While this section of the Book of Forms reminds us of the early days of the denomination, “composite presbyteries” no longer exist and commissioners are only appointed by presbyteries solely within The Presbyterian Church in Canada. For these reasons, section 280 is no longer a relevant part of our polity and the Clerks recommend that it be deleted.

Deleting this section would not change the law of the church but would provide a necessary revision to the Book of Forms. Therefore, the Clerks of Assembly make the following recommendation.

Recommendation No. 12 (will be presented in final report to the General Assembly)

OTHER MATTERS

OVERTURE NO. 9, 2017 (A&P 2017, p. 586)

Re: Review length of term service for elders

Overture No. 9, 2017 asked the General Assembly to review the length of term service for elders. After a period of study by the church, the 2019 General Assembly sent new legislation (Remit A, 2019) to presbyteries for their judgement under the Barrier Act.

In their 2019 report, the Clerks of Assembly did not place before the General Assembly the usual recommendation that would signify the conclusion of the Assembly’s work on the overture. Therefore, the Clerks make the following recommendation.

Recommendation No. 13 (will be presented in final report to the General Assembly)

CLERKS’ CONSULTATION 2020

Every two years, the clerks of synod and presbytery are invited to gather for a few days of worship, fellowship, discussion, education, laughter and meals. It provides an opportunity for clerks to make valuable connections while discussing church governance. The event is hosted by the General Assembly Office with the support and participation of other national office staff. This year, however, the consultation that was to take place from Friday, April 17 until Monday, April 20, was cancelled. A survey of the clerks revealed that most felt it was unwise to proceed with this popular gathering while public health authorities urged citizens to practice “social distancing” as much as possible to manage the spread of COVID-19.

CONSULTATION WITH OTHER CHURCH BODIES

As directed by the General Assembly, the Clerks of Assembly consulted with the Assembly Council regarding the Overture No. 9, 2018 re granting a vote for young adult representatives.

They also worked with the Life and Mission Agency regarding the Policy on Addressing Harassment in the Church Workplace Harassment Policy.

COMMISSION RE MATTERS LEFT UNCARED FOR OR OMITTED

The commission, made up of the Clerks of Assembly and the Moderator of the 2019 General Assembly (A&P 2019, p. 54), had no need to meet since that Assembly and did not refer any items to it.

Stephen Kendall and Don Muir
Clerks of Assembly