

Assembly Commission (Resolution 38)

Report to Mission Council

1. At the outset we think it worthwhile to remind everyone of the remit given to us by the General Assembly in 2012. Resolution 38 runs as follows:

In view of a variety of general issues which have been brought to a head by the resignation of the Moderator Elect, Assembly appoints an independent commission (the prospective members being the Revd Dr David Peel, the Revd Dr David Dadswell (sic)¹ and a female member) to consult with those involved to identify issues that arise from this unhappy experience.

Assembly requests:

- a) They liaise with the Pastoral Reference Committee [sic]² to initiate a process of reconciliation, both personal and collective, and
- b) They refer to the Law and Polity Advisory Group any procedural issues that emerge pertaining to the relationship between the Officers of Assembly, Mission Council/General Assembly and the law.

Assembly requests that the commission make a progress report to the October 2012 Mission Council.

Subsequent to the Assembly Mrs Claudette Binns was appointed as the third member of The Commission.

2. Following our "Progress Report" to the October 2012 meeting of Mission Council we have conducted the six interviews that had been planned. We were also grateful to receive submissions from members of Mission Council containing personal impressions of the closed session of the March 2012 meeting of Mission Council.³ The Commission is thankful for the amount of time many people have taken to help us in our work. It has generated a mountain of paper, but through it we have gleaned what we believe is a trustworthy narrative of the events which led up to the closed session of Mission Council in March 2012 and the closed session itself.
3. We wish to make two points that provide a backcloth to our submission:
 - a) We underscore the truth in the old legal maxim that "hard cases make bad law".

¹ David Dadswell wishes it to be known that he is not in possession of a doctorate.

² The full title of the Committee is Pastoral Reference *and Welfare*.

³ The Commission received nine submissions and one composite submission from twelve Mission Council members. There was a slight overlap of authorship between the former and the latter.

Ours is a culture in which everything is reviewed mercilessly and often before having had an operational life long enough to provide realistic assessment. It is easy therefore for organisations to be driven by knee-jerk reactions. Exceptional events – one of which was the closed session of Mission Council in March 2012 – are “exceptional”, precisely because they cannot be contained within normal procedures. A danger is that in trying to revise the “normal” in order to embrace the “exceptional” organisations end up with worse procedures than the original ones under revision.

- b) However perfect our procedures they will always be operated by fallible human beings. Their success depends on education (people being enabled to understand them with a view to operating them) and skill (people having the ability to operate them). Voluntary organisations have a tendency to attribute mistakes to failing procedures rather than fallible people. They find it all rather difficult, quite understandably, to deal with the inadequacies of their volunteers. Churches are similar. We say this because *some* of the issues we have identified “from this unhappy experience” (as Resolution 38 puts it) have little to do with procedures, but originate in the poor performance of individuals and groups of individuals.
4. a) At the second formal meeting of The Commission⁴, we started to identify several “procedural issues” which, once clarified, we concluded would need referring to the Law and Polity Advisory Group. We also were able to identify several broken relationships which had occurred directly as a result of the course of events leading up to and including the closed session of Mission Council of 2012. Shortly after our January meeting, therefore, we were able to liaise with the Revd Sheila Maxey, the Convener of the Pastoral Reference and Welfare Committee, and thereby move towards fulfilling part of our brief, viz “to initiate a process of reconciliation” for the individuals concerned. We have been heartened to hear of the progress which has been made in this area, but we also recognize the long-term nature of such work.
- b) It is likely that until a “common narrative” of events is constructed (i.e. a story-line agreed by all parties) what Resolution 38 describes as “collective” reconciliation will prove impossible. We note that what The Commission believes to be “a trustworthy narrative of the events” (see para 2 above) differs at key points from the narratives we have heard put forward by some of the individuals and groups we have interviewed. Hence, we suggest to Mission Council that the Pastoral Reference and Welfare Committee be invited to bring together the principal persons involved for the purpose of constructing a “common narrative”, with only the implications of events being added once a basic chronological order has been agreed. Once completed, it can be checked against what The Commission believes is a “trustworthy narrative”. Another way to describe such a process is

⁴ Held at the Woodbrooke Quaker Study Centre, Birmingham (11th – 12th January 2013).

to talk in terms of an attempt at reconciling memories. The Commission is prepared to help the Pastoral Reference and Welfare Committee carry out this task.

5. At our second meeting, we saw a need to interview further individuals. Two separate conversations duly took place. They were reflected upon at a third meeting of The Commission.⁵ Following that meeting we were able to supply the Revd Professor David Thompson (Convener of the Law and Polity Advisory Group) with a paper outlining “procedural issues” which we have invited the Group to address. They are located within the following areas:
 - i. Church management: the adequacy of the management structure at Church House; the support, development and appraisal of senior management at Church House; a code of conduct to guide working relationships between “employees” and “volunteers”.
 - ii. The ethics of “compromise agreements” and “out of court” settlements.
 - iii. The role of legal advice and the position of the legal advisor in the Church’s conciliar governance.
 - iv. Guidelines for the delegation of duties which normally belong to senior management.
 - v. Guideline procedures for internal disciplinary hearings.
 - vi. Procedural rules for the conduct of meetings of Mission Council.
 - vii. The job description of the Moderator of General Assembly.
 - viii. Procedures for “re-opening” decision-making processes when subsequent evidence provides grounds for thinking original decisions might be flawed.
 - ix. Procedures for rescinding calls issued by the General Assembly to individuals to serve as Moderator of General Assembly.

It is quite possible that some of the above issues (particularly those surrounding “Church Management”) have already been (or are in the process of being) addressed. We are aware of some of the excellent work already carried out by the Investigation Group in response to the events we were asked to review.⁶ Management issues have repeatedly arisen in our deliberations and we hope that the Law and Polity Group will relay our concerns to those who have oversight of such matters.

6. Our difficulty in locating “management” issues within our remit has been part of a wider problem we have encountered. Assembly asked us to address issues arising out of

⁵ Held at the Woodbrooke Quaker Study Centre, Birmingham (22nd – 23rd February 2013). For the record, each of the eight formal interviews we held were recorded, sometimes to enable a third member of The Commission to hear what had been said, and also to provide a record of the important verbal evidence which we had to place alongside the written submissions in our deliberations.

⁶ As reported by the Investigation Group to Mission Council, October 2012.

what it referred to as “this unhappy experience”, but, interpreted narrowly, its directive to The Commission might suggest that all the issues we would discover could be subsumed easily under the terms of reference of the Pastoral Reference and Welfare Committee and the Law and Polity Advisory Group. Following a meeting with the Conveners of the aforementioned Committee and Group, convened by the Clerk to General Assembly, The Commission is reporting on the assumption that the preamble to Resolution 38 was not intended to limit any issues raised by us to those specified in a) and b) of its next paragraph.⁷ We therefore conclude our report with the following points:

- a) As the reader will have already become aware The Commission believes that management issues are central to the vexed matter we were asked to investigate. Members of Mission Council need to consider very carefully whether or not the forthcoming changes in Church House management will be adequate. In particular, the United Reformed Church would be wise to seek re-assurance from an independent consultant that the management issues raised in a paper submitted by the members of the Disciplinary Hearing chaired by the Rev’d Nick Adlam have been thoroughly addressed in the new structure.
- b) The management of the events we have investigated was complicated, confused and compromised in ways which exposed Moderators of General Assembly, rightly or wrongly, to the charge of lack of impartiality. While the danger in a small church of individuals wearing too many hats is extremely difficult to avoid, there are basic principles of good practice which must be followed. For example, those expected to “rule” by providing judgment in disputes and conflicts ought not be expected to take up or place themselves in, positions where they find themselves “prosecuting” or “defending” individuals caught up in such disputes and conflicts.

[We have attempted to address a) and b) in our submission to the Law and Polity Advisory Group through areas (i) and (vii).]

- c) It has been claimed that the risk to the peace and unity of the United Reformed Church was increased rather than decreased by the occasion and decision of the closed session of the March 2012 Meeting of Mission Council. There are no means of knowing whether or not that is true. But The Commission shares the view of many in the United Reformed Church that large groups are not the best means for handling matters like the one which came before the closed session.

⁷ The meeting took place at the Lumen Centre on the 15th April, 2013.

There are lessons to be learned from the way the United Reformed Church conducts its Section 0 procedures.

[We hope that the Law and Polity Advisory Group will be able to address this matter under v, vi and ix of the areas we have invited them to address.]

- d) Among the events we found ourselves investigating was a Disciplinary Hearing the outcome of which appears to have been at variance both with the tone of its findings and the verdict to which it came. The Disciplinary Hearing in question found an employee of the United Reformed Church not guilty of several accusations made against him. One accusation against the employee was found to be proven. But, long after the Disciplinary Hearing had been completed, certain accusations against the person disciplined were still being made by senior management when in fact that person had been found not guilty of those accusations. And, additionally, the person disciplined was neither enabled nor supported in ways which might have helped the person as well as the management come to terms with the actual decision of the Disciplinary Hearing. These are very serious matters which now lie at the heart of the difficulties the Pastoral Reference and Welfare Committee face in their efforts to facilitate reconciliation between the key individuals concerned.

[We hope that this matter can be addressed through the suggested strategy of working towards “a common narrative” (see 4b above), although there may be lessons to be learned that can be picked up by the Law and Polity Advisory Group under areas ii and v of our submission to them.]

- e) Issues surrounding confidentiality have arisen throughout our investigations. The matters under investigation which fell under the constraints of confidentiality are as follows:
 - i) *Information concerning compromise agreements made between the United Reformed Church and two of its former employees.* The Commission made no attempt to gain any information in this area and we have no evidence to suggest that the parties to these agreements have broken the required confidentiality.

- ii) *Information concerning a Disciplinary Hearing held by the United Reformed Church in connection with the alleged misdemeanours of one of its employees.* As with the compromise agreements mentioned above, it is standard practice that the content and outcome of disciplinary hearings remain confidential. We are not sure whether or not declarations to enforce such confidentiality were signed by both parties. What we do know is that, in the Disciplinary Hearing referred to at several points in this report, confidentiality was broken by the person who had been disciplined on the grounds that full openness favoured that person in subsequent dealings with the United Reformed Church. It is through the disciplined person and not the United Reformed Church that The Commission was given access to all the papers concerning the Disciplinary Hearing in question. We note that there has been no attempt, as far as we are aware, by the United Reformed Church to discipline their employee for breaches of confidentiality.
- iii) *Information concerning the closed session of the March 2012 meeting of Mission Council beyond what is contained in the minutes of the meeting.* All the information about the meeting to which we have had access came to us from the invited confidential submissions sent to us and the interviews we have held. That said, March 2012's closed session may well go down in history as one of the most talked about meetings of Mission Council!

Certain points are clear to us: (a) In each of the above three areas an imposition of confidentiality was appropriate. (b) Regarding (ii) we note that, after the person disciplined broke confidentiality, the management's grounds for enforcing confidentiality changed: from first being in the interests of the disciplined individual to then seeking to reduce the possible risk of a charge of "constructive" dismissal being made by the employee. (c) In the extended family called "The United Reformed Church" no one should over-estimate the likelihood that any of its meetings can remain confidential. (d) The greater the imposition of confidentiality the more likely it is that conspiracy theories will be spun on the familiar grounds that "they" are maintaining "secrecy" to hide dubious activities. (e) Wisdom is needed to determine when an imposition of confidentiality may risk damaging the church more than would a strategy of complete openness. (f) Where confidentiality is required or expected all concerned should "sign up" to it, and thereafter it should be enforced and rigorously policed.

[The point and place of confidentiality in the life of the United Reformed Church might be taken up in items iii and v of our submission to the Law and Polity Advisory Group.]

- f) It has been claimed that pressure was brought to bear on at least one, and possibly more, individuals not to be witnesses at the afore-mentioned Disciplinary Hearing. Sensing that this matter went beyond our remit we have not fully investigated the matter, save to be certain that it is not an idle claim. We feel sure that Mission Council will want this matter investigated and, given that The Commission already has a large amount of information on the matter (most of which must remain confidential), it seems sensible for us to offer to take on this task.

[The Commission members discussed this matter with the Conveners of the Pastoral Reference and Welfare Committee and Law and Polity Advisory Group at our recent meeting with the Clerk of Assembly. It was strongly felt by the non-members of The Commission that the remit of the present Commission should be extended to cover the need to investigate the accusation in question. A resolution to that effect accompanies this report.]

7. Our task has not been easy and our work may not yet be completed, but in commending this report to Mission Council we hope that it can be used to put an end to a spiral of brokenness whose genesis and momentum has been very painful to review.

Claudette Binns

David Dadswell

David Peel

23rd April 2013.

RESOLUTION

Mission Council authorises the Commission appointed under Resolution 38 of General Assembly 2012 to investigate the truth of suggestions that pressure might have been brought to bear on persons not to be witnesses at the disciplinary hearing concerned; if it is then satisfied that there are grounds for such suggestions, to discuss them with the persons concerned, and the Chair of the Disciplinary Panel; to decide on any appropriate action; and to report the outcome to Mission Council.