

Paper Z1

National Synods Task Group
Report to Mission Council

Church 2015
United
Church **Reformed**
Church 2015

Paper Z1



National Synod Task Group (NSTG) Report to Mission Council

Basic Information

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| Contact name and email address | Michael N. Jagessar michael.jagessar@urc.org.uk |
| Action required | Decision. |
| Draft resolution(s) | <ol style="list-style-type: none"> 1. Mission Council accepts the conclusions reached by the National Synods Task Group (NSTG) in its report and commends them to all synods. 2. Mission Council seeks the leave of the General Assembly to withdraw the draft Resolution 19A moved by it at the Assembly session of July 2014. 3. Mission Council resolves to make the following amendment to the Structure of the URC: <p>Reword paragraph 2(4)A(xxii) to read:</p> <ol style="list-style-type: none"> a) to seek to expand the range and deepen the nature of the Christian common life and witness in each local community, and b) in Scotland and Wales to speak and act on behalf of the whole United Reformed Church in public affairs or the conduct of ecumenical relationships specific to the nation concerned, in the General Assembly's name but without prejudice to the Assembly's right to speak and act in the same field on behalf of the United Reformed Church either in England or throughout Great Britain. |

Summary of Content

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| Subject and aim(s) | Report of the work of the National Synod Task Group. |
| Main points | <p>This report reflects on five key questions:</p> <ul style="list-style-type: none"> • How far the Structure of the URC currently reflects the 1998 Proposals for Union; • the implications of the 1998 Proposals for the General Assembly representation of Wales; • What it means for General Assembly to delegate the right to speak in the name of the whole URC in matters of national significance; • Whether it is serious that the URC may sometimes speak with more than one voice, and how the risk of an inappropriately divided witness may be reduced and; • What authority is necessary for a council of the church to act in the name of the URC when given that competence by the law of the territory it serves. |
| Previous relevant documents | <ul style="list-style-type: none"> • Proposals for Union 1998 (especially Part 5:1) • National Synods Consultation Notes (April 14-15, 2011) • GA Resolution 19 (a). |

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| Consultation has taken place with... | <ul style="list-style-type: none"> • Members of the Joint Negotiating Committee which drafted the 1998 Proposals for Union • Report has been circulated to the National Synods of Scotland and Wales • Clerk of General Assembly • Law and Polity Advisory Group. |
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Summary of Impact

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| Financial | <p>Given the financial vulnerability of both National Synods, the possibility of significant financial impact cannot be ruled out [see para 37]. But the NSTG's working premise is that the United Reformed Church exists under and within the graceful generosity of a God of abundance; and that congregations and synods across the whole United Reformed Church remain committed to practise this generosity in our life together.</p> |
| External (e.g. ecumenical) | <p>Significant implications and impact: on both renewing the ecumenical vocation of the URC and contributing to the (re)discovery of new and exciting ecumenical and wider partnerships. For instance:</p> <p style="padding-left: 40px;">Ecumenical – (i) Clarity regarding lines of communication between the URC and ecumenical bodies in Scotland and Wales; (ii) confirmation and clarity regarding previous Assembly decisions re union negotiations in Scotland and Wales; (iii) shorter turnaround times on ecumenical decision-making and participation in Scotland and Wales.</p> <p style="padding-left: 40px;">External – (i) Confirmation of current Scottish government and Welsh government practice regarding communication with the URC; (ii) clarity regarding responsibility for responding to government consultations and requests in Scotland and Wales; (iii) improved capacity of URC to respond to Scottish and Welsh government requests in good time; (iv) improved capacity and clarity in relating to third sector organisations based in Scotland and Wales; (v) improved capacity and clarity in relating to local government in Scotland and Wales; (vi) improved ability and clarity to relate to Welsh and Scottish government and local government on building matters (e.g. building regulations, listed buildings).</p> |

Report of the National Synods Task Group

Executive summary

1. Although the United Reformed Church was from 1972 'one church in two nations' (England and Wales), and then became 'one church in three nations' as a result of the union with the Re-formed Association of Churches of Christ in 1981, awareness of this was sharpened by the union with the Congregational Union of Scotland in 2000. In the fifteen years since then we have grown to appreciate both the rich diversity this brings to our Church, as well as the new challenges brought by developing experience of the political devolution within the United Kingdom enacted in 1999 following referendums in 1997.
2. The Proposals for Union with the Congregational Union of Scotland – in their entirety – were approved by the Annual Assembly of the Congregational Union of Scotland and the URC General Assembly in 1998, although only limited changes to the Structure of the URC were proposed at that point (and approved in 2000). The Proposals provided (in Part 5.1) for BOTH National Synods to speak and act 'in the name of the URC' in their nations' ecclesiastical and public affairs. The term 'ecclesiastical' as used in that context meant ecumenical.
3. Part 5.1 of the Proposals talks of 'speaking for the URC', whereas part 4C(i) speaks of 'acting with the delegated authority of the General Assembly'. The current Structure para 2(4)A(xxii) speaks of responsibility for national ecumenical relationships undertaken 'on behalf of the whole URC' but 'subject to the final authority of the General Assembly'. Each of these expressions potentially means something a little different, which opens the door to confusion or dispute. The main difference we have identified is that councils which speak or act 'subject to the final authority of the Assembly' (the normal situation for local councils and synods) are liable to have their decisions appealed to the Assembly; whereas councils, commissions etc. which act with delegated authority are not. (Such as Mission Council acting for Assembly between sessions, and Assembly Commissions in disciplinary cases.)
4. We felt that the National Synods' responsibility in specifically national questions should not be simply overruled by an English majority in General Assembly. A right of appeal to Assembly, therefore, is not appropriate and the 'deemed delegation' approach expresses this best. The language in our draft resolution is taken from the language already used in Structure para 2(6) in relation to Mission Council.
5. However, we also felt that it could never have been intended that a national synod should, by speaking on some moral or religious issue in the national context, be able to prevent the General Assembly expressing the view of the wider church on that same issue. Nor should the other National Synod be so prevented; nor should Assembly – which at present is the only forum in which the collective view of URC members in England can be expressed – be prevented from expressing an English perspective simply because a Celtic national synod with delegated authority had spoken first. The words in our amendment to the Structure beginning 'but without prejudice' are designed to express this.
6. Spelling this out, of course, raises the possibility that the opinion of church members in one of the three nations, expressed by a synod in the Celtic nations or by the Assembly in right of England, will diverge from the opinion of church members in another nation,

and the URC will be seen by the outside world to be speaking with two or more voices. We do not believe this is always undesirable. It is certainly honest. But there should always be careful thought before the Church takes this course. The main means of 'taking thought' is consultation, between the synod and Assembly levels of the church, usually through their responsible committees. No new provision is required for this in the Structure – para 4 already calls for consultation – but the report spells out some implications, e.g. in relation to funding of the National Synods, and reminding Assembly committees to be alert to the possibility of a distinctive national perspective.

7. When it seems desirable for there to be a single public URC view on a question, the opening words of Structure 2(6) suggest this should be the Assembly view. We have not spelt out in so many words that the synods would then abide by the Assembly or Mission Council decision; but past experience suggests that national synods take seriously what Proposals 5.1 called 'their continued participation in and commitment to the conciliar structures of the URC'.
8. We envisage that, under the Structure as amended and subject to the provisions for consultation, each national synod would:
 - a) Co-operate with churches indigenous to the nation concerned and (so far as those churches' polity allowed) with the Welsh or Scottish organs of Britain-wide or international churches;
 - b) Conduct negotiations for church union within the nation concerned, subject to Structure para 3(2) regulating final approval of any union;
 - c) Speak and act on behalf of the URC on matters relating to Scottish and Welsh public affairs;
 - d) Respond to consultations initiated by the devolved legislatures;
 - e) Play a full and active part in Scottish and Welsh ecumenical and public affairs in relation to organisations, institutions and activities indigenous to Scotland and Wales; and
 - f) Represent the URC to the devolved legislatures on matters of social, political and economic significance to the nation concerned.

Report of the National Synods Task Group to Mission Council

1. The Task Group was created by Mission Council in November 2013 to consider what it means today for the National Synods of Scotland and Wales to 'speak and act in the name of the United Reformed Church.' The background to this task is the growing awareness of the nationhood and distinctiveness of the three larger territories within which the URC exists – England, Scotland and Wales – now given particularly clear expression in two of those nations by political and legislative devolution.¹ The URC is sometimes spoken of as 'one church in three nations and six jurisdictions' (the additional jurisdictions being the Bailiwicks of Jersey and Guernsey and the Isle of Man), recognising how the ways in which the Gospel message is shared and lived out may sometimes need to adapt to the legal and cultural environment.
2. 'To speak and act in the name of the United Reformed Church' is a quotation from the Proposals for Union agreed by the Annual Assembly of the Congregational Union of Scotland and the General Assembly of the URC in 1998. These Proposals, on the basis of which the URC as we now know it came into being, outlined in some detail what it would mean for there to be a National Synod in Scotland – but also in Wales – and contained the further sentence 'The authority of the General Assembly of the URC in the management of the affairs of the whole church is affirmed, but it is recognised that there will be situations in which the General Assembly must acknowledge national distinctions.' Since the unification process was completed in 2000, devolution has become a reality: many religious and belief bodies have learned to relate directly to legislative and executive authorities in Cardiff and Edinburgh, and to appreciate that, on some topics, Westminster politicians make decisions not for the United Kingdom but for England. The outworking of the 1998 agreement in good faith, whilst at the same time preserving a unified witness in fundamentals, is the goal behind this report and the associated proposals.
3. We present our report accordingly, which considers five questions:
 - How far the Structure of the URC currently reflects the 1998 Proposals for Union;
 - The implications of the 1998 Proposals for the General Assembly representation of Wales;
 - What it means for General Assembly to delegate the right to speak in the name of the whole URC in matters of national significance;
 - Whether it is serious that the URC may sometimes speak with more than one voice, and how the risk of an inappropriately divided witness may be reduced; and
 - What authority is necessary for a council of the church to act in the name of the URC when given that competence by the law of the territory it serves.

A. Reflection of the 1998 Proposals for Union in the Structure of the URC

4. The URC in its present form was brought into being by the Unifying Declaration made by the Unifying Assembly on 1 April 2000. This Declaration, and its effects, were provided for in Proposals for Union approved in 1998 ('the Proposals').

¹ The Task Group was created arising out of points made on behalf of the Law and Polity Advisory Group at Mission Council, in connection with the different ways in which marriage formation takes place and how proposed reforms to marriage law would affect the church, in Scotland on the one hand and in England and Wales on the other.

5. Under Part 3 para 2 of the Proposals, the Declaration was (a) to bring into effect certain changes to the Structure of the URC and (b) to effect the consequences set out in Part 4 of the Proposals.
6. These goals, however, could never have been fully distinct. For the Structure to continue giving a true indication of the constitution of the unified URC, it was important that the changes made in it in 2000 – (a) above – should themselves effect the consequences in Part 4 – (b) above. We have therefore compared the consequences in Part 4 of the Proposals with the changes actually made in the Structure in 2000.
7. The relevant changes in the Structure were four:
 - Paras 1(2)(a) and 1(3)(c) of the Structure of the URC were amended to refer to Wales and Scotland as ‘nations’ and their synods as ‘national synods’. Corresponding changes of terminology were made elsewhere.
 - Para 2(4)(xii), which then declared it a synod function ‘to foster ecumenical relationships and action’ was expanded by adding the words ‘and in Scotland and Wales to undertake responsibility for national ecumenical relationships on behalf of the whole URC, subject to the final authority of the General Assembly’.²
 - The note to para 2(5)(f), which then indicated that Assembly had added to its membership, inter alia, three representatives from each synod, was altered to refer to ‘nine representatives from the Synod of Scotland and three from each other synod’.³
 - Para 3(2), which set out the special procedure required to approve any termination of the separate existence of the URC or of a province within it by union with other churches, was expanded by adding the words ‘In the case of a proposed union affecting only Scotland or Wales no action will be taken by the General Assembly until a decision in favour of union has been taken by the relevant synod’.
8. The constitutional consequences envisaged in Part 4 of the Proposals included the following:
 - ‘The Synod ... will be referred to as a national synod. (para C(i))
 - It will address political, educational and cultural matters of particular national significance and on such occasions will act with the delegated authority of the General Assembly.’ (para C(i))
 - ‘The special representation of the Synod of Scotland is covered by the addition of six persons to the usual three. These nine persons will be appointed by the Synod. This increased representation is to enable the national life of the URC in Scotland to be reflected in the General Assembly.’ (para E)
 - ‘Scottish ecumenical bodies – It will be for the Synod of Scotland to negotiate the number of representatives appropriate to each body. The Synod will inform the Assembly Nominations Committee of its nominations of those representing the URC as a whole on bodies in Scotland.’ (para F(iii))

² This paragraph is now 2(4)A(xxii). It was altered again (ratifying resolution 2007) to its current wording: ‘To seek to expand the range and deepen the nature of the Christian common life and witness in each local community, and in Scotland and Wales to undertake responsibility for national ecumenical relationships on behalf of the whole United Reformed Church, subject to the final authority of the General Assembly.’

³ This paragraph is now 2(6)(h). In 2000 the main representative membership of Assembly was still chosen by district councils; these were supplemented by the three synod appointees from each province. When synods took over the appointing role of district councils, the three extra ‘synod’ members from each province disappeared but the ‘Scottish differential’ remained; hence the note now refers to six representatives of the Synod of Scotland.

9. The first of these goals – terminology – was clearly achieved by the changes made in 2000 to Structure paragraph 1 and elsewhere.
10. The second goal – the Synod’s competence to act ‘with the delegated authority of the General Assembly’ in ‘political, educational and cultural matters of particular national significance’ – was not reflected in any change to the Structure, though both the General Assembly and any synod continued to be entitled to ‘take such actions as it deems conducive to ... the well-being of the community in which the church is placed’.⁴ From 2007 it became a function of all synods ‘to seek to expand the range and deepen the nature of the Christian common life and witness in each local community’.⁵ But no special role for National Synods was spelt out. This issue is given further consideration in a later section of our report.
11. The third goal – enhanced General Assembly representation – was achieved by the amended note to Structure para 2(5)(f). The Task Group has considered the declared motivation ‘to enable the national life of the URC in Scotland to be reflected in the General Assembly’, and is persuaded that this was primarily because the diversity of church life and its context in Scotland could not adequately be represented by a delegation strictly proportionate to the number of Scottish local churches or members. That rationale remains unchanged today.⁶
12. The fourth goal – a particular way of sharing responsibilities in the ecumenical field – did not necessarily require a constitutional change. In 1998 it was a General Assembly function ‘to conduct and foster the ecumenical relationships of the URC’ and a synod function ‘to foster ecumenical relationships and action’. Although the URC’s established practice, whereby Assembly assisted by its Nominations Committee appointed all the denomination’s representatives, was maintained, the Proposals gave the National Synod a specific role when it came to representation on purely Scottish bodies. More generally, the ecumenical role of both National Synods was enshrined in the amendments to Structure paragraphs 2(4) (xxii) and 3(2).
13. There is, though, a contrast between the approach of Part 4, para C(i) of the Proposals, which speaks of a National Synod acting in ‘ecclesiastical’ affairs ‘with the delegated authority of the Assembly’, and that of Structure para 2(4)A(xxii) which speaks of a National Synod acting in ecumenical matters ‘subject to the final authority of the Assembly’. The latter wording does not exclude the possibility of the Assembly entertaining an appeal against a synod decision, whereas the former wording (we believe) does. So, currently, if the Synod of Wales were to approve a building sharing agreement with the Roman Catholic Church, a local church might seek to appeal to Assembly against

⁴ Structure 2(4)(ii) and 2(6)(ii). The wording for synods has since been simplified: Structure 2(4)A(ii) now begins ‘To take action which supports ...’.

⁵ Structure 2(4)A(xxii), amended wording

⁶ During discussion of draft resolution 19A at the Assembly of 2014, it was suggested that the motivation was more to do with the decision not to assign former presidents of the CUS the *ex officio* membership of Assembly then enjoyed by other predecessor denominations’ former chairmen and moderators. The Task Group is persuaded that that was not the case. The Task Group also noted that an argument, similar to that accepted in 1998, can be made about the URC in the Isle of Man and the Bailiwicks of Jersey and Guernsey. Mere numerical representation can never make the unique characteristics of these territories felt within the General Assembly, and the Group believes there is a clear moral duty on the synods of the Mersey and Wessex provinces to ensure, by whatever means seems most appropriate, that insular voices are heard at Assembly level. The notion of ‘voices being heard’ is not a simple matter of voting strength: the Structure’s provisions for youth membership of Assembly and synods already recognise this, and it would be rare for either council to be so evenly divided that youth or Scottish votes could swing the majority.

that synod decision, which Assembly would have to review. We think it more consistent with Part 5.1 of the Proposals, considered below, that such a decision should not be subject to appeal.

B. Implications of the 1998 Proposals for the General Assembly representation of Wales

14. The Task Group noted that the 1998 Proposals, although their observations in relation to nationhood were not confined to Scotland, contained no structural provision 'to enable the national life of the URC in Wales to be reflected in the General Assembly'. There must however be a question whether the diversity of church life and its context in Wales, any more than in Scotland, can be represented by a delegation strictly proportionate to the number of Welsh local churches or members. We did not reach agreement on any proposal in this context, but draw it nevertheless to the wider church's attention.

C. 'Political, educational and cultural matters of particular national significance'

Potential inconsistencies in the 1998 Proposals

15. The 1998 Proposals (part 4, section C) states that 'It (the Synod of Scotland) will address political, education and cultural matters of particular national significance and on such occasions will act with the delegated authority of the General Assembly'. However, part 5.1 on 'National Synods in the United Reformed Church' (i.e. including Wales) reads as follows:

'In matters relating to Scottish and Welsh ecclesiastical and public affairs the national synods will speak and act in the name of the United Reformed Church. They will play a full and active part in Scottish and Welsh ecclesiastical and public affairs in relation to organisations, institutions and activities which are indigenous to Scotland and Wales. It is through their continued participation in and commitment to the conciliar structures of the United Reformed Church that the national synods will honour the trust which has been placed in them'. The phrase 'delegated authority' is not used; and it is unclear whether 'delegated authority' was intended to apply to Wales. It should be remembered that the new devolved Assemblies had scarcely begun to operate. Crucially, no amendments were made to The Structure to recognise what was agreed by the acceptance of the Proposals by the United Reformed Church. Fifteen years later it is time to clarify this matter.

The implications of delegated authority

16. A first issue is what it means for a synod to act 'with the delegated authority of the General Assembly'. Normally synods do not act with delegated authority. Their authority is original, deriving directly from the Structure, which ascribes to every council of the church, at whatever level, 'such authority, under the Word of God and the promised guidance of the Holy Spirit, as shall enable it to exercise its functions and thereby to minister in that sphere of the life of the United Reformed Church with which it is concerned'.⁷ However, each of the church's wider councils have authority to consider and decide upon appeals duly submitted from more local councils' decisions; so certain of a synod's decisions are normally appealable to the General Assembly.⁸

⁷ Structure 1(3)

⁸ Structure 2(6)(xv) and 5

17. Delegated authority is different. When a council of the church delegates its authority to another body, that body's usual functions are expanded to take in the relevant function of the delegating council, *and it speaks with the delegating council's voice*. The best-known example is Mission Council, which has power to act in the General Assembly's name between its meetings 'and to discharge such other functions as the General Assembly may from time to time direct'.⁹ If tasked with a specific function, Mission Council acts as itself, a subordinate organ of the Assembly similar to a standing Committee. It acts *ultra vires* if it disregards any directions laid down by Assembly resolution, and the next Assembly can repudiate or reverse any action with which it disagrees (though this is not an appeal, since Mission Council is not covered by paragraph 5 of the Structure which deals with appeals between councils of the church). But if Mission Council expressly acts in the Assembly's name under the general delegation in the Structure, then Assembly itself has spoken. The next Assembly cannot immediately repudiate its actions so long as the Standing Order remains in force which restricts motions to amend or reverse its own recent decisions.¹⁰ So if a National Synod acts 'with the delegated authority of the General Assembly' in some 'matter of national significance', the appeal procedure of paragraph 5 will not apply. It will not be easy for the next Assembly to reverse the action and it will not be competent for Mission Council or any Assembly Committee to do so.

18. The Proposals envisaged that National Synods would:

- Co-operate with churches indigenous to the nation concerned and (so far as those churches' polity allowed) with the Welsh or Scottish organs of Britain-wide or international churches;
- Conduct negotiations for church union within the nation concerned, subject to Structure para 3(2) regulating final approval of any union;
- Speak and act on behalf of the URC on matters relating to Scottish and Welsh public affairs;
- Respond to consultations initiated by the devolved legislatures;
- Play a full and active part in Scottish and Welsh ecumenical and public affairs in relation to organisations, institutions and activities indigenous to Scotland and Wales and;
- Represent the URC to the devolved legislatures on matters of social, political and economic significance to the nation concerned.

19. Some of these may well be covered already by the function of any synod to 'expand the range and deepen the nature of the Christian common life and witness' in the territory whose churches it represents. But delegation of *General Assembly* authority to do these things, as in the Task Group's proposed change to the Structure, would make the national synod the URC's primary voice within the nation concerned. The principle was arguably conceded by the Assembly resolution of 12 July 1998 giving 'first approval' to the Proposals for Union as a whole. But greater clarity would be helpful, especially in the situation brought about by legislative devolution, and also about the position of the Synod of Wales, to which Part 4 of the Proposals did not refer.

The rationale of National Synods

20. Although General Assembly function (ii) speaks of 'the well-being of the community in which the church is placed', the URC is in fact placed within many communities, defined by geography, demography, culture, language, and economics. Synod functions (ii), and now also (xxii), reflect this, recognising that sometimes a synod may be better placed than Assembly to relate and witness to the community of the territory whose churches it represents. This applies to Wales no less than to Scotland. And although Part 3 para 2(b) and Part 4 of the Proposals for Union referred only to Scotland, Part 5 of the Proposals

⁹ Structure 2(6)(officers and committees)

¹⁰ Assembly Standing Order 3(f)(iv)

expounded further on the concept of National Synods with equal reference to Wales. The emphasis here was on the tasks peculiar to a National Synod and not, therefore, proper to the synod of an English province.¹¹ (We take this opportunity to note that in the cases of the Isle of Man, Jersey and Guernsey, it may be the church meeting rather than either Synod or Assembly which is best placed to relate, and offer a distinctive United Reformed witness, to the insular community in which it finds itself.)

21. 'Unlike synods in England', Part 5 said of the synods envisaged for Scotland and Wales, 'they comprehend a whole nation within their borders'. This was deliberate. The difficulties of North-South travel in Wales might, for example, have militated in favour of two Welsh provinces, North and South: but 'Certain considerations of size and ease of communication which are taken into account in the arrangements for English synods are set aside in order to reflect national identity and the constitutional arrangements of the United Kingdom'. The Synod of Wales remained a single body so that it could constitute a Welsh voice in the URC, reflecting within the church factors common to the whole of Wales, and also able to relate to the National Assembly for which that year's Government of Wales Act provided.
22. This thinking was also influential a few years later, when the decision was taken to remove one level of the church's four-tier conciliar structure. Had synods been abolished, it was argued, a group of Welsh districts or Scottish areas could not have carried the same weight in representations to the Welsh Assembly or Scottish Parliament, nor (unless services were pooled) have maintained staff with expertise in the social, political, educational and cultural questions for which the new temporal legislatures were responsible.
23. Consequently the Proposals envisaged that 'In matters relating to Scottish and Welsh ecclesiastical and public affairs the national synods will speak and act in the name of the URC. They will play a full and active part in Scottish and Welsh ecclesiastical and public affairs in relation to organisations, institutions and activities which are indigenous and/or devolved to Scotland and Wales. ... So far as the present union is concerned, the National Synod of Scotland will maintain, as far as possible, the existing commitments to ecclesiastical and public bodies in Scotland. It will also enter into any new relationships or commitments to such distinctively Scottish bodies on behalf of the URC in connection with these relationships or commitments.' An illustrative list of organisations and institutions specific to each territory followed.
24. From discussion within the Task Group, it is clear that the word 'ecclesiastical' here referred not to the internal affairs of the URC, but to inter-church relations and perhaps to any wider relations between the URC in Scotland or Wales and Scottish or Welsh faith or belief groups. Broadly speaking, the ecumenical provisions at Structure paras 2(4)A(xxii) and 3(2), and actual current practice, cover this. But we believe the 'delegation' approach of Proposals Part 4 para C(i) gives effect to what was proposed and agreed in 1998 better than the current wording of synod function (xxii).

¹¹ Though, pursuing the point made earlier, some of these comments may be applicable to the church meetings in the Isle of Man, Jersey and Guernsey.

D. 'Speaking for the URC'

A hypothetical example

25. It is also clear that 'speaking in the name of the URC' did not, and could not, mean voicing the *only* URC view. The Welsh Assembly government recently consulted religious groups in Wales on proposals (now enacted) to change the legal basis for organ transplantation, and the Scottish government conducted a similar consultation on its marriage and civil partnership reforms. The Synod of Scotland, through its Church and Society Committee, responded to the consultation in Scotland; the Synod of Wales did not respond to the consultation in Wales (one factor being that it has no Church and Society Committee). But even had both synods responded, they could not have claimed to express the view of the entire denomination.
26. It might be – purely hypothetically – that a majority of the church's Welsh members might favour an 'opt-out' transplantation régime, whilst a majority of members in England and Scotland did not. England, of course, is also a nation, united by law and language, culture and cuisine and by its political and religious history, whether or not the Structure acknowledges this. No synod can speak for the URC in England as a whole, so the General Assembly remains the only body competent to do so.¹²
27. In that hypothetical situation the Proposals suggest that the Synod of Wales would be entitled to voice the view in favour of 'opt-out' organ transplantation to the Welsh Assembly Government; but could not prevent the General Assembly making public the majority view of church members throughout Great Britain that transplantation without express donor consent was wrong. In so doing, the General Assembly would not be adding to the information the Welsh Assembly government was seeking – the views of its own electorate – but it would be indicating that the synod's response did not reflect a broad consensus within the URC. Although it might be contended that the membership of the URC outside Wales was not entitled to take a view *per se* on what the law of Wales (in a devolved field) should be, all church members must surely still be entitled to take a view on moral questions generally, and to reason that such morality knows no political borders.
28. To imagine a further fictitious case – that the Department of Health in Whitehall conducted its own consultation on organ transplantation within England at roughly the same time as the Welsh exercise – it seems logical that the General Assembly, or a competent body under its authority such as Mission Council or a Committee, should be able to tender a response reflecting an ascertained consensus amongst English church members or the representatives of English synods. If this response directly contradicted the response given by the National Synod in the Welsh consultation, the only possible conclusion would be that, whilst no broad denominational consensus existed, the URC in England rejected transplantation without express donor consent.
29. There might also be a situation raising not so much a clear moral question as a judgment on issues affecting the population of one territory in one way, and the URC as a whole in another. The Task Group considered the example of the abolition of Gift Aid by one of the devolved administrations (at present only the Scottish Parliament would have this power). Hypothetically, church members in Scotland, and hence the national synod, might feel this would benefit all Scots by improving the public revenue, and that charities should be prepared to make this sacrifice for the greater good. Other church members, and hence the General Assembly, might reach the opposite conclusion. Again, both the synod and the Assembly should be free to express their opinions to the Scottish Parliament as those of the URC.

¹² In the sphere of temporal government, the implications of devolution for the specifically English functions of the Parliament at Westminster are under ongoing debate, but so far no 'West Lothian question' has arisen in the URC.

30. In some denominations, a divided voice on moral issues would be unthinkable. There are churches in which national and local office-bearers can express a ‘view of the church’ only if it repeats or is consistent with teaching emanating from the church’s supreme authority. But the Congregational and Churches of Christ strands in the heritage of the URC remind us of the work of the Holy Spirit in *each* gathered congregation, and the united church’s commitment to the rights of personal conviction¹³ affirms that on some questions even individual church members can differ whilst all remain in good standing. The URC already holds together admitted differences of conviction on infant baptism¹⁴ and the morals of human sexuality.¹⁵

Factors encouraging consistency or justifying diverse responses

31. Yet there must be limits. The ‘unity of the fellowship’ is also important to the Basis of Union, and indeed the URC confesses division which makes it impossible for Christians fully to communicate to be an example of ‘failure and weakness’.¹⁶ It seems to the Task Group that four factors should counteract the tendency to a divided witness on national lines, or sometimes provide an acceptable ground for it.
32. First, even in the URC, all councils of the church remain committed to the unqualified tenets of the Basis of Union. Though individuals may sometimes dissent, it is not for any council – including a National Synod – to speak in the name of the URC inconsistently with the document according to which the whole URC ‘testifies to its faith, and orders its life’.¹⁷ So neither National Synod could publicly support, for example, government action which constrained rights of conscience and of religious belief,¹⁸ even if the majority of church members in that nation supported the government. The Basis of Union can be changed, but only by the General Assembly through a defined procedure. Thus the Synod of Wales was at liberty¹⁹ to participate in Welsh ecumenical negotiations which could have led to a régime of personal oversight by an individual admitted to a separate order of bishops,²⁰ but could not have finally adopted the régime without the General Assembly approving either Wales’s separation from the URC²¹ or a change to the Basis of Union applicable throughout the denomination.²²
33. Secondly, all councils of the church remain committed to consultation. Structure paragraph 4 requires that ‘decisions on the part of any council shall be reached only after the fullest attempt has been made to discover the mind of the other councils or of local churches likely to be affected by the decision’. Of course, this has to be interpreted in good faith by the deciding council. Not all decisions do affect other councils; and the ‘fullest attempt’ must mean the fullest practical attempt proportionate to the decision’s importance. Timing, and even sometimes expense, may be factors.²³ Yet Part 5.1 of the Proposals for Union

¹³ Basis of Union 10

¹⁴ Basis of Union 14

¹⁵ Commitment on Human Sexuality 2007

¹⁶ Basis of Union 7 and 10

¹⁷ Basis of Union 9

¹⁸ Basis of Union Schedule D, version 1, para 8

¹⁹ Under what is now Structure 2(4)(xxii)

²⁰ Such a separate order being arguably inconsistent with the attribution of oversight to ‘elders and ministers’ in Basis of Union 20; certainly, when this was last proposed in 2000 on the basis that the bishop must be male, it was inconsistent with the declaration ‘that all ministries within the life of the [URC] shall be open to both men and women’.

²¹ Under Structure 3(2)

²² Under Structure 3(1)

²³ For example, the General Assembly is currently consulting local churches regarding possible decisions in relation to same sex marriage. Facilitators are providing a valuable service to church meetings in their discussions; but facilitators’ travel, and central staff time in processing local responses, are not without cost.

recognised this would be an important corollary to the distinctive national synod role. 'It is through their continued participation in and commitment to the conciliar structures of the URC that the national synods will honour the trust which has been placed in them.'

34. The General Assembly meets less frequently than the National Synods. Consultation of the Assembly by a synod therefore often has to take place in ways other than by scheduling a discussion as part of Assembly business. The Standing Committees 'subject to the General Assembly ... have charge of the continuing interests of the church' and Mission Council has power to act in Assembly's name between meetings.²⁴ Liaison between National Synod and corresponding Assembly committees should therefore be normal practice (and indeed probably is). The Synod of Scotland was, in effect, acting on behalf of its local churches and consulting the General Assembly (in whose name Mission Council replied) when it sought clarification recently of those churches' ability to extend ecumenical marriage hospitality.²⁵
35. But consultation works both ways. The General Assembly is equally obliged by paragraph 4 to consult affected synods before taking a decision, and sometimes decisions may affect National Synods in a different way from those of the English provinces. The Assembly's obligation is no less binding on those who act for it, and there are times when Assembly Committees, advisory groups and task groups should consider seeking a distinctive Welsh or Scottish input into their work.²⁶ The officers and committees of National Synods should respond promptly and willingly to such requests.
36. Thirdly, cross-representation is already a possibility. The principle of a denominational voice in appointments, even to discharge a role purely within Scotland, was recognised in Proposals Part 4 para F(iii) (considered above), and Part 5.1 envisages that 'In some instances a representative of the URC outwith the National Synods may be included among their representatives, if it is judged necessary in order to ensure that the wider interests of the denomination are represented. In such cases the synod officers will refer the question to the Assembly Nominations Committee of the URC'.
37. There are resource implications here. It is not only that travel expenses, especially between Scotland and London, can be substantial; it is also that a National Synod's resources may make it difficult to fund a committee, task group or staff member with a remit corresponding to that of an Assembly body; so even if a synod were content to make written input into denominational decisions it might have nobody capable of producing that input. The lack of any Church and Society Committee in Wales, and one of its consequences, has already been mentioned. The Task Group refers this issue to those who consider synod funding from a denominational perspective.
38. Fourthly, contradictory responses are not always inconsistent with a single Gospel. The Gospel has to be applied in particular geographical situations, just as it is applied to particular times. One territory may be characterised by large cities, another by remote or island communities; one by bilingual education, another by a need to integrate widely diverse migrant cultures. The URC does not sit in judgment on its members' party political allegiances, which are often informed by Christian conviction, yet vary widely across the church.

²⁴ Structure 2(6)(officers and committees)

²⁵ Mission Council minute 14/60 of November 2014

²⁶ For example, the Human Sexuality Task Group currently sitting recognised in 2014 that it had no Scottish member although the differences in Scots marriage law from English have serious implications for the church, and co-opted a Scottish member accordingly.

E. 'Acting for the URC' in different legal systems

39. Lastly, the question arises how far a national Synod, taking its own view on some question of faith or morals either when other parts of the URC take a different view or when no view has been ascertained in those other parts – is entitled to act upon its view when the law of the land appears to give it that right. By 'act' here we mean something more than expressing a collective opinion or responding to a consultation. We mean something that will have legal effect because the law specifically gives church organs the power to produce that effect. A topical example is the power for a religious body (defined as 'an organised group of people meeting regularly for common religious worship') to nominate approved celebrants of same sex marriage in Scotland.²⁷ The logic of what we say here applies equally to the insular church meetings, although our terms of reference do not cover them.
40. It seems to us, given the insistence in the Basis of Union of separate church and civil governments,²⁸ that the authority of any council of the church to act should not, in any context and certainly not 'in things spiritual', flow *merely* from a temporal legislature or some other temporal source such as a declaration of trust. Of course there is scope for argument how far marriage – for example – is a 'thing spiritual', and it may be argued that by approving the Proposals for Union including Part 5.1, the URC has already given the National Synods authority to act for it in public affairs. But we suggest that this be put beyond doubt by an amended wording in paragraph 2(4)A(xxii) of the Structure.
41. It should be understood, however, that the power to act for the church is subject to the same constraints as the power to speak for the church. It cannot be exercised by the National Synod alone in a way that contradicts a principle or tenet expressly stated in the Basis of Union. And it should be exercised in consultation with other affected councils, usually by liaison between the competent committees or officers of the synod and the General Assembly.

Draft Resolutions

1. **Mission Council accepts the conclusions reached by the National Synods Task Group (NSTG) in its report and commends them to all synods.**
2. **Mission Council seeks the leave of the General Assembly to withdraw the draft Resolution 19A moved by it at the Assembly session of July 2014.**
3. **Mission Council resolves to make the following amendment to the Structure of the URC:**

Reword paragraph 2(4)A(xxii) to read:

- a) **to seek to expand the range and deepen the nature of the Christian common life and witness in each local community, and**
- b) **in Scotland and Wales to speak and act on behalf of the whole United Reformed Church in public affairs or the conduct of ecumenical relationships specific to the nation concerned, in the General Assembly's name but without prejudice to the Assembly's right to speak and act in the same field on behalf of the United Reformed Church either in England or throughout Great Britain.**

²⁷ Marriage (Scotland) Act 1977 ss. 9(1A) and 26(2)

²⁸ Basis of Union, Schedule D, version 1, para 8

