

Report of the Church Order Committee

Esteemed Brothers,

The Synod of 2011 mandated this committee as per the following articles:

Art.75. Appeals of the Reformed Church of Palmerston North (Arts 37, 44, 69, 72, 73, 82, 83, 97, 98, 126C, Appeals Advisory Committee Report)

Before the official opening of the evening session, Rev. J Haverland resumed in the chair. He stated the moderamen's view (which the delegates had been informed of at the beginning of the dinner hour) that the meeting was ready to vote and ruled that the matter of the appeal be put to the vote. In introducing this, the moderator reminded delegates that, whatever the outcome of the appeal, motion(s 3 and) 4 of the Appeals Advisory Committee's agreed procedures would apply, namely:

2. To refer the following matters to the church order committee for reflection and recommendation to the next synod:
 - a. *The matter of seated delegates being required to leave a meeting*
 - b. *A common definition of the concurrence of Presbytery in matters of church discipline (c.f. C.O. Art. 78.2 & Guidelines for discipline of those who resign)*
 - c. *Is concurrence always required in relation to the discipline of those who resign?*
 - d. *Polity issues raised in Silverstream's appeal.*

Art. 98. The Appeal of the Reformed Church of Palmerston North (Appeal 1, Arts 37, 44, 69, 72, 73, 75, 82, 83, 97, 126C, Appeals Advisory Committee Report)

Synod discussed Recommendation 4 from the Report of the Appeals Advisory Committee.

Synod decided:

To refer the following matter to the Church Order Committee for reflection and recommendation to the next Synod:

"Is concurrence always required in relation to the discipline of those who resign?"

Art. 99. Clarification re Guidelines for Discipline of Those Who Resign (O11)

Elder W Stolte presented the overture.

Synod decided:

1. *To mandate the Church Order Committee to give clarity as to the legality of using the Guidelines for Discipline of Those Who Resign for excommunication.*
2. *That the Church Order Committee be asked to formulate a common definition of the concurrence of Presbytery in matters of church discipline (c.f. C.O. Art. 78.2 & Guidelines for Discipline of those who resign)*

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Art. 100. How Major Assemblies Deal with Disputes (O6)

Rev. A Nugteren presented the overture.

Synod decided:

That the COC be asked to review the Guidelines for Ecclesiastical Assemblies in the Formal Adjudication of Written and Formal Charges and to propose improvements on the basis of the experience gained from recent events.

Art. 126 Appointments (Art. 130)

Synod made the following appointments with regard to the Church Order Committee
A Holtslag (c), W Stolte, P van der Wel, D Wilson

The following matters also came, or were brought, to the committee's attention for consideration:

1. There appears to be some confusion about the heading and composition of Church Order Article 16. For reasons of clarification the title and the numbering of this article is now subject to recommendations 5 and 6 of the Church Order Committee.
2. The committee was asked to clarify the inclusion of *Rules for Presbytery* in the Office Bearers Handbook (OBH) when each presbytery has its own local By-Laws. Please see recommendations 7 and 8.
3. The **Guidelines for Vicariate Training** (OBH p.3-12) were adopted as *provisional* guidelines for the denomination as per Acts of Synod 1998, Report 18, and Art 74.1.
4. It came to the committee's attention that the Long Service Leave committee omitted to mention the informal arrangement with the Christian Reformed Churches of Australia with regard to the mutual recognition of accrued long service leave of its ministers. Please recommendation 10 of the report.
5. A matter in the churches gave rise to a request for clarification whether the exclusive use of *complaint / complainant* in the Guidelines for Ecclesiastical Assemblies in the Formal Adjudication of Written and Formal Charges prevents the hearing of appeals under these Guidelines.

A review of the Guidelines, especially the Preamble, clearly shows that they were meant to be used to deal with complaints, appeals, and any other **Formal Charges**. Therefore whenever the word *complaint* does not suit the nature of the Formal Charges to be heard the appropriate term may be inserted. Therefore throughout the whole document, the terms *complaint & complainant*, etc. should read *complaint/appeal, complainant/appellant & etc.*

Please also note that these are Guidelines, **not** Rules, so that there is a measure of freedom in their use as long as this is stated at the beginning of the proceedings.

Note:

The following church order commentaries have been used by the committee at various times are if referred to they are referred to by the name of the author.

With Common consent, by WWJ Van Oene,

The Revised church Order Commentary, by I van Dellen and M Monsma

Church Order Commentary (of the Reformed Churches of New Zealand) by DG Vanderpyl

The references for the Office Bearers Handbook are from the 2013 edition

We herewith submit the report of the outcome of our work to the churches. Please note that the recommendations have been added at the end of each section.

Recommendation

1. That Synod receive this report

PART 1

This section deals with the matters that arose from the discussion of the Appeals by the Reformed Churches of Palmerston North and Silverstream.

1. That the Church Order Committee consider whether seated delegates can be required to leave a meeting.

The committee has taken note of comments in various Church Order commentaries (Van Oene, Van Dellen & Monsma); where possible we have also consulted with brothers from sister-churches and checked extensively in Robert's Rules.

As a result we have come to the conclusion that it is inappropriate to dismiss seated delegates from a meeting of one of the church courts.

However, they may be asked to leave of their own accord because of a conflict of interest, for example, and they may be asked to leave if the moderator believes this might aid the meeting, but they may not be dismissed or have pressure to leave applied.

With regard to meeting procedure the following matters may be noted for information:

1. The chairman, at the request of the meeting, can ask a delegate to leave the meeting, but not compel him to do so.
2. The chairman can inquire from the delegates if any have a conflict of interest in a particular motion and if so, can ask such members to refrain from voting, but not compel him to do so.
3. The chairman can rule on these matters and if he is not challenged the meeting has to comply.

Therefore, with regard to the question (Acts 2011, Art. 75-2a) whether seated delegates can be required to leave a meeting, the committee recommends as follows:

Recommendation:

2. *That it be noted in the Rules for each Presbytery and of Synod that since there is no facility under Robert's Rules to do so, a seated delegate at a meeting of one of the church courts cannot be compelled to leave the meeting.*

Ground:

Besides the parliamentary rules for legislative assemblies, the only avenue of research in this regard was Robert's Rules of Order (for ordinary societies). We are aware these have no official standing in our Churches; however, no other source addressed the issue of 'requesting/forcing seated delegates to leave a meeting'.

We as a committee found the approach of Robert's Rules useful on this point, and so we suggest that we adopt this approach for our own rules of order.

2. That the Church Order Committee consider the following questions re *concurrence*:

- a. Is there is a common definition of the concurrence of Presbytery in matters of church discipline (c.f. C.O. Art. 78.2 & Guidelines for discipline of those who resign) as per Art. 75-2b, Art. 99-2
- b. Is concurrence always required in relation to the discipline of those who resign? As per Art. 75-2c and Art.98

2a. Is there is a common definition of the concurrence of Presbytery in matters of church discipline (c.f. C.O. Art. 78.2 & Guidelines for discipline of those who resign) see Art. 75-2b and Art. 99-2

By way of dictionary definition, concurrence is
‘agreement with’ an action that either has already taken place or has yet to take place.

Within ecclesiastical realms, it should be seen as “wisdom given”, rather than “permission given.” In reference to a point we make in the Silverstream appeal matters (see below under: Polity Issues in the Silverstream Appeal), such agreement should have a shepherding tone. It requires a basis of assumed trust in each other’s work.

During our discussions, we became aware of a study paper, prepared by the Silverstream session, that refers to this and which was discussed at Wellington Presbytery. It agreed with our previous findings and we believe it a helpful summary to include in our report.

In each case, the point is made that concurrence is advice – though Vanderpyl also speaks of “supervisory advice.” The word “concurrence” itself implies harmony and agreement with others, not supervision or a judicial decision. Van Oene, in our opinion correctly, states that the obligation to abide by the advice is NOT because Classis acts in a supervisory capacity, but because the churches have accepted this precaution. Van Dellen and Monsma state that a request for advice is not an appeal – Classis does not sit as a court of appeal which tries the case itself. It only checks on the work and decisions of the Consistory and advises it according to its judgement.

This raises another point that has caused some confusion in our midst: Is concurrence a “judgement”? Here we must distinguish between a judicial hearing and the fact that all decisions require judgement. All three CO Commentaries make it clear that concurrence is not a judicial hearing, as the word “concurrence” also implies. But both Van Oene and Van Dellen and Monsma refer to the “judgement” of Classis in giving their advice. However, in context, they are referring to a judgement about the Session’s actions, not about a case they have tried.

Though the committee was not asked to make a recommendation in this matter and since, due to the nature of ‘concurrence’ as described above, it is difficult to do so, nevertheless we recommend:

Recommendation:

- 3. That concurrence in matters of church discipline be regarded as **advice** to the Session requesting it and be received as **wisdom given** expressing pastoral agreement with the disciplinary action proposed by the Session.*

2b. Is concurrence always required in relation to the discipline of those who resign? See Art. 75-2c and Art.98

The committee believes that if discipline is warranted (OBH p. 5-39 e) the Guidelines do require that concurrence be sought as per bullet point 3 under “e”. This is compatible with Church Order Art.78-2 which requires that concurrence be sought before the announcement is made.

Recommendation:

- 4. That synod affirm that concurrence is always required in relation to the discipline of those who resign.*

3. That the Church Order Committee consider the Church Polity issues raised in Silverstream's appeal.

The polity issues in view have been raised in the Grounds of the Silverstream Appeal and the committee has concluded, in consultation with Rev. Archbald, that the issues are:

- a. Can a broader body (presbytery or synod) overturn a local session's decision (bound up in this question is the matter of original authority)?
- b. What ought to occur once concurrence has been given if later concerns arise in connection with that concurrence (i.e. if a session disagrees with the concurrence)? See Grounds 2.2 & 2.4
- c. If a Presbytery does not give concurrence, what affect does this have on the discipline of a local session?
 - i. Is this discipline then invalidated, ipso facto?
 - ii. Could a church move to step two without concurrence?

Having given this matter careful consideration, we wish to begin with the following comment:

As a denomination, we have voluntarily bound ourselves together by way of mutual submission to Christ and to each other (Ephesians 5:21). This is so, and especially so, in relation to church discipline. Thus, while there is a need for thoroughness and a concern for justice, because errors can be made by sinful men, our basic assumption ought to be that of trust; of beginning with the assumption that the session seeking concurrence has been diligent.

However, as a committee, we have concerns that there might already be among us (or there is at the least the potential for there to be) a growing, assumed 'mistrust' of each other's work as sessions. It would be of concern if church discipline became a matter of distrust where sessions 'fear' the process of concurrence and feel that their work must be proven beyond all reasonable doubt; where the other sessions come to Presbytery needing to be soundly persuaded before they will give their 'OK.'

Church discipline is a matter of pastoral care – shepherding. We are called to work together in this matter. The seeking of concurrence is a useful and necessary 'check and balance.' However, as Presbytery churches, we consider the discipline 'from a distance.' We are not at the meetings where the attitudes and body language and tone of voice, etc., is seen and heard by the local elders. We are also reminded in scripture that the Lord sees all that is done and holds office-bearers accountable for the work done in His name.

May the Lord indeed keep each one of us from 'treading' on His lambs. But may we also avoid sliding into the attitude of mistrust that would injure the cause of Christ's church.

The Polity Issues

3a Can a broader body (presbytery or synod) overturn a local session's decision (bound up in this question is the matter of original authority)?

Reformed Polity holds that a local session is the original or primary authority (Acts 14:23 / Church Order Art. 35). Therefore, a Presbytery/synod cannot overturn a local session's decision.

Van Oene expresses it in this way: "How could a lower 'court' [presbytery] ever squash the decision of a higher 'court' [session]? It is an utter impossibility" (p. 151).

Recommendation:

5. *That it be noted in the Rules for each Presbytery and of Synod that the broader courts cannot overturn a local session's decision (as per C.O. Art. 35).*

3b. What ought to occur once concurrence has been given if later concerns arise in connection with that concurrence (i.e. if a session disagrees with the concurrence)? See Grounds 2.2 & 2.4

Two courses of action are possible:

1. Appeal to a *broader* court (synod) by the session that has concerns. This would be the ordinary course of action if there is disagreement with a decision.
If the broader court agreed that an injustice had been done, it would advise the Presbytery to revisit its decision and that court would advise the session to revisit its discipline.
2. The matter could be raised again at Presbytery but only if *previously unknown information has come to light (cf. Art. 33 of Can. Ref. Church Order which says: Matters once decided upon may not be proposed again unless they are substantiated by new grounds)*.
 - a. If Presbytery agreed in the light of this new information that an injustice had occurred, it would advise the session to revisit its discipline
 - b. What should not happen is that delegates go back to session and explain Presbytery's decision, and then because other elders disagree they take the matter back to the next Presbytery for another debate.

Note:

This is a reminder to delegates that the time to ask questions of the session is at the meeting where concurrence is sought. Delegates need to be certain about their vote.

Thus, the earlier concurrence is not revoked; fresh advice (we use the word 'advice' here in the church orderly sense of weighty counsel, not in the 'here is our opinion' sense) is given. A presbytery/session is not free to ignore this advice as it goes to the heart of being in a denomination.

Recommendation:

6. *That the following clause be placed in Rules for Presbytery (on O.B.H. p. 2-31) as new clause 10 d 3):*
If a session disagrees with concurrence given by Presbytery, it may appeal to Synod (CO. Art. 28). The matter may only be considered at a subsequent presbytery if concerns involve previously unconsidered material.

3c. If a Presbytery does not give concurrence, what effect does this have on the discipline of a local session?

1. Is this discipline then invalidated, ipso facto?

Discipline remains until the local Session rescinds it. A Presbytery is not a body that disciplines members of a church. Therefore, discipline is not rescinded, ipso facto. Instead, the local session will consider the reasons for non-concurrence.

- It may be that they disagree with the non-concurrence and choose to ask for concurrence from the next Presbytery or appeal to Synod.
- It may be that the session can remedy their ‘failings’ and return to the next Presbytery meeting to seek concurrence.
- It may also be that the session agrees that it has significantly failed in its duties. In that case, it is now up to the session to reconsider its discipline.

2. Could a church move to step two without concurrence?

- a. The Can. Ref. Church Order, the URCNA church order, and our church order all require the session to first seek Presbytery’s advice/concurrence, before proceeding with the second announcement. These articles are very clear and serve as a helpful check and balance.
- b. It ought to be that concurrence is withheld only when Presbytery believes that there have been substantive failings by the local session, i.e. the number of visits, the time between announcements, insufficient attempts to meet face-to-face, etc. In this case, a session should heed the advice and ‘do the work,’ and come back to the next Presbytery if there has been no repentance.
- c. Ordinarily then, a session would not proceed with discipline without concurrence.

Recommendation:

7. That synod affirm that sessions should not proceed with the second step of discipline without concurrence (C.O. Art. 78-2, Guidelines).

4. That the Church Order Committee give clarity as to the legality of using the Guidelines for Discipline of Those Who Resign for excommunication.

Synod 1992 first appointed a committee to begin to look into the matters raised in Overture 7 to this synod. The final recommendations in Report 18 to Synod 2002 were substantially adopted.

Synod also decided that

Art. 86-4 That these decisions regarding the discipline of those who unilaterally resign from the church be referred to the Church Order Committee to determine **how they should be read in the light of our present church order.**

Due to an oversight Art. 86-4 was never implemented and due to the circumstances previous to Synod 2011 the Church Order Committee has now begun to do so.

Therefore the committee gave its attention to Church Order Articles 69, 77 and 78 and to the *Guidelines for Discipline of Those Who Resign* (Guidelines), all of which deal with church discipline.

This particular issue was one of the most difficult addressed by this committee. It appears to our committee, that there are currently within our denomination multiple understandings of the role/nature of membership, the nature of resignation, and the jurisdiction/nature of church
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discipline. Our committee found that these different understandings cause confusion in interpreting the Guidelines.

Our committee has come to the following conclusions:

1. The Guidelines were never intended to give a second equally valid method of Church Discipline. Instead, the intent of sections e and f (OBH 5-39) was to define how to abbreviate the normal process to meet a different kind of situation. Section e very clearly begins with these words, "If discipline is warranted" - these words place all that follows clearly under the heading of Church Discipline which may end in excommunication. Section f was intended as a further clarification of the statement that would need to be made as a part of the shortened process described under section e.
2. We determined as a committee that these guidelines *could be understood* as being a 2nd legal way to excommunicate. It is not helpful or wise to leave any ambiguity in the Guidelines which would give a 2nd way to excommunicate. We can avoid the situation described above, and achieve greater consistency in our view of discipline by requiring that any disciplinary statements about those who resign to be made in conjunction with the form for excommunication.
- 3) Sessions are reminded that the statements should reflect the parameters of Church Order articles 69.5 and 78.

Therefore, we believe it would be appropriate for us to recommend the following:

Recommendation:

8. That the following bullet point replace the last bullet point under section f of the Guidelines:

If a session intends that the announcement be understood as an excommunication, then the form for excommunication must be read out as well as any other statement.

5. That the Church Order Committee review the *Guidelines for Ecclesiastical Assemblies in the Formal Adjudication of Written and Formal Charges* and to propose improvements on the basis of the experience gained from recent events (i.e. the events that led to the appeals of the Reformed Churches of Palmerston North and Silverstream).

The committee duly reviewed these Guidelines and has come to the conclusion that they already do give the freedom to use informal means before going into a formal dispute process (OBH 2-42, B.3). It is clearly stated there that all appropriate informal means should be exhausted before a formal process is begun. When an issue arises, the presbytery already has the freedom, via the church visitors, to use Ken Sande's material (or something similar or just general means) to seek to resolve the issue.

We as a committee are very hesitant to recommend a list or specific instructions regarding these informal means because it places a limitation on the Presbytery and / or the church visitors. Informal means, almost by definition, need to be tailored to each situation, and therefore are very hard to legislate. We believe the less we legislate the better. The specific means have been intentionally left to the sanctified common sense of the Presbytery and / or the church visitors.

The fact that in this instance informal means were not used should not lead us to legislate for them. This occurrence has served as yet another reminder that we need to take care in such issues and avoid haste. We as a committee have repeatedly discussed the need for greater trust and love toward our fellow office-bearers in such situations.

Recommendation

9. That the Guidelines for Ecclesiastical Assemblies in the Formal Adjudication of Written and Formal Charges are adequate for use in our denomination.

PART 2

Other matters

1. Clarification of the title and numbering of Church Order Article 16

Acts of Synod 2005, Art. 99-5 adopted a new Article 16B of the Church Order. However, “16B” was before this time only an informal designation for the second part of Article 16. Moreover, the committee also believes the heading of Article 16 needs to be changed to indicate more clearly what this article is about.

The committee therefore makes the following recommendations:

Recommendation

10. *That the heading of Church Order Article 16 be changed from “Leave of Absence” to “Temporary or Permanent Release from Service to a Congregation”.*
11. *That the Article be presented in the following format:*

Temporary or Permanent Release from Service to a Congregation Article 16

- 1.** A minister who for weighty reasons desires a temporary release from service to the congregation must have his application for release approved by his session, which continues to have supervision over him.
- 2.** A minister who is not eligible for retirement or worthy of discipline may for weighty reasons be released from service in a congregation through action initiated by himself or by his session. Such release shall be given only with the approval of presbytery, with concurring advice of the synodical examiners, and in accordance with synodical regulations.
 - a.** The session shall provide for the support of a released minister in such a way and for such a time as shall receive the approval of presbytery.
 - b.** A minister of the Word who has been released from service in a congregation shall be eligible for call for a period of two years, after which time the presbytery, with the concurring advice of the synodical examiners, shall declare him to be released from ministerial office.

2. Clarification of the inclusion of *Rules for Presbytery* in the Office Bearers Handbook (OBH) when each presbytery has its own local By-Laws.

The inclusion of the *Rules for Presbytery* in the OBH has led to confusion on some occasions and for some people since each presbytery has made modifications so that there are now (slightly) different By-Laws for each presbytery.

The Committee has therefore written to each presbytery requesting them to put their By-Laws in the homepage of the Reformed Churches of New Zealand, which they have agreed to do.

The committee therefore recommends as follows

Recommendation

12. *That the current Rules for Presbytery be removed from the Office Bearers Handbook since the various Presbytery By-Laws can be found on the website of our churches under the Resources tab.*
13. *That the Church Order Committee be tasked with reviewing the rules of the three Presbyteries to see that there is consistency in the essentials, and that these essentials be published in the OBH.*

3. The adoption of *The Guidelines for Vicariate Training* (OBH p.3-12) for provisional use in our denomination

In view of the fact that *The Guidelines for Vicariate Training* (OBH p.3-12) were adopted as provisional guidelines for the denomination as per Acts of Synod 1998, Report 18, Art 74.1, the committee recommends:

Recommendation

14. *That the Synod ratify 'The Guidelines for Vicariate Training' (OBH p.3-12) for use in our denomination.*

4. Omission from the new Rules for Long Service Leave as adopted by Synod 2011, Art. 96-5

It came to the committee's attention that at Synod 2011 the Long Service Leave committee omitted to mention the informal arrangement with the Christian Reformed Churches of Australia with regard to the mutual recognition of accrued long service leave of its ministers. The committee therefore recommends:

Recommendation:

15. *That Long Service Leave that is accrued by a minister who has served in a congregation in the Christian Reformed Churches of Australia continue to be recognised in the Reformed Churches of New Zealand and vice versa, notwithstanding the change in our ecclesiastical relationship effective from Synod 2011.
If the entitlement for Long Service Leave is not brought to the attention of the calling congregation this entitlement lapses.*

Grounds:

1. The paragraph in the Report of the Long Service Leave committee (R11) to Synod 1977 which reads as follows (Reports p.71):
 2. *Contact with Reformed Churches of Australia on Long Service Leave:*
In Correspondence with the Long Service Leave Committee of the Reformed Churches of Australia we have informed them that we recognise years of service in the Reformed Churches of Australia as qualifying service for Long Service Leave (see report to the 1974 synod) and that if they reciprocate in this matter this would provide a workable agreement. We expressed our willingness to consider a more detailed agreement if they so desire, but as we have received no further correspondence on this matter we assume that this arrangement is satisfactory.
- Since the report was duly received by Synod 1977 (Acts 1977 Art. 68-1) this note now functions as the informal policy.
2. Acts 1980 - Report 23 - Clause 2 reiterates this view.
3. Nothing to the contrary has been recorded or reported in the Acts of Synod of the RCNZ or of the CRCA since then.

5. Clarification whether the exclusive use of *complaint* / *complainant* in the 'Guidelines for Ecclesiastical Assemblies in the Formal Adjudication of Written and Formal Charges' prevents the hearing of appeals under these Guidelines.

A review of the Guidelines, especially the Preamble, clearly shows that they were meant to be used to deal with complaints, appeals, and any other **Formal Charges**. Therefore whenever the word *complaint* does not suit the nature of the Formal Charges to be heard the appropriate term may be inserted. Therefore throughout the whole document, the terms complaint & complainant, etc. should read complaint/appeal, complainant/appellant & etc.

Admittedly the Guidelines could be clearer in this matter, however we believe there is no need to make any changes on account of this matter.

Please also note that these are Guidelines, **not** Rules, so that there is a measure of freedom in their use as long as this is stated at the beginning of the proceedings.

This completes our report.

Respectfully submitted by

Andre Holtslag (convenor), Wim Stolte, Pieter van der Wel and Daniel Wilson

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