

## STANDING ORDERS COMMITTEE

### FIFTY THIRD REPORT OF THE COMMITTEE

1. The Standing Orders Committee ('the Committee') presents its 53rd Report to the Synod.
2. Our membership for the current quinquennium is as follows:

#### **Appointed members:**

Mr Geoffrey Tattersall QC (Manchester) (Chair)  
 The Revd Prebendary Simon Cawdell (Hereford)  
 Mr David Coulston (Europe) (from May 2018)  
 Mrs Mary Durlacher (Chelmsford)  
 Mr David Robilliard (Channel Islands)  
 Mr Clive Scowen (London).

#### ***Ex-officio* members:**

The Revd Canon Simon Butler (Prolocutor of the Lower House of the Convocation of Canterbury)  
 The Ven. Cherry Vann, Archdeacon of Rochdale (Prolocutor of the Lower House of the Convocation of York)  
 Dr Jamie Harrison (Chair of the House of Laity)  
 Canon Elizabeth Paver (Vice-Chair of the House of Laity).

#### **Item 32: Standing Order 2 (Time and place of sessions)**

1. There has hitherto been some inconsistency about the provision made for the holding and cancellation of meetings of the General Synod, as between the provision made for that in (a) Article 3(1) of the Synod's Constitution as set out in Schedule 2 to the Synodical Government Measure 1969 and (b) SO 2(5) of the Synod's Standing Orders.
2. This inconsistency is being addressed in two stages. First, clause 9 of the draft Church of England (Miscellaneous Provisions) Measure (which returns to the Synod at the July group of sessions for its Final Drafting and Final Approval Stages) will amend Article 3 of the Constitution so that Article 3(1) to 3(1D) will read:
  - “(1) The General Synod shall meet in session at least twice a year, and at such time and places as it may provide, or, in the absence of such provision, as the Joint Presidents of the Synod may direct.
  - (1A) The General Synod may vary any provision which it has made under paragraph (1) including, in the case of provision for the Synod to meet in session, by cancelling the meeting.
  - (1B) The Presidents may vary any direction which they have given under paragraph (1) including, in the case of a direction for the Synod to meet in session, by cancelling the meeting.

- (1C) The power of the General Synod under paragraph (1A) may be exercised on its behalf by the Presidents and Prolocutors of the Houses of the Convocations and the Prolocutor and Pro-Prolocutor of the House of Laity of the General Synod acting jointly.
  - (1D) The requirement under paragraph (1) for the General Synod to meet in session at least twice a year shall not apply in so far as a failure to satisfy the requirement is attributable to a cancellation under paragraph (1A) or (1B).”
3. Secondly, the Synod is being invited to amend SO 2 of its Standing Orders so that it takes a form that is consistent with Article 3(1) in the form that it will take when amended by the Miscellaneous Provisions Measure (but so that the amendments made in that connection will not take effect unless and until the Measure receives the Royal Assent).
  4. Item 32 in the First Notice Paper will make the amendments in question.

**Item 33: Standing Order 6 (Private members’ motions)**

5. A question having been raised by a member of the Synod about the propriety of the practice adopted by the Synod Support Team of removing names from the lists of those supporting private members’ motions when individuals are no longer members of the General Synod, the Business Committee was advised that this practice is correct: paragraph (4) of SO 6 requires the Committee to provide a facility for a member to include his or her name “*on a list of members who support a debate on the motion*”, and since a person who has resigned or otherwise left the Synod is not a member, the continued inclusion of his or her name on the list would be inconsistent with the requirement that it be “*a list of members*”.
6. In accepting this advice, the Business Committee noted that it was a policy of the Committee – rather than a requirement of the Standing Orders – that a motion is considered for inclusion on the agenda for a group of sessions only if it has attracted the support of at least 100 members and that it therefore remains possible for the Committee, in its discretion, to include a private member’s motion in the agenda where the current number of signatures on the list is less than 100 – whether as a result of members who had supported it having left the Synod or for any other reason that appears to the Business Committee to mean that it should not rigorously apply the usual policy.
7. The Committee also noted that different considerations were involved in applying paragraph (6) of SO 6 given that the threshold requirement it contains is met if at any point in time during the three groups of sessions 100 members have indicated their support.
8. The Business Committee drew the position as set out in paragraph 5 above to the attention of the Standing Orders Committee, which agreed that, since the position is clear, the wording of SO 6 be left as it is.
9. However, there is a different matter relating to SO 6 in connection with which the Standing Orders Committee does consider an amendment to be desirable, namely the publication of the names of members who support any particular private member’s motion: in the Committee’s view, the names of supporting members should in future be

published on the General Synod website, in the interests of transparency and accountability.

10. In making that proposal, the Committee does not consider there to be any difficulty from the point of view of the law relating to data protection: though members' names would represent 'special category data' for the purposes of the Data Protection Act 2018, their disclosure in this way would be authorised by a provision in the Act<sup>1</sup> which specifies, as one of the necessary conditions for processing data of this kind, that the processing is "*necessary... for the exercise of any functions conferred on any person by an enactment ...*": the Synod's Standing Orders are made under an 'enactment' (i.e. paragraph 11 of Schedule 2 to the Synodical Government Measure 1969).
11. Item 33 on the First Notice Paper accordingly gives effect to the Committee's proposal.

**Item 34: Standing Order 29 (Amendments: order of consideration)**

12. Following the *After the general election, a still small voice of calm* debate at the July 2017 group of sessions (when some 6 amendments were proposed to the motion, all of which had to be moved, debated and voted on) the Business Committee received a number of representations questioning the current arrangements for the moving and debating of amendments to motions. As a result, it considered possible options for the amendment of the Standing Orders in relation to the debating of amendments, including the following:
  - (a) Firstly, the number of supporters required for the giving of notice of an amendment to general business could be raised from the present number of two. The Committee noted that before July 2005 the Standing Orders did not require any supporters for the giving of due notice of an amendment. However, in July 2004 the Synod invited the Committee, in consultation with the Business Committee, '*to consider ways in which downward pressure can be applied in relation to the number of amendments tabled for debate*'. In response to that, the Committee proposed<sup>2</sup> that ten supporters should be required for the giving of notice of an amendment to general business. However, as a result of an amendment moved by Mr Tom Sutcliffe (Southwark) that proposed requirement was substantially diluted by the Synod, so as to require only the present two supporters. The Committee nonetheless recognised that the Synod could be invited to revisit that decision and raise the required number of supporters.
  - (b) Secondly, a process akin to the '40 member rule' used in relation to amendments to legislative business and re-committal motions to liturgical business could be applied to amendments to general business, so requiring a given number of members to stand as a precondition to an amendment being debated if the mover of the main motion opposed it.
  - (c) Thirdly, a member had raised the possibility of "*giving members the opportunity to vote against all the amendments in one go*". The Business Committee considered that, expressed in that way, such a procedure would not be possible - assuming that (as would be presumably be the case) it was desired to retain the

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<sup>1</sup> Paragraph 7 of Schedule 10.

<sup>2</sup> In its 39th Report (GS 1578).

existing requirement that one amendment cannot be moved until any previous one has been disposed of. However, if the intention underlying the proposal was that the Synod should be able to decide that it should not be troubled by having to debate any amendments to a motion and should be able to decide to sweep them all aside, that result could be achieved by creating a new special procedural motion, allowing the Synod to decide *'That no amendment [or no further amendment] to the motion be moved'*.

- (d) A fourth possibility would be to give the Business Committee itself power to determine, when setting the agenda, that it should not be possible to move amendments to a motion. The Business Committee considered that possibility to be unattractive, however, in so far as the Business Committee, rather than the Synod itself, would be deciding on this course. And it could give rise to difficulties in the event that it emerged in the course of the debate that the wording of the motion was defective and ought to be improved in some way.
13. Having discussed the various options (including leaving the position as it is at present) the Business Committee favoured the second option, that of requiring a given number of members to stand if an amendment to general business that is not supported by the mover of the motion is to be debated, and suggested that 25 might be an appropriate number of members for that purpose. It went on to ask that the proposal be put to the Standing Orders Committee for further consideration.
  14. The Standing Orders Committee accordingly also considered the various options. It did not favour the possibility of increasing the required number of 'sponsoring' members from the current two: members considered that such a change was likely to lead to accusations of the stifling of debate, and might inadvertently privilege those members who were well-connected and able to obtain the support of a larger number of members.
  15. Instead, the Committee favoured the Business Committee's proposal, considering that a new '25 member rule' of the kind it had proposed would be desirable. In doing so, the Committee noted that a procedure of this kind would not prevent the would-be mover of an amendment from having the opportunity to make a speech: they would still be permitted able to speak to their amendment when moving it. As such, the mover of an amendment to general business was guaranteed an opportunity to be heard, even if their proposed amendment had little or no support among members (though it would give an early indication of the amount of support an amendment was likely to have). On the other hand, it noted that the Chair of the debate would have the discretion to amend the speech limit for the mover's speech if it was clear that the amendment was spurious or vexatious.
  16. The Committee agreed that the new procedure should only apply in relation to general business – i.e. that it should not extend to amendments to legislative or liturgical business or to proposed amendments to Standing Orders. (Business of those kinds is currently treated differently from general business in various respects, and the Committee was not aware of any suggestion that there are problems in their case from the point of view of the number of amendments being tabled.)
  17. Replicating the position in other contexts in which the 40 member rule applies (see e.g. SO 59(7)), the new provisions will not apply to amendments which are consequential on an amendment already carried, with the result that there will in principle the opportunity

for debate on such an amendment in the normal way – but with the expectation that in practice there will be none.

18. Item 34 on the First Notice Paper will give effect to the Committee’s proposal. The effect of the new provisions which it inserts will be that in the case of every amendment to general business:

- the member proposing the amendment will move it and, if he or she has not already done so, speak to it;
- the mover of the main motion may speak in reply;
- if the mover of the motion indicates that he or she supports the amendment, the debate on the amendment continues;
- if the mover of the motion indicates that he or she does not support the amendment, the Chair must declare the amendment to have lapsed unless at least 25 members indicate that they wish the debate on the amendment to continue;
- if at least 25 members indicate that they wish the debate to continue, debate on the amendment is resumed;
- if fewer than 25 members indicate that they wish the debate to continue, the amendment lapses.

**Items 35 and 36: Standing Order 30 (Special procedural motions: general) and Standing Order 31 (The Closure)**

19. Following the July 2015 group of sessions, the Clerk received correspondence from Synod members regarding the use of the motion for the Closure and how the procedure could be improved. As a result, the Business Committee discussed various proposals for the possible reform of the current position:

- (a) under Option 1, the Chair would announce the projected timing for a debate and indicate that he or she would be seeking a motion for the Closure at a certain time;
- (b) under Option 2, the Chair would announce the intended length of the debate at the start of the debate, the Standing Orders would be amended so as to allow the Chair to move the motion for the Closure him/herself, and the Chair would then propose the motion for the Closure near the end of the debate; and
- (c) under Option 3, the debate would be automatically terminated at a time determined by the Business Committee, unless a member moved, and the Synod agreed, an extension.

20. The Business Committee agreed to trial Option 1, which would not necessitate any changes to the Standing Orders, at the November 2015 and February 2016 groups of sessions and to review this decision at its March 2016 meeting.

21. The Business Committee agreed that, depending on the outcome of the trial of Option 1, they might be open to introducing Option 2 (which would necessitate changes to the Standing Orders) at some point in the future. The Committee expressed strong reservations about Option 3, which seemed overly complicated.

22. The Business Committee returned to the issue at its March 2016 meeting, when it reviewed the trial of Option 1, which Chairs had implemented at the November 2015 and February 2016 groups of sessions. Having discussed the possibility of trialling Options 2

and 3, it decided to continue with Option 1 - which in its view was working well. The Committee also agreed that it would like to be more transparent about timings, by including indicative timings in the Timetable published for each group of sessions. It also expressed the view that the Panel of Chairs should be encouraged to continue to indicate that they would be seeking a motion for the Closure at a particular time.

23. At the request of the Business Committee, its views were reported to the Standing Orders Committee. It was initially divided on the matter: some members considered that permitting the Chair to move the motion for the Closure was no different in principle from the current position (under which they could encourage the moving of the motion by another member) and thus unnecessary; others considered that the Chair was in a less authoritative position if they had to rely on another member to move the motion. The matter was accordingly referred back to the Business Committee at its meeting in September 2017, which on that occasion expressed itself in favour of changing the position to give effect to Option 2.
24. The Committee accordingly proposes that the position as regards the moving of the motion for the Closure be changed so as to give effect to Option 2 – ie to allow the Chair of a debate to move the motion him or herself.
25. Items 35 and 36 on the First Notice Paper (the first of which is consequential) will give effect to this proposal.
26. Giving the Chair the ability to move the motion for the Closure him or herself will not impose any obligation to do so. Nor will it prevent any other member from doing so (subject, as at present) to obtaining the Chair's permission. Thus it will be open to a Chair to leave the moving of the motion to other members, in the same way as at present. And, of course, the decision as to whether to carry the motion will continue to rest with members, as it does at the moment.

**Item 37: Standing Order 38 (Procedure on voting)**

27. The debate on *Conversion Therapy* at the July 2017 group of sessions saw a succession of five counted votes by Houses – before each of which SO 38(2) required the bell to be rung and two minutes to be allowed to members to enter the hall to vote. The Chair had no discretion to dispense with that requirement, even though it was reasonably evident that all those who would wish to vote on the questions under debate were already in the (very full) chamber.
28. The position would have been otherwise in the case of a counted vote of the whole Synod – when (by virtue of SO 38(3) the requirement to ring the bell only applies if the Chair so directs.
29. In the light of that the Committee proposes that SOs 38(2) and (3) be recast so that:
  - (a) a bell need not be rung before a counted vote of the whole Synod, but the Chair will have a discretion to direct that it should be; and
  - (b) a bell must be rung before a counted vote by Houses, but the Chair will have a discretion to direct that it should not be.

30. Such an approach will ensure that the default position on a counted vote by Houses remains different from that in relation to a counted vote of the whole Synod.

31. Item 37 in the First Notice Paper will give effect to the Committee's proposal.

**Item 38: Standing Order 55 (Revision Committee: proposals for amendment)**

32. SO 55 requires that, where First Consideration is given to a draft Measure or Canon, any proposals for its amendment must be submitted to the Clerk "*within the period of 35 days after the first day of the group of sessions at which it is given.*"

33. The effect of this is that the period for giving notice of amendments proposed to a piece of draft legislation that has received First Consideration at a July group of sessions will typically end on the second Friday of August – which, falling as it does in the middle of the holiday season, is not an optimal date by which to have to make a submission on draft legislation.

34. The Business Committee therefore proposed to the Standing Orders Committee that a greater degree of flexibility be introduced into SO 55(1), with a view to allowing the period during which proposed amendments may be submitted to be extended, where that is appropriate. The Standing Orders Committee accepts that proposal and proposes to confer such a power on the Business Committee – recognising that a precedent for giving the Committee such a power exists in the form of under SO 12(a) (under which the Business Committee can vary the times and periods of notice for items of Synodical business if, in its opinion, circumstances so require).

35. Item 38 in the First Notice Paper will accordingly give effect to the proposal.

**Item 39: Standing Order 89 (Liturgical business: Minor adjustments to forms of service) and Item 40: Standing Order 90 (Liturgical business: Extensions or discontinuance of liturgical business already approved)**

36. The provisions relating to the 40 member rule in SOs 89 and 90 need to be amended so as to bring them into line with the application of that rule in other contexts, by making further express provision for members who are unable to stand to be able to indicate their support for continued debate by other means.

37. Items 39 and 40 in the First Notice Paper will accordingly have that effect.

**Item 41: Standing Order 135 (Appeals)**

38. The recent need to appoint an appeal panel in connection with an election from the House of Laity has drawn attention to the fact that SO 135(4)(a) is not as clear as it might be as to the identity of the persons responsible for appointing the members of an appeal panel responsible for considering and deciding an appeal.

39. Item 41 in the First Notice Paper will therefore clarify that the appointment is to be made (only) by the officers of the House in question. (That is presumed to be the underlying policy intention, and was the effect of earlier versions of the provision.)

The Committee noted the outcome of the recent appeal under SO 135 in relation to the election of three members of the House of Laity to the Crown Nominations Commission,

and in particular what was said by the appeal tribunal about the absence of provision in the Standing Orders for disclosure of possible conflicts of interest on the part of candidates. In the light of that the Committee decided that it would undertake further work with a view to deciding whether any amendments were needed in relation to Standing Orders 132 to 135 relating to elections from the Synod and its Houses, whether in relation to the procedure for such elections or the procedure for appeals from such elections.

40. The Business Committee has determined under Standing Order 40(5) that the proposed amendments to the Standing Orders set out at items 32 to 33 and 37 to 41 in the First Notice Paper do not need to be debated.
41. If the amendments set out in the First Notice Paper are approved, those contained in Item 32 will take effect upon the Church of England (Miscellaneous Provisions) Measure receiving the Royal Assent, and those in Items 33 to 41 will take effect on 11<sup>th</sup> July 2018 (i.e. after the end of the July group of sessions).

On behalf of the Committee:

**Geoffrey Tattersall QC**

Chair

June 2018