

**VI.**  
**REPORT**  
**OF THE**  
**LEGAL ADVICE & PROPERTY COMMITTEE**

**Introduction**

The subjects discussed by the Committee at its various meetings were as follows:

1. Kiltearn Funds — Dispute with Bank of Scotland
2. Marriage Authorisation — Prescribed Body Status
3. General Data Protection Regulation
4. Church Property — Bracadale & Duirinish FC(C)

**1. Kiltearn Funds – Dispute with Bank of Scotland**

The Committee reported last year that the legal agents employed hitherto by our Church, Drummond Miller LLP, had indicated that there was no one in their current employment who was qualified to prosecute the case against the Bank of Scotland over frozen funds held in the name of the Kiltearn Free Church of Scotland (Continuing). Having being directed by the General Assembly to ensure that the Free Church of Scotland (Continuing) is adequately represented in all legal matters by legal Agents competent to protect and pursue the legal interests of the denomination, the Committee, after exploring various options, and with the help of Mr Maurice Grant, retained the services of Lindsays Solicitors, an Edinburgh-based law firm. Mr Paul Harper, a Dispute Resolution and Litigation partner of said firm, has oversight of the case and has delegated Mr Adam Gardiner, Solicitor, to deal directly with the Committee.

Mr Gardiner thoroughly reviewed all the documentation relevant to the case and has informed the Committee of a number of possible courses of action; this, together with subsequent counsel received from him, has compelled the Committee to reassess its approach to the claim the residual Free Church Kiltearn Deacons' Court are making on the accounts in question. To expedite matters further the Committee sent a delegation to Edinburgh on 10th April to further discuss matters in detail with Messrs. Harper and Gardiner. Further developments arising from this meeting have yet to be considered by the Committee.

**2. Marriage Authorisation – Prescribed Body Status**

As reported at the 2018 General Assembly, an application for prescribed body status has been submitted to the appropriate authorities within the Scottish Government. In being granted “prescribed body” status under the Marriage (Scotland) Act 1977, the current practice of having to seek individual authorisations will no longer be necessary.

The ‘Head of Family Law Team’ Mr Simon Stockwell has recently requested information, on ‘sham marriage and forced marriage’ and how our seminary students and ministers are instructed and informed in these matters. The Committee, after having consulted with Rev. H. Woods, in his capacity as Lecturer on Pastoral Theology, and Mr Maurice Grant, are in the process of responding to this enquiry. The Committee are mindful that current individual authorisations are valid until the end of 2020.

The Committee would, once again, thank Mr Grant for his continued involvement in this matter.

**3. General Data Protection Regulation**

The General Data Protection Regulation (GDPR) came into force on 25th May 2018. The aim of the GDPR is to protect all European Union citizens from privacy and data breaches in today’s data-driven world. The exercise of proper control and management of personal data is fundamental to ensure, and be able to demonstrate, compliance with the GDPR. It is important to remember that many of the GDPR main concepts and principles are much the same as those in the previous Data Protection Act (DPA), so if we

were properly compliant with the previous law then most of the approach to compliance will remain valid under the new legislation.

The Committee are in the early stages of preparing a Report for the 2020 General Assembly on what measures are to be taken to ensure that we are fully GDPR compliant.

#### **4. Church Property - Bracadale & Duirinish FC(C)**

The Bracadale & Duirinish Deacons' Court have been in negotiations with the residual body of the Portree Free Church over the ownership of the church property at Struan. Title to the property is now in favour of the Bracadale & Duirinish congregation and has been forwarded to the Land Register for Registration.

IAIN SMITH, *Convener*  
CALUM MACLEOD, *Vice-convener*

#### PROPOSED DELIVERANCE

1. The General Assembly receive and adopt the Report of the Legal Advice & Property Committee and thank the Committee and in particular the Convener and Clerk for their diligence;
2. The General Assembly approve the present course being pursued by the Committee concerning the Kiltearn case;
3. The General Assembly bear with the Committee as it waits upon the Scottish Government for confirmation of its application for prescribed body status and thank Mr Maurice Grant for his continued involvement in this matter;
4. The General Assembly note the ongoing work being done to ensure that the denomination is in compliance with General Data Protection Regulation;
5. The General Assembly express gratitude to God that the Bracadale & Duirinish Congregation has gained title to the church property at Struan.