

Resolution of Emmanuel Uniting Church Combined Church Council and Elders Saturday 25 June 2011. Also endorsed by the Congregation on Sunday 26 June 2011.

"In the light of our calling to confess Christ as Lord of the Church, the Cairns Emmanuel Church Council and Elders rejects the Synod Standing Committee decision to terminate the Rev Dr Hedley Fihaki as Minister of the Emmanuel Uniting Church, without lawful consultation and due process, and without providing a full understanding of the reasons for such serious and unprecedented action".

Other information on the Website:

- Correspondence Out
Letters from Church Council to Synod, Uniting Care etc.
Church Council response to QRFS report
Legal advice from Emmanuel to Synod, and Synod to Emmanuel in 2009
- Formal statement of the congregation 18 November 2009 regarding 'standing with the homeless'.
- Good Sam in the media—links to newspaper, radio and TV news items concerning Good Sam.
- Photos, before and after.
- How can I help? Page. Opportunities to support through prayer, informing yourself and others, express your concern in writing, providing practical support and assistance at Good Sam, making a financial donation, offer words of encouragement and Gives thanks to God and in all things.

Resources Page

We also have a resources page containing links to weekly video clips, sermons, Wesley's sermons, articles relating to the Basis of Union and the Faith and Order of the Church.

We continue to pray that this situation will strengthen and unite us for the purposes of further building his Church and Kingdom on earth as it is in heaven.



www.emmanuelcairns.com

Information on the Emmanuel website for those who do not have access to the internet.

The Emmanuel Website not only contains normal information regarding our worship service times, programs and activities, contacts, etc, but it also contains a section on '**Current Issues**'.

This section of the website (and our communication strategy as a whole) will seek to:

1. Increase awareness of events leading up to the decision by UCA QLD Synod dated Thursday 23rd June 2011, to terminate the placement of Reverend Dr Hedley Fihaki as Minister of Emmanuel UCA Congregation in Cairns.
2. Enhance understanding of the reasons for the decision by Rev Dr Hedley Fihaki, Emmanuel Church Council and Congregation to "make a stand", including follow-up action we have taken.
3. Enhance coordination of offers of support through proactive communication of positive avenues for action. This will include spiritual, physical, material and/or financial suggestions.
4. Improve key stakeholder and media relations through continuous contact and positive communication of appropriate information.
5. Increase knowledge of and build support for Emmanuel Congregation's Good Samaritan Ministry that emerged in response to the significant social issue of homelessness in Cairns, and the availability of suitable yet vacant church property. We were challenged by the parable in the Bible of the Good Samaritan.



Good Samaritan - Summary of Situation

The issue is over a homeless shelter that was being run by Emmanuel in one of the UCA's old aged care facilities - The Good Samaritan Nursing Home but now called The Good Samaritan Ministry Centre. It was a successful ministry

utilising about 35 rooms in the huge mainly vacant complex. All approvals needed had been met before the ministry commenced.

After about three to four years, with the ministry running well, Emmanuel made a submission to Synod/Blue Care asking if they could extend the homeless ministry by using some of the sixty or more rooms in the complex that were still vacant.

In order to ascertain whether this could be done while still complying with all relevant regulations, the Church commissioned a building certifier and the fire department (QFRS) to inspect the facilities and issue their reports. Both reports were duly issued, each pointing out work that needed to be done to comply with all relevant regulations. The congregation prepared a plan for the implementation of the directions of both the building certifier and the QFRS. The plan was submitted to Blue Care with the expectation that they would go ahead with the necessary rectification (Emmanuel agreed to fund all expenses).

The question then arose as to what would happen to the homeless people already in residence in the Ministry Centre while the necessary rectification was being carried out. A task force relocation team was commissioned to try to find the homeless residents other places to reside in temporarily.

agent and with police involvement.

10. Why have presbytery and synod been unable to answer any of the congregations questions in relation to this issue?

The fact that absolutely no answers have come from Synod and Presbytery, even after emailing them our questions and being offered assurance that they will answer them, highlights the fact that there is simply a lack of transparency in this whole process. The extremely high level of confidentiality and secrecy in this matter fosters an environment of distrust and broken relationships.

11. What's going to happen now?

We have sought legal advice regarding 'unfair dismissal' and will make further decisions once this advice comes in (16 August 2011 Fair Work Aust. Conciliation Meeting). We have also put in place a communication strategy to better inform the wider Church and community regarding our story. We continue to pray that God will guide us step-by-step and will lead us to a path where His glory and His glory alone will be revealed.

12. Why was Good Sam evicted?

Refer Good Sam summary.

13. Why should I go to church if this is the way that they treat their minister or treat one of their own?

This is a good question and particularly sad when people in the wider community are also saying similar things. But, we must continue to be United in Christ, seek His Will and purpose in all things and press forward along the path that God leads us through.

Refer to Question 1. Hedley's statement is also on the Web under the title "Minister - reaffirming God's Calling".

7. Why has Emmanuel congregation rejected the synod decision?

Because Synod and Presbytery have made their decisions without lawful consultation and due process, and without providing a full understanding of the reasons for taking such a serious and unprecedented action. The Church Council and Congregation were left out of this whole process; for example, they even appointed a replacement minister when Hedley was suspended for 3 months, without advising or consulting the CC or the congregation.

8. Why was the congregation left out of the decision making?

Great Question. We look forward to an answer from Synod or Presbytery. The Polity of the UCA clearly says that the UCA is governed by inter-related councils. That is, each council is of 'equal importance' and they must talk and consult with each another. The UCA is not a hierarchical church. Sadly, in this matter, the Church Council and Congregation have been treated as "non-entities" and were even given legal advice from Synod to suggest this.

9. Is the congregation going to be thrown out also for the stand they took?

The problem has been that Synod and Presbytery have been continually trying to 'divide and conquer', that is, trying to separate a minister and a congregation who continue to be of one mind and one heart on this matter. This action has been unjust to say the least. And, NO the Synod cannot throw the congregation out. It cannot do anything to the congregation, hence, why it knows that the only way of punishing the congregation for its actions also is to also punish its minister. It would be another sad day for the UCA if it proceeded to try and forcefully evict a congregation from its property in the same way it forcefully evicted the Good Sam residents 2 days before Christmas in 2009 through a real estate

Eventually, all except ten (10) of the residents were relocated. The congregation decided that in view of the fact that the professionals had found part of the building safe and insurable, they would allow the ten homeless residents to stay there while the building work was going on.

Synod disagreed and, with very little consultation, ordered the congregation to arrange for the immediate removal of the ten residents. It followed with an act that in its lack of pastoral sensitivity and absence of Christian compassion, is unworthy of councils of the Uniting Church. It ordered eviction of the ten homeless residents through a real estate agent and called the police to assist.

The congregation, shocked by the harsh action of the Synod and the apparent compliance of the Presbytery, immediately sought legal advice. Their lawyer sent Synod notice that the attempt to force eviction had not followed due process, and that the order to vacate the Ministry Centre would therefore be resisted.

The Synod sought its own legal advice and informed the congregation that according to that advice, one part of the church cannot take another part of the same church to court. That seems very dubious advice. If that were so, a church could engage in the most flagrant breach of its own constitution, rules and regulations, and no member or Council of that church could issue a challenge in a civil court. This would enable despotism of the worst kind to go unchallenged — a result that surely no legal system in a democracy would countenance.

Not being satisfied with evicting ten homeless persons, Synod proceeded to breach natural justice by bringing discipline proceedings against Hedley. It did so without going through the normal discipline process in Presbytery and Synod laid down in the regulations. That process places great store on pastoral counselling and every attempt being made to reach an amicable settlement of a complaint against a minister.

The Discipline Committee severely disciplined Hedley over an issue which could surely have been settled by pastorally sensitive consultation and counselling. While believing that he was treated unjustly by the Committee, Hedley complied with the Order made against him. He then expected to return to his ministry with the Emmanuel Congregation which was right behind him throughout the whole of this miserable business.

To his complete amazement and the amazement of his congregation, family and friends, the Synod and Presbytery proceeded to pile more punishment upon him. Without consulting with the congregation, the Church Council, or Hedley himself, they terminated Hedley's placement at Emmanuel. This, despite the fact that he is much loved by the congregation and is fulfilling a valuable ministry among them.

The Synod and Presbytery have not taken into account the important principle that compels both the congregation and Hedley to make a stand on this issue. They believed with utter conviction that it would have been morally wrong to refuse to house the ten homeless people in premises that had been certified as safe and insurable by qualified persons. They could not in good conscience bring themselves to cast them out into the street from which they had rescued them. One would have thought that councils of a Church that has always regarded social justice and solidarity with the disadvantaged as gospel-based imperatives, would have commended Hedley for his actions, not punished him.



Key Questions that must be asked!

In light of the events surrounding the eviction of homeless people from The Good Samaritan Ministry Centre in Gatton Street, Cairns and the subsequent charges laid against Hedley that resulted in the termination of his placement with Emmanuel

Congregation, there has been much soul searching

about what this means for us as Christians and members of the Uniting Church in Australia. It goes without saying there has been constant prayerful consideration of the issues as they unfolded, by individuals, the

After the three 3 months, the Synod Committee for Discipline, on advice from the Panel, terminated Hedley's placement at Cairns Emmanuel effective immediately. Placement was terminated without any reason.

3. How did this all start?

Refer to "Good Samaritan - Summary of Situation".

4. What crime did he commit?

Refer question two and also Good Samaritan Summary of Situation, particularly this paragraph:

"The Synod and Presbytery have not taken into account the important principle that compels both the congregation and Hedley to make a stand on this issue. They believed with utter conviction that it would have been morally wrong to refuse to house the ten homeless people in premises that had been certified as safe and insurable by qualified persons. They could not in good conscience bring themselves to cast them out into the street from which they had rescued them. One would have thought that councils of a Church that has always regarded social justice and solidarity with the disadvantaged as gospel-based imperatives, would have commended Hedley for his actions, not punished him."

5. Why is the punishment so severe?

"Punishment" is so severe simply because the process has been all about 'punishment', not 'discipline'. There is a big difference between the two. The lack of openness and transparency in this matter, as opposed to it being an open, reciprocal, educational process of learning in order to correct the so called 'wrong' behaviour in a pastorally caring, Christ like manner, highlights why we strongly believe that this has always been about 'punishment, not discipline.

6. Why has Hedley made the decision he has?



Frequently Asked Questions

1. Is Hedley still the minister at Emmanuel?

Yes! He still strongly feels called to be the Minister of the Word at Emmanuel. The Emmanuel Congregation continue to affirm this call. Noting also, "The Presby-

tery Consultation Team affirms the continuation of the call of Rev. Dr. Hedley Fihaki in the Cairns Emmanuel Congregation" (19/20 June 2009). The termination of the placement is rejected by the Congregation not only because the Synod made such a serious and unprecedented action without lawful consultation and due process, but it also failed to engage with the question of "Calling" (The Faith of the Church).

2. What did he do wrong?

On the 30th March 2010, the Presbytery Leadership Team (NQ Presbytery) sent a formal letter requesting that Hedley apologise to the Moderator, Rev. Bruce Johnson, for publicly defying a directive of the Property Trust Officer and by doing this, PLT says, Hedley has failed to comply with the principles in the Code of Ethics and Ministry Practice for Ministers in the UCA and has thus wilfully failed to comply with the lawful directive of the moderator (Reg. 7.8.2b).

Because Hedley did not apologise in this format, a formal complaint was made out against him through a law firm, by the General Secretary of the Qld Synod on behalf of the Synod Standing Committee to the Synod Committee for Discipline on the 14 June 2010.

On the 23rd March 2011 the Discipline Committee found Hedley guilty of these charges (except for failing to apologise, as they recognised that an apology is a personal matter and can't be forced) and suspended him for three months immediately.

During the three months, Hedley worked with a mentor, wrote a 10,000 word paper on "The Polity of the Church" and faced a panel.

Church Council and Elders, and the congregation as a whole.

Many questions came to mind during this time as we tried to make sense of what was happening and has happened. There seemed to be apparent inconsistencies between what is stated and one would think is intended in the Basis of Union for us as a Church, and the Constitution, Rules Regulations and By-laws, and importantly the practical application of these 'man-made laws.'

The issue was never with the need for 'man-made laws' but rather that because the Basis of Union acknowledges the Sovereign God and the teachings of Christ as written in the Holy Scriptures, there was a reasonable expectation from Hedley, Emmanuel Church Council and Congregation that with God as our witness, all dealings would be undertaken within this context.

A Discussion Paper titled "The Status, Authority and Role of the Basis of Union in the Uniting Church of Australia", was prepared in 1995 by The Advisory Group on Church Polity as requested by the Assembly Standing Committee. The paper refers to the two elements of Faith and Order. The following excerpt is taken from page 14 of the Paper under the heading of 'The Polity of the Church.'

The Basis of Union has also to be authoritative for determining the polity of the Church. The Basis of Union holds together faith and order. The order of the Uniting Church grows out of and is controlled by its faith. That must always be so, for the church is the creation of the gospel, called into being by the gospel and given shape by the gospel. If order is divorced from faith, what then determines the order of the Church? Expediency? The structures of big business? What its members think would be most efficient? This statement partly captures some of the questions that were already forming in our minds and are important and challenging questions for us all as Christians, and members of the UCA. They are;

1. What is the legal relationship between the Basis of Union and the Constitution, Rules, Regulations and By-laws of the UCA?

2. Man's Law is clearly reflected in the Constitution, Rules, Regulations and by-laws of the UCA so how is the Basis of Union (gospel teaching) reflected as such?

3. To support the practical application of the Constitution, how is the theological basis of the UCA as affirmed in the Basis of Union, explicitly referred to in these documents that represent the order of the church, i.e., how is order compelled to explicitly refer to or, even defer to faith?

4. What is the 'due process both written and transparent' within the Church to address situations where there is an apparent tension between the Basis of Union, the Ordination Vow of a Minister and the Constitution (God's Law and Man's Law), as a result of God's calling as occurred in this instance?

5. Where does this leave Ministers, Church Councils, Congregations, Presbytery and Synod when these tensions become evident?

6. What are the processes and procedures contained within the Constitution, Rules, Regulations and By-laws of the UCA that are used to resolve these particular issues other than the disciplinary process? (Single-mindedly resorting to a disciplinary process is not conducive to trust, can lead to conflict of interest and as is the nature of man almost inevitably the primary interest becomes self-interest or preservation. This is in itself at odds with scripture based teaching of denial of self.)

7. Given all of this, is it reasonable for Ministers, Church Councils and Congregations to expect Church Leadership to explicitly and openly discuss and resolve matters with reference to both faith and order to prevent decisions based only on expediency and the structure of big business? Is this God's plan for his church to be unbalanced in this way?

8. Can the Church be held accountable if there is not a clearly defined process in situations such as these, or where individuals, Congregations and Church Councils have not been able to access transparent and reasonable recourse that explicitly accounts for both faith and order?

9. If Ministers are placed with a congregation as a result of prayerful discernment by both the Minister and the congregation and in response to God's calling, how does one over-ride God's will? Has God's will and calling and therefore matters of faith been usurped in favour of man-made order with all its inherent failings?

10. Is it fair to say that when difficult situations arise such as this, the practice of discernment and prayerful consideration seems to focus on which processes and procedures of order should be applied, instead of the issue of faith at hand?

11. What then is the role of the Church Council and Congregation in serving the world and being led into a fuller participation in Christ's Mission in the world as outlined in the Basis of Union if, as Christians we cannot be responsive to the needs evident in our own communities according to God's will?

12. What will be our personal and collective account to God?

We know many of these questions are not new and have been asked before. We also know others have encountered situations similar to ours. We hope these questions will provide some context to the bigger issues that lie behind the events surrounding The Good Samaritan Ministry, the matter of faith faced by Hedley, the Emmanuel Church Council and Congregation and our reasonable expectation from the very outset that this would be heard and understood.

Trish Latu (Church Council Member).

