**Registering local URC buildings for the marriage of same-sex couples July 2016 (longer document)**

**Practical guidance following the General Assembly decision of 9 July 2016**

**Part I – Introduction: the legal framework**

1. The law of England and Wales allows the marriage of same-sex couples to take place in places of worship registered for that specific purpose.
2. These notes explain how
	1. a ‘building’ used only for the worship of the United Reformed Church, or
	2. a ‘building’ used for the worship of the URC and of other religious bodies

may be registered for the marriage of same-sex couples.

1. Marriage of same-sex couples is also possible in Scotland, but the Scots law of marriage is different. Guidance will be issued separately under the authority of the URC National Synod of Scotland.
2. Tynwald has passed legislation enabling same-sex couples to marry on the Isle of Man, which will shortly be brought into force. Similar legislation is at an earlier stage in Jersey and Guernsey. Mission Council will be considering the appropriate provision to be made for the Islands, but at present this guidance does not apply to them.
3. The relevant legislation in England & Wales is the Marriage Act 1949 (‘the 1949 Act’), as significantly amended by the Marriage (Same Sex Couples) Act 2013.
4. Under the 1949 Act, a building that has been **certified as a place of religious worship** may be registered for the solemnization of marriages of same-sex couples.
5. A ‘building’ may be registered for this purpose whether it is a separate building or forms part of another building.
6. The application to register the building is to be made **by a proprietor or trustee of the building** to the local Superintendent Registrar, who forwards it to the Registrar-General.
7. But such an application may not be made unless the **relevant governing authority** has given **written consent to marriages of same-sex couples**. In relation to a building, **relevant governing authority** means ‘the person or persons recognised by the members of the relevant religious organisation as competent for the purpose of giving consent for this purpose. The application must be accompanied by a certificate that the relevant consent has been given, and a copy of the consent.
8. If more than one religious organisation uses the building for religious purposes, it will often be the case that each organisation’s ‘governing authority’ is a ‘relevant governing authority’ whose consent is necessary: in other words, that the building cannot be registered unless all using churches’ governing authorities give some form of consent. This is explained further in Part 3.

**Part 2 – Applying the law to a ‘building’ used only for the worship of the URC**

***Note*** – If your church building is used for the worship of several churches or religious groups, whether this takes place under a sharing agreement, or because your church is (or is part of) a local ecumenical partnership, or by reason of some less formal arrangement with a ‘guest’ body, you will need also to consider Part 3 of this guidance.

But bear in mind that ‘building’ under the 1949 Act does not necessarily mean the complete structure.[[1]](#footnote-1) If you only want to register one or more connected rooms in your physical building for same-sex marriage, and no other religious body except the URC uses those rooms, then you can proceed following simply Part 2. You will not need the consent of religious groups which use other parts of the physical building. But in that event, the ‘building’ referred to in Part 2, to which the Church Meeting resolution and the application must refer, will comprise only those rooms.

**Identifying the governing authority**

1. In applying the law to the situation of your Local church, the first question to be addressed is ‘whom do the members of the URC recognise as competent for the purpose of giving consent?’ In other words, ‘what is the **relevant governing authority**?’
2. On 9 July 2016, the General Assembly of the URC declared that the Church Meeting of each Local church of the URC in England and Wales is the **relevant governing authority** for the purpose of giving consent for the trustees of its building to seek the registration of that building for religious marriage ceremonies of same-sex couples. The resolution to this effect was first approved by General Assembly on 27 June 2015, then referred to synods, and finally returned to Assembly where it was agreed as a decision of the Church on 9 July 2016.
3. This was an authoritative ruling by Assembly as to where, in our polity, competence of this nature lies. The Assembly can speak for the members of the URC on such a matter because one of its functions is ‘to interpret all forms and expressions of the polity … of the United Reformed Church’. The Assembly’s interpretation is that this competence lies not with itself, but with individual Church Meetings. Every Church Meeting can therefore give – or withhold – consent to the registration of its own building for same- sex marriage. The effect of this resolution has been explained to the General Register Office.

**Preparation for the Church Meeting**

1. If this is a controversial question locally, your church should approach the issue gradually, with prayer, preliminary study and discussion, and making use of the many resources available on this issue.[[2]](#footnote-2) There is no need to take a decision before the church is ready: if a few people raise the question at Church Meeting prematurely, it is possible for the majority to resolve ‘that the question be not put’ until a more opportune time for its discussion. There may be many churches where the issue is not raised at all. If the issue looks like being raised, it is prudent for the Elders’ Meeting to consider it first and to offer advice to the wider membership; but it is not necessary for any resolutions to be proposed or supported by the Elders collectively, or by the minister, in order to be considered.

**The Church Meeting decision**

1. *When the time is right, however*, it is suggested that two resolutions be moved together: the ‘**consenting** **resolution’** and the ‘**request** **to** **trustees’**.

‘1. As the governing authority of the United Reformed Church in relation to consent to marriages of same-sex couples in [Anytown Central United Reformed Church, High Street, Anytown and St Andrew’s United Reformed Church, Grange Street, Anytown], the Church Meeting resolves to give such consent.

2. The Church Meeting requests the trustee or trustees of the church building at [Anytown Central United Reformed Church, High Street, Anytown] to apply for the [church building] [principal worship area of the church building] to be registered for the marriage of same-sex couples.’

1. The sample wording just given is appropriate if a single Local church meets for worship in two buildings, but only wishes one building to be registered for same-sex marriage. It can easily be adapted if there is only one building, or if there are two buildings and both are to be registered. If only part of the physical structure is to be registered, such as the principal worship area or ‘sanctuary’, a side chapel, or a hall, **that should be made clear** in the request to trustees. Apart from these points, it is recommended not to deviate from the wording above.
2. If there are separate Church Meetings for different buildings, e.g. in a group of churches or joint pastorate, each Church Meeting must decide separately for its own building and pass separate resolutions.
3. The resolutions should be passed following the Local church’s usual practice, or its constitution if a written local constitution exists. This will determine whether a special majority, secret ballot, consensus decision-making or other procedure is appropriate. It is not in order for any Church Meeting decision to be taken by counting postal or proxy votes, nor for votes to be cast by persons not on the membership roll.
4. An **extract minute** of each resolution (separately) should be prepared after the meeting as follows. It is not necessary to state voting figures. If the person presiding at the meeting, or the Church Secretary, objects to signing the extract minutes the meeting can authorise one or two other members who were present to do so instead.

‘At a duly convened meeting of the members of Anytown URC held on … the following resolution was passed:

[*text of the resolution*]

Signed,

A. B.

[Minister] [Interim Moderator] presiding at the meeting

C.D.

[Church Secretary]’

**Certification as a place of worship**

1. Almost all buildings used regularly for the worship of the URC in England & Wales are already certified as ‘places of public religious worship’ under the Places of Worship Registration Act 1855 (‘the 1855 Act’). If your church building is already registered under the 1949 Act for the marriage of opposite-sex couples, the likelihood is that it has also been certified under the 1855 Act. If in doubt, your local registration authority should be able to tell you.
2. In the unlikely event that your building is not certified under the 1855 Act, the next step after the Church Meeting resolutions is to certify it. This is done on General Register Office (GRO) Form 76.[[3]](#footnote-3) It carries a fee of £28.
3. The form is generally self-explanatory, and has its own notes to assist in completion. However, it is also recommended:
	1. to certify the whole physical structure and its grounds (questions 3 and 4) if it is all used, at least part of the time, by the Local church. This has rating advantages. It does not preclude a more limited registration, of part only of the structure, for marriages.
	2. to reply ‘Christian’ to question 6, ‘United Reformed Church’ to question 6a, and ‘Church Secretary’, ‘Elder’, ‘Minister’, ‘Administrator’ or as appropriate to question 10 (any of those can sign).

Note that if the timetable you submit in response to question 8 discloses any religious activity other than that of the URC, you may need to consult Part 3 of this guidance, which relates to jointly-used buildings.

1. The form is submitted to the local Superintendent Registrar, and in due course the certificate under the 1855 Act, printed at the foot of the form, will be returned to you. This should be kept safely, e.g. in the church safe: some churches frame their certificates for display, but in this case a copy should be taken first and stored.

**Completion of Forms 78 and 78A**

1. Once the Church Meeting resolutions have been passed and the building certified under the 1855 Act, GRO Forms 78[[4]](#footnote-4) and 78A[[5]](#footnote-5) should be completed.
2. Form 78 is the application by the trustee(s) of the building. (The words ‘or proprietor’, dating from 1836, reflect a time when some nonconformist churches met on private property, but are unlikely to be applicable to your church today.) It is nevertheless helpful for it to be completed, so far as possible, locally, before being passed to the trustee(s) for signature.
3. In very many localities today, the Local church building is vested in the trust company serving the province or nation on whose Synod the Local church is represented. The trust company, therefore, is sole trustee and the form must be signed on its behalf. The members of the Elders’ Meeting are not trustees of the building (though usually they are trustees of the Local church funds).
4. Very occasionally, where the trust company has never been appointed to hold the building, there may be local individual trustees elected by the Church Meeting. These are distinct from the Elders, and in this guidance will be called ‘local trustees’. Local trustees may make decisions unanimously or by a majority. No trustee can be compelled to do anything to facilitate same-sex marriage, but if a majority of local trustees are willing to comply with a Church Meeting request then they can resolve to do so, and any one willing local trustee can sign the necessary forms.
5. The expression ‘trustee(s)’ in this guidance covers either the trust company or local trustees, as appropriate.
6. The first part of Form 78 is the householders’ certificate. This is only necessary if the building is being registered for marriages for the first time. It is not necessary if a building already registered for the marriage of opposite-sex couples is being registered additionally for same-sex marriages.
7. The twenty householders who sign do not have to be heads of household, or freeholders, but it is preferable not to have two signatures from the same address in this section. They must be people who usually worship in the building: they would normally be adult church members or adherents. They must of course be people who wish the registration to proceed.
8. The spaces for countersignature of the householders’ certificate and for the date should be left blank until the form is forwarded to the trustee(s).
9. The ‘building name’ used on form 78 should be consistent with the Church Meeting resolution. If, for example, only the principal worship area or a space known as ‘the memorial chapel’ is to be registered for same-sex marriage, then the ‘building’ on the form should be named accordingly: e.g. ‘[the principal worship area] [memorial chapel] of Anytown Central United Reformed Church’.
10. On the main part of form 78, the trustee should be named in the light of paras 26-27 above. A completed sample is attached. The building name and address can be completed locally, as can the denomination (‘United Reformed Church’) and the details of certification under the 1855 Act. (These will appear on the certificate held at the church, and can probably be obtained from the registration authority if the certificate cannot be found. If certification is taking place for the first time – see paras 20-23 above – these details can be left blank.)
11. Form 78 then has three boxes to be ticked. The middle box will be appropriate where a building is already registered for the marriage of opposite sex couples, but it is desired to add registration for same-sex marriage. The signature and date should again be left blank.
12. The ‘full name of applicant’ and ‘home address’ should be the registered name and registered office address of the trust company, except where there are local trustees, in which case the details of one willing local trustee should be inserted.
13. The ‘Yes’ box by question 3 should always be ticked.
14. The box by question 4 should also be ticked, and a copy marriage service provided. There are three options here, given that the URC does not prescribe any liturgy that must be used in its churches. If your church has devised a liturgy which will normally be used in the marriage of same-sex couples (or all couples), you can attach a copy of that to the application. Or you can attach a recommended liturgy which will shortly be made available on the URC website.[[6]](#footnote-6) Or if you have no local form, but need to apply urgently before the recommended form appears, simply photocopy the marriage service from the URC Service Book and adapt it manually to the same-sex context. (The GRO will only be interested to see that the prescribed ‘Declaration of No Impediment’ and ‘Words of Contract’ are included; which they are.)
15. The box by question 5 should be ticked and Form 78A attached (see below).
16. Provided no other religious body except the URC uses the ‘building’, Form 78A may be completed as follows. Tick the ‘No’ boxes by questions 1 and 2. On the first line of the certificate at 3, insert the registered name of the trust company or the name of the same local trustee as was entered on form 78. Enter the building and registration district names, remembering that the building name should again accord with the Church Meeting resolutions. Leave the signature, date, and the second page of Form 78 (‘shared buildings only’) blank.

**Signature of Forms 78 and 78A**

1. When the forms have been completed as above, they should be sent to the trust company c/o the Synod Office, or (where appropriate) to the local trustee named on the forms. The Local church should send the following together:
	1. extract minute of the consenting resolution (see paras 15-19 above)
	2. extract minute of the request to trustee(s) (see paras 15-19 above)
	3. signed Form 76 with separate fee if necessary (see paras 20-22 above)
	4. unsigned Forms 78 and 78A
	5. sample marriage liturgy (see para 37 above)
	6. fee of £64 (assuming the registration is for same-sex marriage only. The Register Office will advise to whom a cheque or bank transfer should be payable.)
2. If the Directors of the Trust company have resolved to act upon Church Meeting requests of this nature, they should also have authorised one or more of their staff to sign applications on the company’s behalf. The staff member concerned will check the application(s) and enclosures, sign Forms 78 and 78A and countersign any householders’ certificate. The ‘request to trustee’ extract minute will be kept in the company’s records, and everything else forwarded to the local registration authority.
3. If there are individual local trustees who have resolved unanimously or by a majority to act upon Church Meeting requests of this nature, the local trustee named on the forms will check the application(s) and enclosures, sign Forms 78 and 78A and countersign any householders’ certificate. The ‘request to trustee’ extract minute will be kept in the local trustees’ records, and everything else forwarded to the local registration authority.

**Procedure after submission**

1. The GRO aims to process applications within one month but does not guarantee this. In due course the certificate printed at the foot of Form 78, will be returned to the trust company or signatory local trustee. The original should be kept either by the trustee(s) or in the church safe, at trustees’ discretion. A copy should always be supplied to the Local church and kept with its records. Once this is received, marriages of same-sex couples can take place.
2. A local church may apply to have an Authorised Person appointed, to register same-sex marriage services. The appropriate form and guidance notes can be found on the URC website, directly below the place where you found this document. This Authorised Person could be, but it does not need to be, a person who is already authorised for opposite-sex marriages. Be careful: an Authorised Person for opposite-sex marriages is not automatically authorised for same-sex couples, and may not officiate for same-sex couples, unless and until he or she has been formally appointed by the General Register Office for that task. If an Authorised Person has not (or not yet) been appointed, a registrar will have to attend marriage services and this should be borne in mind when advising couples on dates.

**Part 3 – Applying the law to a ‘building’ used for the worship of the URC and of other religious bodies**

**General principles**

1. If the physical building used by the Local church is used also by other religious bodies, it is important to be clear whether the whole or only part of that physical building is being registered for same-sex marriage. This part of the guidance applies only when the ‘building’ sought to be registered (which may be a small part of the entire complex) is itself jointly used.
2. The general rule is that when a building is jointly used, the governing authority of every using church must consent before it can be registered. There are two forms of consent they might give:
	1. ‘**consent to same-sex marriages’**, which would normally be given if they intend to solemnise same-sex marriage under their own auspices; or
	2. **‘consent to use’**, which might be given if they do not intend to solemnise same-sex marriage under their own auspices, but do not wish to prevent their fellow-users of jointly-used buildings from doing so.
3. There are certain exceptions to the principle just stated. The GRO notes to Form 78A give a rough summary of the law. If in doubt whether a joint user is a ‘sharing church’ as explained in those notes, Local churches are encouraged to contact the General Secretary at URC House who will ensure that advice tailored to their situation can be given.
4. In this guidance, only three of many possible permutations will be considered:
	1. Your church is a single-congregation local ecumenical partnership and wishes to host same-sex marriages;
	2. Your church, which wishes to host same-sex marriages, allows a congregation of another church to use its building regularly for worship, and that church does not wish to do so;
	3. Your church, which does not wish to host same-sex marriages, allows a congregation of another church to use its building regularly for worship, and that church does wish to do so.

**Single-congregation LEP wishing to host same-sex marriages**

1. A church building used by a single-congregation LEP is ‘used for the religious purposes’ of all the denominations represented in the partnership. Thus registration of the building requires the consent of all **governing authorities** concerned. In a LEP with two other denominations, for example, some form of consent (see para 46) is needed from each **governing authority** before registration for same-sex marriage can proceed.
2. Identifying the correct **governing authority** to speak for the URC interest is facilitated by another part of the General Assembly ruling of 9 July 2016:

‘In the case of Local Ecumenical Partnerships, Union Churches, and United Churches, where the constitution makes no provision for a Church or Congregational Meeting … the relevant governing authority of the United Reformed Church …is the council which represents the widest gathering of members of that Church or Partnership. In case of doubt the council to act in this matter shall be jointly determined by the Moderator and Clerk of the Synod on which that Church is represented.’

Thus the body entitled to act as governing authority in respect of the URC interest may in fact be a council of the LEP whose members include members of the other denominations as well. Identifying this ‘URC **governing authority’** will be a matter of first, consulting any written local constitution; second, looking for the largest institutional gathering of members; and third, if in doubt referring to the Synod Office for a determination. Advice should be sought where other denominations or independent churches are involved.

1. The wording of the **consenting resolution** set out in Part 2 above is suitable for use by a congregational meeting giving consent on behalf of the URC, but ‘congregational meeting’ or some other name used for the local council may be substituted for ‘Church Meeting’
2. If all necessary consents are forthcoming (e.g. **consent to same-sex marriage** by the congregational meeting, and **consent to use** by the governing authorities of other denominations), a ‘**request to trustees**’ should be made by the congregational meeting. If the building is in URC ownership the comments in Part II about trustees will apply; if it is in another denomination’s ownership, that denomination should be contacted for advice regarding trustees and their practice.
3. Form 78 should be completed giving details of the denominational trustee(s) who hold the building, and signed by or on behalf of them or one of them. (In a purpose-built shared church the trustee may be a company formed specially for that purpose.) But all denominations represented in the LEP should be named against ‘Names of denominations’. In Form 78A the ‘Yes’ box alongside either question 1 or 2, as appropriate, should be ticked, and all denominations named in the first column of the table in question 4. If **consent to same-sex marriage** has been given on behalf of a denomination, as described above, ‘Yes’ should be stated in the second column and the third left blank. If **consent to use** has been given on behalf of a denomination, ‘No’ should be stated in the second column and ‘Yes’ in the third.
4. An **extract minute** should be prepared as described at para 19 above, in respect of the congregational meeting decision. Copies of the consents given should be obtained from the authorities of other denominations, and all these should be forwarded together to the trustee(s).

**Willing URC Local church hosting unwilling guest church or *vice versa***

1. If your Local church of the URC, which wishes to host same-sex marriages, allows a congregation of another church to use its building regularly for worship, it is sensible to ascertain the views of the guest church at an early stage. If that church (or the denomination to which it belongs) does not wish to host same-sex marriage itself, its **governing authority** can still give **consent to use** enabling the building to be registered. Forms 78 and 78A should be completed accordingly and the guest church’s **governing authority** **consent to use** should accompany the URC **consenting resolution** and other papers as set out in Part 2.
2. If your Local church of the URC, which has no plans to host same-sex marriages, allows a congregation of another church to use its building regularly for worship, you may be approached by that congregation with a view to having the building registered. Your Church Meeting is free to agree or not. If it is minded to agree, resolutions on the following lines should be moved:

‘1. As governing authority of the United Reformed Church in relation to consent to marriages of same-sex couples in [Anytown Central United Reformed Church, High Street, Anytown and St Andrew’s United Reformed Church, Grange Street, Anytown], the Church Meeting resolves to consent to the use of [the Andrew Melville Hall at St Andrew’s United Reformed Church, Grange Street] for the marriage of same-sex couples under the auspices of [Anytown Metropolitan Community Church].

2. The Church Meeting requests the trustee or trustees of [St Andrew’s United Reformed Church, Grange Street, Anytown] to apply for [the Andrew Melville Hall at St Andrew’s United Reformed Church] to be registered for the marriage of same-sex couples.’

1. It is always the ‘host church’s’ trustee(s) who apply for registration, even if the ‘guest church’ is the only church planning to take advantage of it. Forms 78 and 78A should be completed accordingly and be forwarded, with the guest church’s **governing authority** **consent to same-sex marriages, extract minutes** of the resolutions above and other papers as set out in Part 2. (The liturgy supplied should, of course, be that of the guest church.)

*Posted by John Proctor on behalf of the URC’s law and polity advisory group*

*14 July 2016*

1. Marriage Act 1949 s.43A(6) [↑](#footnote-ref-1)
2. [A link to resources could be given here] [↑](#footnote-ref-2)
3. <https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/291276/F76.pdf> [↑](#footnote-ref-3)
4. <https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/303751/B0626_F78.pdf> [↑](#footnote-ref-4)
5. <https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/281246/D0546_F78A.pdf> [↑](#footnote-ref-5)
6. [A link can be added here in due course] [↑](#footnote-ref-6)