



The Registration of Civil Partnerships on religious premises

General Assembly, recognising the considerable differences of conviction held within the church on same-sex relationships and holding to its Commitment on human sexuality passed in 2007, grants its consent for church meetings within the United Reformed Church, if they so wish, to direct the trustees of their church's premises (or to request the trustees of other premises, the use of which their church shares) to apply for approval of those premises for the registration of Civil Partnerships.

The text below only applies in England and Wales. It does not apply in Scotland, the Channel Isles and the Isle of Man where the law on civil partnership registration has not yet changed. The Scottish Government has initiated a separate consultation and the Synod of Scotland has made a submission in response.

1. How the situation has been changed by section 202 of the Equality Act 2010

The section repeals that part of the Civil Partnerships Act 2004 which specifically excluded religious premises as places where Civil Partnerships might be registered and as a result the Government has now brought in regulations that make it possible for Civil Partnerships to be registered in church buildings approved for the purpose and for that registration to take place in association with an act of worship, provided the actual registration is distinguished from any religious language or content. There is a requirement that the Registrar must officiate at the registration but s/he may or may not be present for the worship. ***However no local church can apply for approval unless the governing authority of the denomination (in our case the General Assembly) has agreed that it may do so.***

2. The Church's attitude to Civil Partnerships to date

Following the passing of the Civil Partnerships Act 2004, which came into effect in December 2005, some local churches sought advice as to how they should respond to any request for a service of blessing of a Civil Partnership in church. Mission Council considered this request in the light of a paper that was presented to it and authorised the paper as a resource which could be offered to any local churches seeking advice in future. In essence the paper advised that the response to any request was the responsibility of the local church concerned, taking full account of all the circumstances in each case. This action was reported to General Assembly in 2006.

When the Assembly passed its Commitment on human sexuality in 2007 it asked a new task group, inter alia, to consider whether the paper needed updating. In 2009 the task group advised Mission Council that, apart from a few details, the only change needed was to base the advice on the Commitment so that it remained consistent with Assembly policy. The matter still remained the responsibility of the local church.

3. How should the Church respond to this new situation?

It is clear that many local churches will not want to take any action at all on this matter, that others will decide not to seek approval for registration, and that others will want to seek approval for their premises to be used for the registration of Civil Partnerships. Assembly will need to recognise that there is no common mind on this issue. However, there are some guiding precedents. Given that (a) the Assembly Commitment recognises that different convictions are held within the church on the matter of same-sex partnerships and that the difference should be respected, and (b) the Mission Council advice on blessing of Civil Partnerships was that this was a matter for each local church to decide, it seems logical to advise the Assembly in 2012 to pass an enabling resolution allowing each local church to reach its own decision on whether or not to seek approval for Civil Partnerships to be registered within its buildings.

It almost goes without saying that any local church contemplating considering a resolution to seek approval should only do so after careful preparation. The members need to be given due notice and to be made aware of the basis on which the resolution is brought. Particular note may need to be taken of the views and likely reaction of the minister(s), any minority opinion, other churches in the pastorate, and ecumenical partners. Where a meeting is initially divided, it may be wise to defer a decision in order to give time and prayer to consider the best way forward.

A possible Church Meeting resolution might be: “The Church Meeting directs the Trustee(s) of the church building to apply for approval of the building as a venue for the registration of Civil Partnerships”

4. Some legal issues

The main pieces of legislation to be borne in mind are (a) the Civil Partnerships Act 2004 (as now amended by the Equality Act 2010 section 202), (b) the Marriage and Civil Partnerships (Approval of Premises) Regulations 2005 (as now amended by the Marriage and Civil Partnerships (Approval of Premises) (Amended Regulations 2011)), and (c) the trusts and powers applicable to church buildings under the United Reformed Church Act 1972 (or 1981 in the case of former Churches of Christ buildings), Schedule 1, Part 1.

Because the regulations governing the registration of Civil Partnerships on commercial premises do not easily apply to religious premises, the Government held a consultation process in 2011 with the churches and others with a view to replacing or amending the Marriage and Civil Partnerships (Approval of Premises) Regulations 2005. The United Reformed Church was able to contribute to that process through its Law and Polity Advisory Group, but inevitably not all its comments were acted on.

The process for a local church wishing its premises to be approved would be first a resolution of its Church Meeting, which would be forwarded to the trustees, who would then need to make the application to the local authority. In most cases this would be the responsibility of the synod trust body; in a few cases individual trustees would need to act. The advice given is that trustees appointed under the URC Acts would not have discretion to go against the wishes of a competent Church Meeting in this matter if the Assembly had passed an enabling resolution. Equally, trustees cannot act of their own volition without a Church Meeting direction.

Any Church Meeting contemplating considering such a resolution is strongly advised to get a copy of the necessary forms and a clear explanation of the regulations from its local authority in advance of the decision. In particular, note should be taken of the fact that (unlike marriage services) it will not be possible to incorporate the civil registration into the act of worship. The regulations require a clear separation between the two and there should be no religious element included in the civil registration. Some other examples of the regulations are:

- * a certified copy of the resolution passed by the General Assembly would
 - need to accompany the trustees' application
 - the local authority must give public notice of the application and objections may be registered by anyone who believes the regulations have not been followed
 - it must be specified which part of the building will be used
 - a fee must be paid
 - a responsible person, appointed by the trustees and notified to the authority, must be present in the building for an hour before the ceremony and must ensure compliance with the regulations (this role is not the same as that of an authorised person at marriages and it has no connection with the registration itself).
 - approval will be for a period defined by the authority (not less than 3 years), after which renewal must be sought and a further fee paid.

Concern that the new regulations, when read together with the Equality Act, could expose some churches to claims of unlawful discrimination, has received some publicity. The following advice deals with three easily imagined situations. (a) A church which regularly hosts marriages but which does not seek to be approved for Civil Partnerships to be registered is accused of discrimination against gay and lesbian people. This is not seen as a risk, since the owners of property (religious or otherwise) are not **obliged** to seek approval for the registration of marriages or Civil Partnerships. (b) A church building is approved and then the Church Meeting changes its mind and refuses all couples seeking registration of their Civil Partnerships. This has the potential to be a problem but it would be possible not to seek renewal at the end of the current term. (c) A church is approved for the registration of Civil Partnerships but wishes to reserve the right to consider each application on a case-by-case basis. Most churches operate such a policy in regard to marriages and there is no reason why they should not do so in regard to Civil Partnerships, provided the refusal is not on the grounds of a protected characteristic.

No minister or worship leader can be compelled to preside at a service if, on grounds of conscience, s/he feels unable to do so. A church which wishes such a service to take place must arrange for someone else to lead it.

The above is a summary of some of the legal issues involved. It does not claim to include all relevant legal issues.

5. Shared church buildings in joint use

There are an increasing number of places where a church building is shared with one or more other denominations. The regulations appear to be particularly restrictive in this case, whether the sharing is formal under the Sharing of Church Buildings Act 1969 or the informal giving of hospitality to another congregation. If a building is in United Reformed Church ownership and the Church Meeting wishes to consider a resolution seeking approval for the registration of Civil Partnerships, it will need to provide evidence of consent by the governing authority of all other religious organisations using the building. If the building is in the ownership of another denomination, the initiative will need to come from that denomination anyway; and if a purpose-built shared church is held by trustees for the purpose of a sharing agreement, a URC proposal to seek approval would need to command general support before those trustees could act upon it.

This paper now goes on to look at some wider issues that may need clarifying for those coming new to the subject.

6. Concerning services of marriage and civil partnership

If the advice above is followed, and if a local church decides to seek to be approved for the registration of Civil Partnerships, both kinds of service would contain two distinct elements. On the one hand there is the civil element, in which certain statements and promises required by law are made and documents are signed. The other is the religious element in which the covenant between two people is surrounded by prayer and related to Scripture and in which God's blessing is sought.

In some countries it is not allowed for the two elements to take place at the same time and place. And indeed there are some people in this country who prefer first to be married in a registry office and then to come to church for a blessing.

The distinction is important because it makes clear what is involved in passing an enabling resolution in response to the Equality Act. First it enables local churches to allow the legal part of a Civil Partnership to be registered on their premises. Second, it enables local churches to decide that it is in order to complement the making of a Civil Partnership with prayer and Scripture in church. The approval would only enable such things to happen: it would leave each local church to decide on each occasion whether or not a particular Civil Partnership could be registered on its premises.

7. Inconsistency

There is a significant theological inconsistency in the advice accepted by Mission Council in 2006 and 2009, and now in this paper. The task group believes it should be named. The inconsistency lies in the fact that, while one church may believe that God blesses Civil Partnerships and another may believe the opposite, they cannot both be right. Reflection shows that theological inconsistency is not something new among us. One church may pray for God's blessing on a particular armed conflict while another will not because it believes that the conflict is contrary to God's purpose. One church will as a matter of policy welcome children to Holy Communion whilst another will feel that adult faith is required of those who receive the Sacrament. Of more obvious relevance, one church may allow a couple who have both previously been divorced to marry in church and so offer God's blessing, while another will refuse because it believes God does not bless such a union. Or again, one church may be happy to welcome a cohabiting couple into its fellowship while another will first seek a change of lifestyle. To remove all the inconsistencies would lead to the fragmentation of the church, but the task group believes it is healthy for them to be named, recognised and wrestled with – but not fought over. It is by the grace of God, not by human conflict, that the church finds its way through inconsistencies.

It is also undeniable that an enabling resolution would lead to inconsistency between one church and another. In some places Civil Partnerships would be complemented by worship while in others they would not. That is inevitable so long as the Assembly stands by a Commitment which recognises significant differences of conviction. The hard question has to be faced: which is better, inconsistency, or the sort of pain and sense of injustice which has accompanied previous attempts to find a common mind on same-sex relationships? A further question is, given the variety of human life and relationships, is it not inevitable that sometimes people have to accept things with which they do not agree for the sake of fellowship? That in turn can lead to inconsistency.

8. Common ground

The issue of same-sex relationships divides, not only the United Reformed Church, but the whole of Christendom. Yet this is not an absolute division. There is common ground between those on both sides (and in the middle) of the debate. All agree that at the heart of God's nature, the Trinity, there is relationship. All agree that within God's purpose human beings have a sexual identity. All agree that deep personal relationships can give immense value to human life. All agree that bad personal relationships can be very damaging to human life. All agree that the best relationships are based on love, trust and faithfulness. All agree that such relationships are the best basis for the family and for society. It is easy to follow these statements with the comment, yes, but we don't agree on same-sex relationships. True though that is, the common ground has a significance that cannot be ignored.

9. Is that it?

Yes, so long as we all recognise that adopting this resolution leaves us in exactly the same situation of differing convictions regarding same-sex relationships. Because we have those convictions, some will see this as a step too far, and others as a step not far enough. We can only continue to walk together so long as we trust each other to consider each decision before us in a prayerful and sensitive spirit. We will need to respect one another's integrity as disciples of Jesus.