



The United Reformed Church and the Equality Act 2010

1. How does the Act relate to the Church?

The Act amends part of the Civil Partnerships Act 2004 so that, from a date to be agreed, it will be possible for Civil Partnerships to be registered in church buildings approved for the purpose and for that registration to take place within an act of worship, provided the actual registration is distinguished from any religious language or content. There is a requirement that the Registrar must be present for the registration but not for the worship.

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.

3. How should the Church respond to the Act?

The Act provides that any local decision on whether to seek approval for the registration of Civil Partnerships on church premises will require the prior permission of the parent body of each denomination. In other words, the Assembly has to decide whether or not to allow applications. 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.

If this advice is followed, it is suggested that the resolution should be accompanied by guidelines for any local church considering this matter. The task group is happy to draft such guidelines if required, and it would endeavour to make them as close as possible to those already issued for those considering services of blessing of Civil Partnerships. In fact it would be possible to base them on sections 3 and 4 of the 2009 version. Guidelines would encourage a level of consistency throughout the church.

4. Some legal issues

The main pieces of legislation to be borne in mind are (a) the Marriage Act 1949 which governs marriages within United Reformed Churches, (b) the Civil Partnerships Act 2004, referred to above, which excluded religious premises from being used for registration, and (c) the Equality Act 2010 which inter alia removed the latter exclusion.

Because the regulations governing the regulations of Civil Partnerships do not easily apply to religious premises, the Government has begun a consultation process with the churches and others with a view to replacing or amending the Marriage and Civil Partnerships (Approved Premises) Regulations 2005. The United Reformed Church will be able to share in that consultation and, until it is complete, some questions of practice and detail that may occur to Mission Council members cannot be answered. It is likely, therefore, that a further report will need to be made to the November meeting, but that should not prevent the Council from agreeing a direction and a process now.

The likely process for a local church wishing its premises to be approved would be a resolution of its Church Meeting which would be forwarded to the trustees, who would then need to make the application. In most cases this would be the responsibility of the synod trust body; in a few cases private trustees would need to act. The advice given is that trustees appointed under the URCA Acts would not have discretion to go against the wishes of a Church Meeting in a matter regarding public worship if the Assembly had passed an enabling resolution.

In making an application the trustees would have to ensure that a senior responsible person(s), distinct from the authorised person, had been designated in each case to ensure compliance with the legal regulations. Such a person would have to be present on the premises for an hour before and during the Civil Partnership registration.

Three situations have been identified in which people might fear prosecution under the Equality Act. (a) A church which does not seek to be approved for Civil Partnerships is accused of discrimination against gay and lesbian people. This is not seen as a problem, 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 any couple seeking registration of their Civil Partnership. This has the potential to be a problem but it is hoped that the present discussions with the Government will result in some kind of conscience clause whereby a church could seek for its approval to be rescinded. (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 discrimination is not on the grounds of something like a particular ethnic group.

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 continue must arrange for someone else to lead it.

The above is a summary of advice given by the Law and Polity Advisory Group to the task group. It does not claim to include all relevant legal issues and in particular does not go into some minority situations such as that of those churches with private trustees or united churches with trusts under the authority of other denominations. A full copy of the LPAG advice will be available at Mission Council for those who wish to see it, and it is hoped that a paper on the situation of locally united churches will also be available.

5. Preparing for the decision

Mission Council is advised to recognise that if this matter comes to Assembly in 2012, it will by then be some five years since there has been any discussion of human sexuality in that council. Many members of that Assembly will not be aware of the various stages taken by the sexuality debate in recent years. Some who are aware are already expressing the view that in this five-year period certain things have been decided without their being able to comment. There is a danger that what could be a relatively straightforward decision on a single issue becomes a major debate ranging over a number of different and divisive issues.

The task group therefore recommends that thought is given to ways in which the issues can be given wider discussion before the matter gets to Assembly.

One possibility is to invite synods to have an initial discussion, without reaching any conclusion, at their meetings in the autumn of 2011. As part of that, or as a separate exercise, a one-off meeting of (three) representatives of each synod could be called, at which members of the task group might explain the background to the matter. The representatives could then use the following months to raise awareness in their synods. Yet another possibility is for Mission Council to make a decision on behalf of Assembly, and then decide to remit it to the synods as if it was a constitutional resolution which would then come to the 2012 Assembly provided not more than one third of the synods had voted against it. Or the 2012 Assembly could represent the first decision, which would then be referred to synods, and the final decision would be made at Assembly 2014.

The reason for these suggestions is that the Assembly should not come to this matter ill-prepared, or with a sense that it was being rushed into a decision. This may be made even more important by the sense that on matters of human sexuality Mission Council does not reflect in its membership the full range of views that will be present in an Assembly.

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 surround the making of a Civil Partnership with prayer and Scripture in church. The resolution 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 in worship 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. 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. 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 registered in 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 proposal 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.