

Paper N1

Human Sexuality Task Group

The Marriage of Same-Sex Couples

United Church 2015
Church 2015
Reformed Church 2015
Church 2015



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Basic Information

Contact name and email address	Elizabeth Caswell ecaswell@btinternet.com
Action required	Decision.
Draft resolution(s)	<p>1. Mission Council resolves to commend to General Assembly Resolution X as set out within this paper.</p> <p>Then, if Resolution 1 above has been agreed ...</p> <p>2. Mission Council recalls General Assembly, to meet for one day on 27 June 2015 in Birmingham, to consider Resolution X.</p> <p>Resolution 3 has two parallel versions ...</p> <p>EITHER 3A.</p> <p>3A. Mission Council resolves that, should General Assembly support Resolution X, it will advise Assembly that the matter does not involve constitutional change and therefore need not be referred under the procedure in Section 3(1) of the Structure.</p> <p>OR 3B.</p> <p>3B. Mission Council resolves that, should General Assembly support Resolution X, it will advise Assembly to refer the matter under the procedure in Section 3(1) of the Structure, to the synods of the Church.</p> <p>Finally, if Resolution 3B has been preferred to 3A ...</p> <p>4. Mission Council resolves that, should General Assembly support Resolution X, it will advise Assembly to refer the matter under the procedure in Section 3(1) of the Structure, to the congregations of the Church, as well as to the synods.</p>

Summary of Content

Subject and aim(s)	The URC and the marriage of same sex couples.
Main points	The task group invites Mission Council (i) to commend a resolution to General Assembly, (ii) to recall Assembly in June, to consider the resolution, and (iii) to ask Assembly to consider whether, if it passes the resolution, it ought to refer it by the process set out in Section 3(1) of the Structure of the URC.
Previous relevant documents	Record of General Assembly, Cardiff, 2014.
Consultation has taken place with...	Most of the congregations and all the synods of the URC.

Summary of Impact

Financial	An extra day's meeting of General Assembly will cost about £30K.
External (e.g. ecumenical)	A number of other churches are actively considering this issue.

The Marriage of Same-Sex Couples

1. In 2014 General Assembly agreed to consult our synods and local churches about same-sex marriage. We asked them whether 'local URC congregations who want to offer and host same-sex marriage services (should) be allowed by the Church to do so'. This question addresses specifically the situation of churches in England and Wales. Scots law does not require the registration of buildings for religious weddings.
2. All thirteen synods replied, as did a majority of the churches (858 out of 1472).
3. Of these congregations who replied, 63% voted in favour of the resolution, 34% voted against, and 3% of the fellowships were evenly divided.
4. Of the members who voted in local churches (roughly eighteen thousand people), about 62% voted in favour and 38% against.
5. All the synods were in favour. Of their 1100 members, 80% voted yes, and 20% no.
6. The FURY Advisory Board and East Midlands Youth were both unanimously in favour, and the majority of a group of Westminster College students were in favour.
7. In reporting on the consultation, the Task Group warmly thanks those who led and hosted training events for facilitators (Elizabeth Gray-King, Michael Jagessar, Neil Thorogood, members of St Paul's, Bayswater and staff of North Western Synod), the Council for World Mission (CWM) (who funded this training with a capacity development grant), and the dozens of synod facilitators who helped very many of our churches to discuss this matter. We are grateful too to staff in Church House who handled all the replies, and to Graham Campling, who undertook the numerical analysis with great clarity and speed.
8. There is, however, more to consultation than numbers, and many replies included thoughtful comment. We need to mention one emphatic objection to a couple of words in the *One plus One* booklet – the words '(particularly) African' on page 6. The Task Group believes it was right to mention that the subject of same-sex relations raises different sorts of responses in different nations and cultures, but apologises for linking this issue to a particular group of countries, in a way that is unfairly specific.
9. Most churches were glad to have been consulted; some would have preferred this to precede any Assembly discussion. Many churches that voted yes were clear that they do not expect to hold same-sex marriages in their buildings, but they do believe that local churches should make their own decisions in this matter. The URC's speed of action on this subject was criticised from both directions: 'Get on with it!' and 'Move more slowly.' Some of our members are very hurt at the thought that the URC might countenance same-sex marriage at all; others are pained that their churches cannot offer same-sex marriage services at the moment. And there were churches that spoke of growth through careful listening to one another, even amid respectful disagreement.
10. There are various fears abroad – that the legal protection in the Act of Parliament might one day be withdrawn from churches that do not wish to register their buildings; or that the URC may split; or, in some places, that local unity will be strained.
11. The largest number of comments concerned marriage. Many churches that voted 'yes' added the rider that they, or a number of their members, did not think a union between

people of the same gender could be marriage. Whatever civil law says, they believe that marriage is the union of a man and a woman. They wish to be welcoming and affirming but cannot understand why Civil Partnership is not enough.

12. Authority in the Church was a concern. If this measure goes through, will the Basis of Union have to be revised on the grounds that we will not be acting under the authority of the word of God or seeking the peace and unity of the Church? Several comments touched on whether or not this subject is an issue of doctrine. Some returns suggested that a General Assembly resolution should not be required; we should 'give churches more freedom within a federal congregational structure. Such a move might allow us to stay together with integrity and some measure of authentic unity.'
13. At least two synod meetings heard proposals along those lines: rather than talking of Assembly authorisation, the URC should simply recognise that local churches are the places for taking decisions on the registration of local buildings. A well-drafted proposal of this kind emerged in Wessex Synod, which also takes careful account of the necessary legal framework. The Task Group believes that such an approach can help the Church to live with integrity within its own diversity of opinion, and that it should be commended by Mission Council to General Assembly.

Resolution X for General Assembly:

- A. In keeping with the 2007 commitment on Human Sexuality, General Assembly does not consider it appropriate to express a single view on behalf of the whole United Reformed Church on the matter of Same Sex Marriage.
- B. General Assembly declares that the Church Meeting of each Local Church of the United Reformed Church 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, in accordance with the provisions of Section 26A(1) of the Marriage Act 1949 as amended by the Marriage (Same Sex Couples) Act 2013.
- C. In the case of Local Ecumenical Partnerships, Union Churches, and United Churches, where the constitution makes no provision for a Church or Congregational Meeting (including a Special or Extraordinary General Meeting) the relevant governing authority of the United Reformed Church under Section 26A(1) of the Marriage Act 1949 as amended by the Marriage (Same Sex Couples) Act 2013 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.
- D. Noting that Mission Council has already recognised, on behalf of General Assembly, 'that if a future Assembly were to allow for ministers and members of the United Reformed Church to solemnise same-sex marriages under Scots Law, the Synod of Scotland would be the appropriate council of the URC to approach the Registrar General for Scotland', the General Assembly confirms that it now lies within the competence of the National Synod of Scotland to nominate under section 9(1A) of the Marriage (Scotland) Act 1977 as amended by the Marriage and Civil Partnership (Scotland) Act 2014 members of the United Reformed Church who have indicated their willingness in writing to the Synod to be approved celebrants of same sex marriage in Scotland.

- E. The General Assembly recalls that the trusts on which local Church buildings are commonly held empower the Church Meeting to direct in what ways such a building is or is not to be used for public worship and ancillary purposes.
- F. The General Assembly authorises the general secretary, the clerk, or any deputy general secretary to sign and furnish a copy of this resolution (or a relevant extract) in the name of the Assembly, whenever such a copy may be required by law.

14. The task group believes that this six-part resolution is as comprehensive as it can presently be, is coherent (and should therefore not be treated piecemeal), and is compliant with the law. We know of a few gaps, which we do not think we can address quickly. (a) The Channel Islands and the Isle of Man are not referred to. No legislation has yet been proposed, let alone enacted, in these places, and it is better to defer our response until legislation arrives. (b) We make no proposals about armed forces chapels in England and Wales. (c) Nor do we make any proposals about the marriage of people detained, e.g. prisoners, the housebound, and the terminally ill, in England and Wales.
15. The Task Group further believes that, by declining to express a single view on behalf of the whole Church, Assembly would sustain the spirit of the 2007 Commitment, which honours the Christian integrity and intention of members who take a variety of views about same-sex relations. The word 'declares' in part B of the resolution sets out a view on how and where we take decisions; a word like 'authorises' would draw attention to the particular decisions that we take. In this context, 'declares' appears less likely to be deeply divisive.
16. The Task Group therefore invites Mission Council to commend Resolution X to General Assembly, and this is the first of our resolutions at Mission Council:

Resolution 1. Mission Council resolves to commend to General Assembly Resolution X as set out within this paper.

17. Should Mission Council accept Resolution 1, the Task Group believes the Church should carry forward its provisional plans for an extra meeting of the 2014 Assembly. We believe this business is ready for consideration, and it could be properly discussed in the four hours that a day's meeting would allow. The consultation is complete, and Assembly should be invited to reflect on its results without long delay. Our second resolution to Mission Council (which will depend on Mission Council approving the first) is therefore as follows:

Resolution 2. Mission Council recalls General Assembly, to meet for one day on 27th June 2015 in Birmingham, to consider Resolution X.

18. A concern was raised at Cardiff that the marriage of same-sex couples would 'modify ... doctrinal formulations of the United Reformed Church'. Any Assembly resolution which would make this possible under our auspices would thus come within the terms of Clause 2(6)(A)(xi) of the Structure of the URC, and could not be enacted by one Assembly decision. An initial Assembly resolution would need to be referred to the Church under the process for 'Constitutional Amendments' outlined in Section 3(1) of the Structure, and, subject to the Church's response, brought back to Assembly for final ratification.
19. We sought help from the Faith and Order Committee and from the Law and Polity Advisory Group, and are grateful for their advice, which was posted on the Church website in November and December. The key passages from Faith and Order are as follows.

- 20.1 ‘... in the doctrinal formulations of the United Reformed Church, since her coming into being in 1972, there is no reference to marriage. The nearest the United Reformed Church comes to a position is in the service books ... but ... service books are not regarded as holding the doctrine of the church ...
- 20.2 ‘... marriage is an evolving human institution that flows from the church’s doctrine of humanity, but ... marriage is only one way of living in community ... it is not a doctrine as such, but derived from our doctrine. Therefore although permitting same sex marriage is a significant change to the church’s practice of ministry it is not a change to the United Reformed Church’s doctrine.’
21. The majority view of Law and Polity was that, while doctrinal statements in the URC’s predecessor churches do make affirmations about marriage, the statements that have formulated the doctrine of the URC(UK) or of the URC since 1972 have not done so. While marriage services are an important part of the Church’s practice, affirmations on marriage have not been a part of its common doctrinal commitment and witness.
22. If General Assembly accepts these two pieces of advice, and if it approves Resolution X, it may reckon that the matter does not involve a constitutional amendment, and that it need not use the referral procedure of Section 3(1) of the Structure. The Task Group believes, however, that Assembly should consider referring the matter. There are three reasons for this. (a) There are thoughtful and articulate voices in our Church that disagree with the advice set out above. (b) An Assembly discussion on what needs to be referred and why could therefore be complex and lengthy, and this might tangle Assembly unhelpfully. (c) Yet avoiding or curtailing such a discussion might open the Church to subsequent challenge, that we had taken an implicitly constitutional decision without following due process.
23. Further, the trustees of a local church building are expected to ‘permit the premises to be used for’ purposes that include ‘The public worship of God according to the principles and usages for the time being of the United Reformed Church ...’ (Schedule 1 to the URC Act 1972). It could be argued that the marriage of same-sex couples would change the ‘usages ... of the United Reformed Church’, and that this would in itself be a constitutional change. Use of the referral procedure would protect the Church, and perhaps local trustees too, from possible challenge on this ground.
- 24.1 For Assembly, agreeing Resolution X and deciding not to refer it would presume that the constitution [the doctrine and usage] of the URC as a whole is not at stake, and that discernment on this particular issue is properly assigned to local churches. Further, it is obvious that not referring would be quicker than referral.
- 24.2 Referring the matter under Section 3(1) procedure need not imply that it is definitely constitutional. But it would save Assembly discussing whether it is or not, and would protect any decision against challenge from people who think it is.
- 24.3 There is thus something to be said for each of those courses of action – referring and not referring. The Task Group believes that Mission Council should advise Assembly on this issue. Assembly will be free to accept or reject the advice, but it ought to be offered a considered steer. The Group therefore brings two parallel versions of Resolution 3, and if Mission Council supports our Resolution 1, we ask it to adopt one of these. Resolutions 3A and 3B are thus presented as EITHER-OR.

EITHER

Resolution 3A. Mission Council resolves that, should General Assembly support Resolution X, it will advise Assembly that the matter does not involve constitutional change and therefore need not be referred under the procedure in Section 3(1) of the Structure.

OR

Resolution 3B. Mission Council resolves that, should General Assembly support Resolution X, it will advise Assembly to refer the matter under the procedure in Section 3(1) of the Structure to the synods of the Church.

- 24.4 There is also a question of how widely to refer. The referral procedure, when used, always involves referral to synods. The Assembly may 'if it deems appropriate, in exceptional cases' also refer a matter to local churches. The case for excluding local churches from a referral is that church meetings have had enough of this issue for the moment. The case for including them is that this would remove any suggestion of their being by-passed by the procedure. The Task Group therefore offers Resolution 4, to test the mind of Mission Council on this question. This resolution need only be considered if Resolution 3B has been preferred to 3A.

Resolution 4. Mission Council resolves that, should General Assembly support Resolution X, it will advise Assembly to refer the matter under the procedure in Section 3(1) of the Structure to the congregations of the Church, as well as to the synods.

- 24.5 If a matter is referred and more than a third of the synods – five or more – vote 'that the proposal be not proceeded with', then it falls. If it is also referred to local churches, and more than a third of them – about 490 – vote against it, then it falls. In this context, silence from a synod or local church would be equivalent to assent.
25. The Task Group considered a great deal of material that dealt more fully with the issues in paras 20-24 above, and can share this with Mission Council on request.
26. Should Resolution X be passed for implementation by General Assembly (either without or after referral) a number of further matters will require prompt and careful handling:
- 26.1 Local churches may want guidance on how to register their buildings. The general secretary will ask Law and Polity to draft a flow-chart of steps to be taken and some model documentation to use.
- 26.2 Liturgical material will be needed, to ensure that any same-sex marriage services (a) reflect our Reformed traditions appropriately and (b) are legally secure. The general secretary will ask Law and Polity for advice on the second point.
- 26.3 Special support may be needed for any local church that is either acutely disquieted as a body about the Assembly decision, or deeply divided within itself. Because synods exercise care for local churches, they ought to be the first point of contact and advice. The general secretary will talk with the Moderators' meeting about whether additional help should be offered from the Church's central resources.
27. Conversely, should General Assembly not progress this matter along the sort of lines set out in Resolution X, there are likely to be some members and congregations – not the same group as mentioned above – who will be deeply disappointed, and who will need particular attention and support. Again synods will expect to lead on this, and it may also be right for the wider Church to offer help to and through the synods.