

Paper P

Law and Polity Advisory Group

Church 2013
United
Church **Reformed**
Church Church 2013



Paper P

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Basic Information

Contact name and email address	Professor David Thompson dmt3@cam.ac.uk
Action required	For note
Draft resolution(s)	
Alternative options to consider, if any	

Summary of Content

Subject and aim(s)	Advice of forthcoming proposals
Main points	Trust Deeds; Charity Registration of Churches; Marriage legislation
Previous relevant documents	Advice on Civil Partnerships
Consultation has taken place with...	Human Sexuality Task Group

Summary of Impact

Financial	
External (e.g. ecumenical)	

Report of Law and Polity Advisory Group November 2013

Membership:

Margaret Carrick Smith (Clerk of Assembly), David Eldridge, Kath Fowler, Morag McLintock, Andrew Middleton (Legal Adviser), Augur Pearce (Secretary), Roberta Rominger (General Secretary), Duncan Smith, David Thompson (Convener).

The Group has met in July since the last Mission Council. We wish to report on three matters:

1 The position of Trust Companies as Trustees within the United Reformed Church. Because of the variety of practice between different Synods, based on differing interpretations of the United Reformed Church Acts, the Group decided to seek Counsel's Opinion in order to assist in resolving certain problems that have arisen concerning entitlement to assets. A Conference was held on 22 October 2013, which was extremely valuable, and we expect the written Opinion by the time of our next meeting on 29 November. Counsel did not surprise any of those who attended by her exposition, but we expect that it may come as news to certain members of Synods and local churches. It is our intention to prepare a Declaratory Statement in the light of the written Opinion, which we shall discuss with members of PLATO (Provincial Legal and Trust Officers) and with Synod Clerks and Moderators, before producing a version for Mission Council to recommend to Assembly at its next meeting.

2 Entry of further local church funds on the Register of Charities. Mission Council will recall that the Charities Act 2006 set a limit of £100,000 on the annual income of charities that could be excepted by Regulations from the requirement to register. As a result the general funds of several large local churches had to be registered, which also entailed initial steps to define formally the trusts and trusteeship of these funds. The current excepting Regulations are due to expire or be renewed in March 2014, and it is at least possible that a further 'tranche' of local churches may be affected by the need to register. The Group will be preparing guidance for such churches, which it hopes to have ready by the end of February.

3 Same-Sex Marriage Legislation

At the time of writing the Scottish Bill still has not passed into law, nor has the Commencement Date for the Act for England and Wales been announced. It may be the Government's intention for the Commencement Dates for both pieces of legislation to be the same. The Group has provided some assistance on legal points to the Human Sexuality Task Group, which has provided a resolution for Mission Council, to affirm its work and encourage it to continue along its present direction of travel.

From a legal and procedural point of view LPAG wishes to remind Mission Council of three points:

- a) that Paragraph 4 of The Structure reads: 'Decisions on the part of any council shall be reached only after the fullest attempt has been made to discover the mind of other councils or of local churches likely to be affected by the decision'. LPAG accordingly believes that this should be borne in mind during consideration of any proposal that the Church take advantage of the change in the law of marriage.

- b) that Paragraph 1(a) of the Trusts for Local Churches requires that premises be used for ‘the public worship of God according to the principles and usages for the time being of the United Reformed Church’. If option 3 of the HSTG’s report is followed (by analogy with Civil Partnerships), this will be seen by many as containing an implicit decision that same-sex marriage is – at least – not inconsistent with ‘the principles and usages’ of the URC. (There are similar implications in England and Wales for the completion of the marriage certificate by an Authorised Person that two persons were married ‘according to the rites and ceremonies of the United Reformed Church’.) For the avoidance of doubt, it may be felt preferable for Assembly to make such a decision explicit. It has become clear since Assembly 2012 that there are differences of view as to what the decision based on ‘local option’ implied about the principles and usages of the URC. Whereas Civil Partnerships are registered by a Registrar, the registration of same-sex marriages in England and Wales will usually fall to Authorised Persons (ministers or members of the URC), who will reasonably expect the Church to have assured itself about the legal appropriateness of its procedures.
- c) that, in view of the differences in marriage law between Scotland and England & Wales, it is desirable to establish at which level any decision on the acceptability of same-sex marriage should be taken. LPAG’s view is that, since we are all part of one Church, the appropriate level for the decision is General Assembly. Those with long memories will recall that, for the same reason, the decision to support the proposals for an Ecumenical Bishop in Wales was taken by General Assembly, and not by the Synod of Wales alone.

LPAG further recommends that when all the necessary decisions have been taken, comprehensive advice on marriage procedure should become part of The Manual (which curiously it never has been since 1972, even though it was included in the comparable volumes for both Churches before that date). It has already requested that information be gathered in this year’s annual returns about the number of marriages conducted in our churches in the last year (and last five years). At present this basic information is lacking from any of our discussions.