

College of Bishops Principles and Guidelines relating to Marriage

The recent changes to Canon 31 at General Synod in 2017 have been received with support and enthusiasm in many quarters. At the same time, we recognise that not all are content and for some the matter is one of deep distress. The purpose of these principles and guidelines is, firstly, to affirm our respect for the conscience of all in these matters. Secondly, we offer guidelines which seek to address the practical and pastoral issues raised by the Marriage and Civil Partnership (Scotland) Act 2014.

Principles

The Church's new canonical position does not alter the fact that within the Church there remains a range of views on marriage. We wish to honour this. A clergy person has always had the right to exercise pastoral discretion as to whether to officiate at the wedding of any couple. Our canons take this further by allowing the validity of a clergy person's conscience in these matters. For example, discretion for a clergy person on the grounds of conscience has long been allowed when a couple wish to marry when one or both has been divorced.

Our revised Canon 31 now extends this protection of conscience to the marriage of same-sex couples. It permits those clergy who, on the grounds of conscience, wish to conduct the marriages of same-sex couples, to seek nomination to do so; it also allows that there will be those who, on the grounds of conscience, will not seek such nomination. We believe that the consciences of both are protected in the revised Canon.

We would also wish to recognise that the range of views on marriage in our church means that individuals, by reason of conscience, will make particular principled choices. There are those who, being divorced or separated, choose to remain celibate because they believe their marriage vows are indissoluble. There are those who opt for a celibate lifestyle in response to their sexual orientation. There are those who choose a civil partnership because they believe that marriage is not for same-sex couples. We acknowledge the integrity of these choices, and recognise that they may represent considerable self-sacrifice on the part of the individuals concerned.

In the light of this, we affirm the following four guiding principles and commend them to our church.

1. Acknowledging the internal diversity of the Scottish Episcopal Church, we seek to maintain the highest possible degree of generosity and communion within the Church's life.
2. Those who minister within the Scottish Episcopal Church must be prepared to acknowledge that the church has reached a clear canonical position but one which recognises diversity of view and practice.
3. We remain committed to the flourishing within the Church's structures of all those whose understanding of marriage lies within the spectrum of teaching and tradition of the Anglican Communion. This includes those in authorised ministry in the Province and those who may seek such authorisation and those who may seek ordination.

4. We acknowledge that the Church's new canonical position is set within a broader theological and pastoral conversation within the Anglican Communion and the whole Church of God.

These Principles inform each other and they should be read and understood together.

Guidelines

In offering these guidelines, we know that couples approach marriage with excitement and joy. Many look to the Church to help them celebrate their loving commitment to each other and it is our hope that we will use this privilege well. We expect that all couples will be received with respect by clergy and congregations even if, for reasons of conscience, they cannot offer to solemnize the marriage.

Bearing this and the above principles in mind, we offer the following guidance.

Nominating Procedures

All marriages in Scotland take place with the permission of the civil authorities. Under Canon 31.1 clergy who wish to solemnise a marriage between a couple of the same sex must first be authorized to solemnize such marriages by way of nomination to the Registrar General, as provided by the relevant Act of the Scottish Parliament. The Diocesan Bishop is responsible for nominating clergy to the authorities. The official procedure for nominating is contained in the Registrar General's Form M13(R) and Guidance Notes which are set out in the Appendix.

In the process of considering the nomination of any clergyperson *with* charge for authorization to solemnize the marriage of same-sex couples according to the law of Scotland, the Diocesan Bishop will expect to have a conversation with the said clergyperson in which account will be taken of the clergyperson's pastoral context. The Bishop will expect to see a minute indicating the range of views on the vestry and what provision may be made to respect the consciences of involved lay volunteers. The bishop may also wish to explore the consequences for ecumenical relationships in the charge.

In the process of considering the nomination of any clergyperson *without* charge for authorization to solemnize marriage of same-sex couples according to the law of Scotland, the Diocesan Bishop will expect to have a conversation with the said clergyperson and the Rector of the church to which they belong in which account will be taken of the clergyperson's pastoral context.

In the event of disagreement between the vestry and the clergyperson or between the Rector and other clergy in the charge, all parties should seek the pastoral guidance of the bishop.

The Registrar General will customarily issue authorisation for a period of three years and at that point all nominations must be renewed. At the time of renewal, the Bishop will expect written confirmation from the clergyperson that since the original nomination was made there have been no material changes in circumstances.

Respect for the conscience of all

Some marriages may give rise to issues of conscience for lay people too. This comes especially to the fore when that lay person has duties or responsibilities related to weddings in their church building. The issue may be felt keenly by a church organist, for example, or Verger, flower arranger, chorister etc. We have indicated above that we would expect clergy to respect the consciences of their employees and volunteers and to have procedures in place to provide alternative cover should this be necessary. We would also expect lay members of our church, whatever their views, to respect the principles set out above.

When the Marriage and Civil Partnership (Scotland) Act 2014 was passed certain amendments were made to the Equality Act 2010. Independent legal advice has been sought on behalf of the College of Bishops on the application of certain aspects of the legislation, in particular on the position of vestries or others in congregations who might have difficulties of conscience about participating in some way in a wedding of a couple of the same sex. The College has been advised that a vestry would be considered to be a "group of persons with control" over church premises and could, therefore, lawfully decide that marriages between couples of the same sex should not be solemnised in their church. The College has also been advised that a member of clergy, or a congregational employee or volunteer (such as an organist or flower-arranger) could lawfully refuse to participate in weddings between couples of the same sex. In such cases, as mentioned above, alternative arrangements should be made.

Marriages in SEC Church Buildings and Canonical Districts other than those of the clergyperson with charge

A clergyperson who wishes to conduct a marriage in a church or canonical district other than his or her own, or other than where he or she normally officiates, must seek permission from the relevant diocesan bishop.

Marriages not in SEC Church Buildings

Written permission for marriages to take place in buildings other than a church building of the SEC must be sought from the bishop in whose diocese the alternative venue is situated. In such a case the bishop would wish to be assured that such permission, if granted, would be acceptable to the Rector/Priest-in-Charge in whose Canonical District the proposed marriage would take place. This includes canonical districts where there is no church building.

If the building where the marriage is to be celebrated belongs to another Christian denomination, the bishop will also wish to take into account whether the clergy of that denomination would be allowed to conduct the marriage in question.

Where a request for marriage cannot be met for reasons of conscience

If a clergyperson is approached to conduct a marriage which for reasons of conscience he or she cannot perform the application must be referred to the Bishop.

Re-marriage after divorce

Provision is made in Canon 31 for the proposed solemnisation of a marriage after divorce, where one or both of the previous spouses is still living. In such cases the Bishop's decision is final.

Guidance for Clergy and Lay Readers in the light of the Marriage and Civil Partnership (Scotland) Act 2014

The above-named document, issued previously by the College of Bishops, is regarded as superseded by these Principles and Guidelines and no longer has force.

Review

The College of Bishops may review this guidance in the future in the light of experience across the Province.

June 2017

APPENDIX

Registrar General Guidance Notes

APPROVAL OF CELEBRANTS OF RELIGIOUS OR BELIEF MARRIAGES IN SCOTLAND

GUIDANCE NOTES

A Requirements for approval

1 A nominating body may nominate to the Registrar General any of its members who it desires should be registered as empowered to solemnise religious or belief marriages in Scotland.

2 The nominating body must complete a separate form of nomination for each nominee.

3 The Registrar General will reject a nomination if he considers that:

- 3.1 the nominating body is not a religious or belief body; or
- 3.2 the marriage ceremony used by that body does not include the declarations set out at 2.1 and 2.2 of the nomination form; or
- 3.3 the nominee is not a fit and proper person to solemnise a marriage; or
- 3.4 sufficient persons to meet the needs of that body are already registered as approved celebrants.

4 A nominee may not solemnise a marriage until the Registrar General has accepted that person's nomination and has registered the person as an approved celebrant.

5 The Registrar General will issue written authorisation to each approved celebrant stating the period of authorisation and any other conditions.

6 When authorisation expires, a nominating body may make a fresh nomination in respect of the approved celebrant.

7 The Registrar General may remove the name of a person from the list of approved celebrants if:

- 7.1 the nominating body, or the approved celebrant, asks for his removal; or
- 7.2 the marriage ceremony used no longer includes the declarations set out at 2.1 and 2.2 of the nomination form; or
- 7.3 the person has, while registered as an approved celebrant, been convicted of an offence under the Marriage (Scotland) Act 1977; or
- 7.4 the person has, for profit or gain, been carrying on a business of solemnising marriages; or
- 7.5 the person is not a fit and proper person to solemnise marriages; or
- 7.6 the Registrar General considers for any other reason that the person should not be registered as an approved celebrant,

provided that the Registrar General gives the approved celebrant at least 21 days' notice in writing of his intention to remove his name from the list on any of the grounds 7.3 to 7.6 inclusive.

8 A nominating body should notify the Registrar General of any of the following events, if practicable within 21 days of its occurrence:

- 8.1 any change in the name or address of the nominating body or any amalgamation with any other religious or belief body, giving the name and address of any approved celebrant who is a member of the nominating body; or
- 8.2 any change in the name, address or designation of an approved celebrant; or
- 8.3 the cessation of an approved celebrant from acting as such, including the death of an approved Celebrant

B Requirements at marriage ceremonies

9 Before an approved celebrant solemnises a marriage:

- 9.1 the celebrant must be in possession of the relevant Marriage Schedule, and
- 9.2 the parties to the marriage must both be present at the ceremony, and
- 9.3 two other persons of at least 16 years of age must be present at the ceremony as witnesses.

10 The celebrant must not alter the date or the place of marriage on a Marriage Schedule without first receiving the permission of the issuing registrar.

11 The celebrant must use a form of marriage ceremony including the declarations set out at 2.1 and 2.2 of the nomination form.

12 Immediately after the ceremony the celebrant, both parties and the witnesses must sign the Marriage Schedule. The parties should then arrange for the Marriage Schedule to be returned within 3 days to the issuing registrar for the marriage to be registered.

13 A celebrant who fails to carry out the above requirements may be committing an offence under the Marriage (Scotland) Act 1977 and may therefore be liable to prosecution.