

## The Marriage (Same Sex Couples) Act 2013 Implications for Baptist Churches

These notes are offered as general guidelines for churches and ministers concerned about the implications of the introduction of same sex marriages in 2014. They are provided in response to the introduction of this Act and should not be read as an opinion.

The Faith and Society Team continue to monitor the relevant legislation and have been pro-active with government departments to ensure that Baptist churches and our governance are taken into account by the process.

The general guidance for our churches and ministers is 'do not panic'.

**Churches can only provide a service if they 'opt in'** - your current registration for conduction of marriage is not sufficient. So, if you do nothing you cannot be called upon to perform a same sex marriage.

There are several things to bear in mind:

- Baptists do not conduct marriage ceremonies under the same part of the legislation as the established church (Church of England).
- Baptists have never had, and will never have, an obligation to provide marriage services in the same way that the established church does.
- Baptists have an arrangement where our buildings can be registered for the conducting of marriage ceremonies, under licence from the registrar. We do this 'according to the rites and ceremonies of the Baptists...'
- The authorised person (who may or may not be the minister) is 'authorised' by the registrar and not the church. (Appointed by church meeting of course, but they act on behalf of the registrar and not the church.)
- The government continues to say that no minister and/or individual church will be forced to conduct a same sex marriage. This is protected in law, with provision in the Equality Act for refusal on religious conscience.

And most significantly:

Under the provision of the new Act a religious organisation that wishes to conduct a same sex marriage must **re-register** their building. The current licence is not sufficient; **a church will have to make a conscious decision to opt-in.**

In order to re-register the church must have the written permission of the 'appropriate governing authority'. **For Baptists, this must be the local church meeting.**

### Shared Buildings

All the religious organisations sharing a building will need to agree to its registration for same sex marriage.

Baptist churches sharing the building they own with another religious organisation who uses the building for worship must seek their permission before registering the building for same sex marriage. The sharing church can either

- Also agree to conduct same-sex marriages, or
- Consent to the use of the building for same sex marriage.

This applies whether you share your building under a formal Sharing Agreement under the Sharing of Church Buildings Act (for example if you are a single congregation LEP), or if the sharing is more of a landlord/tenant arrangement, or even an informal arrangement. The rules governing what constitutes a 'sharing church' are detailed on the guidance notes for form 78A (see weblink above).

**If one or more of the sharing churches does not agree to the building being used for same-sex marriage, then the building cannot be registered.**

This would not stop any of the sharing churches conducting a blessing service for a same sex marriage which took place elsewhere.

Equally, if another religious organisation who uses your building for worship wishes to register the building for same sex marriage, they must ask you for permission for this, through a church meeting decision. **If you do not agree, then they cannot register the building for same sex marriage.**

Any of the organisations sharing the building may withdraw their consent to the registration of the building at any time. However, there is a six month period built into the regulations before a cancellation notice can take effect (both to allow time to check that the proper governing authority has made the decision, and to protect any couples who have already booked to be married). Additionally a new organisation which starts to share the building when it has already been registered cannot apply to cancel the registration for at least two years.

This does *not* mean that a Baptist church has to perform a same sex marriage service, even if they agree to the registration of the building. This is specifically protected in the 2013 Act.

## **De-Registering for Marriage**

Some churches may feel that they no longer wish their building to be registered for marriage.

If you have previously registered for same-sex marriage but now your position has changed and you no longer wish to be registered for same sex marriage, de-registration is simple and involves completion of the appropriate form (Form 77A).

De-registration for different sex marriage is more complicated. A building's registration for the solemnisation of marriages between a man and a woman may not be cancelled unless the building is no longer used by the congregation for the purposes of public religious worship and a notice of disuse has been submitted to the superintendent registrar.

It is possible to de-register the building for public worship, and then immediately to apply for re-registration for public worship but without permission to conduct any marriages. This would involve completing form 76, and paying the relevant fee. However, this will inevitably cause a gap in the building's registration for public worship, which may have effects on other areas (for example Council Tax or Business Rates liability).

## **Ministers and Authorised Persons**

Many churches have appointed an 'Authorised Person' who is authorised to stand in for the registrar in attending and registering marriages which take place on the premises. This might be the minister of the church, or someone else.

A church can appoint an Authorised Person for same sex marriages from one year after the date of the registration of the building for same sex marriages. This can be the same person as for different sex marriage, or a different person. **There is no obligation for the Authorised Person for different sex marriage to agree to be the Authorised Person for same sex marriage.**

**Likewise, the position of ministers is specifically protected in the Act.** Section 2 of the Act protects individuals and religious organisations who do not wish to conduct or participate in a religious marriage ceremony on the ground that it is a marriage of a same sex couple. The Equality Act 2010 has also been updated to reflect this.

Section 2 of the Act reads:

- (2) *A person may not be compelled by any means (including by the enforcement of a contract or a statutory or other legal requirement)—*
- (a) to conduct a relevant marriage,*
  - (b) to be present at, carry out, or otherwise participate in, a relevant marriage, or*
  - (c) to consent to a relevant marriage being conducted,*
- where the reason for the person not doing that thing is that the relevant marriage concerns a same sex couple.*

The government has produced explanatory notes commenting on the Act. These include examples of lawful and unlawful behaviour. You can see a copy here:

<http://www.legislation.gov.uk/ukpga/2013/30/notes/contents>

To quote from these explanatory notes:-

*The governing body of a religious organisation meets to consider whether to opt in to conducting marriage of same sex couples according to its rites. It decides not to. This would be lawful and no member of the governing body, nor the organisation itself, could be forced, by legal action or otherwise, to change its decision.*

*A religious organisation opts in to conducting marriage of same sex couples. However, one of the organisation's ministers does not approve of such marriage and does not wish to solemnize such a marriage. This would be lawful. The religious organisation arranges for an alternative minister to conduct the marriage ceremony for the same sex couple.*

The Equality and Human Rights Commission has published a very helpful guide on the implications of the Marriage (Same Sex Couples) Act for Religious Organisations. It is available here:

<http://www.equalityhumanrights.com/publication/marriage-same-sex-couples-act-2013-implications-religious-authorities>

*Faith and Society Team  
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