

# 15th Assembly Decision on Marriage

## Frequently Asked Questions

### Q1. What did the Assembly decide?

The full resolution of the Assembly was:

(a) To acknowledge:

- (i) that within the Uniting Church there is a diversity of religious beliefs and ethical understandings, developed through continuing faithful discernment and held with integrity on matters relating to sexuality and marriage; and
- (ii) that marriage is a gift God has given to humankind for the well-being of the whole human family.

(b) To determine that the Church is able to accept this diversity within its life and make the decisions necessary to enable its ministry and members to act with integrity in accordance with their beliefs.

(c) To vary its policy on marriage by recognising two statements of belief:

(i) the belief expressed in the 1997 statement on marriage as follows:

“Marriage for Christians is the freely given consent and commitment in public and before God of a man and a woman to live together for life. It is intended to be the faithful lifelong union of a woman and a man expressed in every part of their life together.

In marriage, the man and the woman seek to encourage and enrich each other through love and companionship. In the marriage service:

- The woman and man make a public covenant with each other and with God, in the company of family and friends;
- The couple affirm their trust in each other and in God;
- The Church affirms the sanctity of marriage and nurtures those who pledge themselves to each other in marriage and calls upon all people to support, uphold and nurture those who pledge themselves to each other in marriage.

Where sexual union takes place the partners seek to express mutual delight, pleasure and tenderness, thus strengthening the union of their lives together.

In marriage, children may be born and are to be brought up in love and security thus providing a firm foundation for society”.

(ii) the belief expressed in the following statement on marriage:

“Marriage for Christians is the freely given consent and commitment in public and before God of two people to live together for life. It is intended to be the faithful lifelong union of two people expressed in every part of their life together. In marriage, the two people seek to encourage and enrich each other through love and companionship.

In the marriage service:

- The two people make a public covenant with each other and with God, in the company of family and friends;
- The couple affirm their trust in each other and in God;
- The Church affirms the sanctity of marriage and nurtures those who pledge themselves to each other in marriage and calls upon all people to support, uphold and nurture those who pledge themselves to each other in marriage.

Where sexual union takes place the partners seek to express mutual delight, pleasure and tenderness, thus strengthening the union of their lives together.

In marriage, children may be born and are to be brought up in love and security thus providing a firm foundation for society”.

(d) To affirm that Ministers and celebrants authorised by the Uniting Church in Australia may exercise freedom to decide whether the minister’s or celebrant’s religious beliefs allow the minister or celebrant to accept requests to celebrate marriages, as authorised under the Marriage Act and according to the rites of the Uniting Church in Australia.

(e) To request the Assembly Officers to arrange for the preparation of an additional authorised marriage liturgy which reflects the understanding of marriage as outlined in the marriage statement contained in (c)(ii) above for approval by the Standing Committee at its August 2018 meeting, for use according to the rites of the Uniting Church in Australia.

(f) To note that Church Councils:

(i) have the authority under Regulation 4.4.1 to permit or refuse the use of any property held for the use of the Congregation for the celebration of marriages, as authorised under the Marriage Act and according to the rites of the Uniting Church in Australia.

(ii) do not have the authority to require a Minister in placement in their Congregation or to prevent a Minister in their Congregation from celebrating marriages as authorised under the Marriage Act and according to the rites of the Uniting Church in Australia.

(g) To request the Standing Committee, taking account of advice from the Assembly Legal Reference Committee, to consider and take such action as it considers appropriate, including (if necessary) the making of additional Regulations, to enable Church Councils acting under Regulation 4.4.1 to make decisions regarding use of property for celebrating marriages, in conformity with one of the statements of belief mentioned in (c)(i) and (ii).

Also available at: <https://uniting.church/unconfirmedminute/>

## **Q2. Can you put that more simply?**

As our President’s pastoral letter put it, “To honour the diversity of Christian belief among our members, we will hold two equal and distinct statements of belief on marriage.

This decision will allow ministers and celebrants authorised by the Uniting Church the freedom to conduct or to refuse to conduct same-gender marriages. . .

I want to reassure all members of the Uniting Church - your rights to follow your beliefs on marriage will be respected and protected.

Church Councils will have the right to determine whether marriage services take place on their premises”.

# Ministers & Celebrants

## **Q3a. Can I now conduct same gender marriages?**

Yes, the authorised liturgy, and the date that this liturgy takes effect has been approved by the Assembly Standing Committee at its August 2018 meeting.

## **Q3b. When will this take effect?**

The General Secretary has advised all marriage celebrants in the Uniting Church that the Uniting Church in Australia Additional Marriage Liturgy (2018) has been authorised for use from 21 September 2018.

## **Q4. What if I don't agree with same gender marriage?**

All Ministers and lay Celebrants authorised by the Uniting Church, have the right to act according to their religious beliefs and refuse to conduct same gender marriages if they wish.

## **Q5. Can I still use the previous marriage liturgy?**

Yes. You may still use the previous marriage liturgy if it suits your religious beliefs and the circumstances of the couple.

## **Q6. Can I use the new liturgy for a heterosexual couple?**

Yes. If the new liturgy expresses your religious belief as a celebrant and the beliefs of the couple it may be used for any couple regardless of sexuality.

## **Q7. I have been authorised as a lay Celebrant, does this apply to me?**

If you have been authorised by the Uniting Church in Australia as a Celebrant, then yes, this freedom to conduct same gender marriages or refuse to conduct same gender marriages according to your religious beliefs applies to you.

## **Q8. Can my congregation stop me from conducting or require me to conduct same gender marriages?**

No. The decision regarding conducting marriages rests with the Minister or the Celebrant, but Church Councils may decide whether same gender marriages are performed on property for which they are responsible.

## **Q9. What happens if I want to conduct same gender marriages, but my Church Council has decided not to allow same gender marriages on their property?**

You are able to conduct a marriage in another location outside of the church or at a church whose Church Council is happy to have same gender marriages on their property.

## **Q10. If I refuse to conduct a same gender marriage am I at risk of an anti-discrimination claim?**

According to the Marriage Act, as a Minister or authorised Celebrant of the Uniting Church, you can refuse to perform a same gender marriage if your religious beliefs do not allow you to do so. You are also exempted and therefore protected in the Sex Discrimination Act on the same ground.

## **Q11. What about the forms I need to use for recording marriages?**

All Celebrants, including Ministers and Celebrants authorised by the Uniting Church, are required to use the officially prescribed stationery available through the Attorney-General's Department. This stationery was changed at the time of the commencement of the changes to the Marriage Act (9th December 2017), and all Celebrants (including Ministers) are required to comply with these changes in order to ensure that marriages they perform are legally valid.

*This is a requirement of the change in law and is not related to the UCA's recent decision.*

The changes to forms to be used were sent to all registered Celebrants, and are detailed here: <https://www.ag.gov.au/FamiliesAndMarriage/Marriage/Documents/Fact-sheet-Changes-to-marriage-forms-and-certificates.pdf>

In summary:

- There is a new Notice of Intended Marriage (NOIM). All Celebrants MUST use the new NOIM. The only exception is for the case where a Celebrant is already in possession of a signed NOIM, which was completed prior to the commencement of the changes in the Marriage Act (9th December, 2017).
- There is a new Official Certificate of Marriage Form (the form sent to the registering authority), and all Celebrants (including Ministers) MUST use the new form. Current stocks of the old form (including Certificate Form 'booklets') are NO LONGER legally valid. The new Official Certificate of Marriage Form is available for free download here: <https://www.ag.gov.au/FamiliesAndMarriage/Marriage/Pages/Forms.aspx>
- 'Red books' (Registers) no longer conform to the legal form of the new Official Certificate of Marriage Form, so they can NO LONGER be used as is. Congregations or Celebrants who have a personal register must EITHER purchase a new Register, OR print out the new Official Certificate of Marriage Form for each new marriage and affix this into the Marriage Register.
- There is a new Form 15 Certificate of Marriage (the commemorative Certificate of Marriage given to the couple). Existing stocks of the current Form 15 Marriage Certificate, which refers to 'bride' and 'bridegroom' MAY be used, provided the certificate is suitable to the marrying couple.
- There are also amended forms relating to interpreters, Defence Force marriages and marriages of minors. Please see the website (above) for further details.

*Please note that these changes are not related to the recent decision by the UCA.*

*They are legal changes enacted by the Government after the change to the Marriage Act, and they apply to all Ministers and Celebrants authorised by the Uniting Church regardless of your religious beliefs regarding same gender marriages.*

## **Congregations & Church Councils**

### **Q12. Can we now have same gender marriages take place in our church?**

Yes, the Assembly decision means that Church Councils on behalf of their Congregations have the freedom to decide whether or not property for which they are responsible can be used for same gender marriages.

### **Q13. What if we don't wish to have same gender marriages take place in our church?**

The Marriage Act provides that a body established for religious purposes may refuse to make a facility e.g. a church, available for the solemnisation of a marriage, or for purposes that are intrinsic to, or directly associated with, the solemnisation of the marriage, if the refusal "conforms to the doctrines, tenets or beliefs of the religion of the body". The Assembly resolution authorises Church Councils to make a decision regarding the use of Church property that accords with this provision of the Marriage Act.

### **Q14. Does the Church Council have the right to make this decision?**

According to the Uniting Church Regulations (4.4.1(e)), the Church Council which is responsible for the management and administration of all property held for the use of the Congregation, shall "consult with a Congregation regarding any proposal concerning property that would have a substantial effect on the life, witness and service of the Congregation." The Church Council should

consider whether any decision regarding the use of the property for same-gender marriages would be strengthened through consultation with the Congregation.

Your Church Council can make a decision whether a marriage shall take place on Church property at any time and should not feel pressured into making a decision on the basis of religious beliefs until it is ready to do so.

**Q15. If we refuse to allow same gender marriages on our property are we at risk of an anti-discrimination claim?**

The decision made by the 15th Assembly recognises two statements of belief relating to marriage. Its decision provides a strong foundation for Church Councils to make decisions as to whether same-gender marriages are celebrated in Church property.

Decisions regarding the use of church property which are not directly associated with the solemnisation of a marriage are not covered by the Marriage Act and are subject to the relevant anti-discrimination law.

**Q16. What if we have a different point of view to our Minister or Celebrant?**

Ministers or Celebrants have the freedom to make their own decision regarding whether or not to conduct same gender marriages according to their religious beliefs. A Church Council cannot require a Minister to act against the Minister's religious beliefs. On the other hand, the decision regarding the use of the church property is made by the Church Council not the Minister or the Celebrant.

**Q17. What if our Congregation meets on the same property as another group?**

If you rent your property to another group, then your Church Council has the authority to make the decision regarding the use of the property.

If you share the property with another Uniting Church Congregation then decisions are made in accordance with the practices agreed with the Presbytery (Reg. 3.4.2). This could be through both Church Councils agreeing to a decision or through a joint meeting of the Church Councils (Reg 3.4.5(d)).

If you belong to a group or faith community who either rent or are allowed to use the property owned by a congregation you would need to approach that Congregation's Church Council for permission to conduct same gender marriages.

**Q18. Can we still use the Congregation's Marriage Register ("Red book")?**

As detailed in Q9 above, there have been legal changes to the stationery which is required to be used for recording Marriages. Because 'Red books' (Registers) no longer conform to the legal form of the new Official Certificate of Marriage Form, they can NO LONGER be used as is. Congregations must EITHER purchase a new Register, OR have the Minister or Celebrant print out the new Official Certificate of Marriage Form for each new marriage and affix this into the Marriage Register.

*In working through the implications of this Assembly decision Church Councils and Ministers may need to have some honest discussions and may find themselves in disagreement. It is important to remember our commitment to treating one another in the way of Christ.*

*Conducting meetings according to the Uniting Church Manual for Meetings will be important. The Manual for Meetings provides "the official standing orders and rules of the debate for the Uniting Church in Australia... a resource that will enable their full and effective participation in the UCA's decision-making process."*

*It is important to be gracious in the way we approach decisions where properties are shared and the different Congregations sharing the property may have different beliefs regarding this issue. We would also encourage those who choose not to host or conduct same gender marriages to consider referring enquiries to Congregations or Ministers who would be happy to do so.*