

CIVIL PARTNERSHIPS ON RELIGIOUS PREMISES

Some Frequently Asked Questions.....This guidance supplements the Registrar Generals Guidance for the Approval of Premises as Venues for Civil Marriage and Civil Partnerships – Fourth Edition {"the approved premises guidance"}

Background:

Q1. Once these Approved Premises regulations come into force, does that mean civil partnerships can take place on any religious premise?

A1. No. The premises have to be approved by the local authority (LA), and the applicant has to first obtain the necessary consent, where the faith group requires it, of the appropriate governing authority of the faith group concerned. There is no presumption that any faith group will wish to support such an application.

Q2. Do we know which faith groups have indicated that they will not be supporting such applications?

A2. At this stage, the Anglican Church and the Roman Catholic Church have given this indication.

Q3. Do we know which faith groups have indicated that they will consider such applications:

A3. The following organisations indicated in response to the Governments Consultation earlier this year that they would consider applying for approval:

- The North West London Area Quaker meeting and the Brighouse West Yorkshire Area Quaker Meeting.
- The General Assembly of Unitarian and Free Christian Churches (although each Unitarian congregation is independent and therefore would make the decision itself).
- Liberal Judaism was supportive but has no particular premises.
- Metropolitan Church of Bournemouth.
- Quakers in Britain noted that Quakers as a whole were in favour but it would be for each meeting to decide whether to apply to approve their premises.
- Liberty Church, Blackpool.

The United Reformed Church have indicated that some congregations may opt in, although the numbers are unknown. We understand that the United Reformed Church (URC) will want any application to receive the consent of the General Assembly of the URC before submitting it to a local authority for consideration.

Q4. Will religious organisations be in breach of Part 3 of the Equality Act 2010 (provision of services and public functions) if they choose not to apply to have their premises approved to host civil partnership registrations?

A4. No. Before civil partnerships can be registered on religious premises, the Regulations require the religious organisation to consent to, and make, an application for approval of its premises. The decision of a religious organisation whether or not to consent to, or make, that application, or an omission to make it, are not acts or an omission that engage the provisions (Part 3) of the Equality Act. This is, legally, a private matter for the proprietors or trustees relating to the use of their premises.

The fact that a religious organisation already solemnizes religious marriage on its premises does not impact on this. The regime for religious marriage is governed by a separate legal regime. The Equality Act cannot force a church to consent to and apply for the approval of its premises to be used under the entirely separate legal regime of civil partnerships. The Civil Partnership Act makes this explicit in the newly inserted s6A(3A); and so do the Regulations.

Q5. How can religious organisations be certain that the proposals are permissive?

A5. The primary legislation that requires, and governs the procedure for the registration of religious premises to host civil partnerships makes this clear. The new sub-section 202 inserts a new section 6A(3A) of the Civil Partnership Act 2004 which states: *“For the avoidance of doubt, nothing in this Act places an obligation on religious organisations to host civil partnerships if they do not wish to do so.”*

To make this explicitly clear, the Marriages and Civil Partnerships (Approved Premises)(Amendment) Regulations 2011 {“the Regulations”} reiterate this principle at 2B.

The regulations set out clear requirements that must be fulfilled before a local authority can approve religious premises to host civil partnerships. If those requirements are not met, the local authority will have no power to approve the premises.

The regulations also provide for prompt revocation where a religious organisation changes its mind about an existing approval. This further reinforces the voluntary nature of the regime.

Q6. Isn't the introduction of this provision for civil partnerships unfair on an opposite sex couple who cannot have a civil marriage on religious premises?

A6. Opposite sex couples already have the facility under marriage legislation to marry on religious premises.

Application and Approval

Q7. Who can apply to a local authority for approval of their religious premises as a place where civil partnerships may be registered?

A7. The application needs to be made by a proprietor or trustee of religious premises, with the necessary consents detailed in the approved premises guidance.

Q8. Why don't the Regulations place a duty on a trustee or proprietor {"the applicant"} to ensure that they obtain agreement from all other trustees or proprietors prior to making the application?

A8. The onus is on the applicant to ensure they have the necessary consents to make the application.

Applicants are required to provide the written consent from the governing authorities of all religious organisations using those premises for their religious purposes and/or a statement to confirm no consent is needed. Without this information the local authority cannot approve the religious premises.

It is not for the Government or local authorities to interfere with the internal workings and governance arrangements of faith groups, the trustees or proprietors of their premises and the congregation. Each party has a responsibility to take a sensible approach in making any application.

Q9. How are religious premises defined?

A9. They are defined in section 6A(3C) of the Civil Partnership Act 2004 as premises which:-

- are used solely or mainly for religious purposes, or
- have been so used and have not subsequently been used solely or mainly for other purposes.

To be approved, religious premises must be premises as described above and must be one of the types listed below:

- a church or chapel of the *Church of England;
- a church or chapel of the *Church in Wales;
- a place of meeting for religious worship included in the list of certified places maintained by the Registrar General under section 7 of the Places of Worship Registration Act 1855;
- a place of meeting for members of the Society of Friends; or
- a Jewish synagogue.

*includes Cathedrals

Q10. How will a LA know if the applicant has provided the appropriate consents?

A10. The onus is on the applicant to provide the necessary consent from the governing authority, or complete a statement that no consent is required with the application form, see Annex G of the approved premises guidance. Where no consent is required then the applicant will be confirming this, to the best of their knowledge and belief on the application form. The governing authorities of some denominations have indicated in schedule A1 of the amending regulations

<http://www.legislation.gov.uk/ukxi/2011/2661/schedule/1/made> who their governing body is, or whether no consent is required.

Q11. The amending regulations allow for local authorities to advertise the application on the internet instead of in a local newspaper and to extend the period of the grant of approval beyond three years. Will this apply to secular premises?

A11. Yes.

Q12. What does the LA do if it receives an objection during the 21 day period following the application?

A12. The LA must put in place a process where they are able to consider any objections to an application. The decision on whether to approve premises sits with the LA, however they need to ensure that they consider their decision in light of any objections made.

Q13. What happens if a religious building is approved for civil partnerships and then some weeks later the trustee or proprietor inform the local authority that they intend to withdraw their consent.

A13. The grant of approval is revoked as soon as the LA are notified by the trustee or proprietor that they have withdrawn their consent. It will fall to the holder of the approval to notify couples who have booked to have their civil partnership formed at that venue, i.e. so that they can make alternative arrangements. However, as a matter of good customer care it is recommended that the LA in which the building is situated should also write to any couples notifying them of the change.

Q14. What happens if a LA receives notification from a governing authority, trustee or proprietor for a religious building that was approved and previously did not require consent, does now in fact require consent?

A14. The LA must revoke the approval immediately, to take effect on the day following which the notification has been received.

Q15. What happens if a building is a shared building under the Sharing of Church Buildings Act 1969 and the governing authority of one of the sharing denominations will not give their consent?

A15. The application will not proceed as the consent of all sharing denominations will be required.

Q16. What happens if the building is shared informally by a number of religious organisations?

A16. The same process applies as for formal sharing agreements – all those using the premises need to provide consent or the premises cannot be approved.

Q17. Why are religious buildings exempt from being inspected by the LA, as would normally be the case for a secular building?

A17. In the consultation a number of denominations commented on the high cost of an approval application for an approved premise (c £1500) compared to the £120 for registering a building for marriage and that this would deter some smaller churches from applying. The approvals processes are entirely different, therefore it is not possible to directly compare the two. However, whilst the government does not wish to place an unfunded burden on local authorities it recognises that steps could be taken to reduce costs to local authorities, such as removing the requirement to inspect religious premises, for instance if they already host marriages. This should allow local authorities to reduce their costs and reflect the reduction in the fees they charge, as they are only able to recover their costs of administering the application process.

Q18. Will LAs be required to keep a separate list of religious buildings approved for civil partnerships?

A18. No but the regulations require that where the premises are religious then reference must be made to this in the register of approved premises they maintain.

The civil partnership registration

Q19. Why are ministers of religion allowed to apply to their local authorities to become civil partnership registrars, when they cannot apply to be marriage registrars?

A19. In the 1968 Registration of Births, Deaths and Marriages regulations, <http://www.legislation.gov.uk/ukxi/1968/2049/regulation/5/made> there is a disqualification for ministers on acting for any appointment in a registration office. No such disqualification exists for civil partnership registrars under the Civil Partnership Act 2004 <http://www.legislation.gov.uk/ukpga/2004/33/section/29>

Q20. As faith groups will be able to limit civil partnership formations in their buildings to couples who are members of their congregation how will this affect public access?

A20. The regulations state that public access to any proceedings in approved premises must be permitted without charge.

Q21. Will there be any religious element to the civil partnership proceedings?

A21. No. The term “proceedings” is defined in the regulations as the formation of civil partnerships, which will remain the secular signing of the schedule by the parties to the proposed civil partnership, the two witnesses and the civil partnership registrar. The restrictions on religious ceremonies are listed in regulation 15 of schedule 2A in the regulations. However, these regulations provide for a non statutory religious ceremony which may take place before or after the civil partnership formation.

Q22. Isn't there a danger that a minister of religion, who is also acting as a civil partnership registrar could be perceived as officiating at a religious civil partnership?

A22. When a minister is also acting as a civil partnership registrar they should be instructed by the local authority to maintain a clear distinction between these two roles and to ensure that the couple, witnesses and guests are aware of the distinction between the statutory signing of the civil partnership schedule and any non-statutory religious ceremony.

Q23. Will there be any penalties if a religious ceremony takes place during the proceedings?

A23. The regulations are clear that no religious ceremony may take place during the proceedings, any changes introduced as a consequence of allowing civil partnerships to take place on religious premises do not change this restriction. The grant of approval for the premises could be revoked by the local authority and the civil partnership registrar could be considered to have committed an offence under section 33(1) of the Civil Partnership Act 2004 which covers a failure to comply with any regulations made under section 36(1), i.e. the Approved premise regulations.

Q24. What happens if a minister/Authorised Person (ie a person who is authorised to register marriages at a building registered for the solemnisation of marriages under section 41 of the Marriage Act 1949) inadvertently registers a civil partnership in the duplicate marriage registers?

A24. Contact the General Register Office(GRO) for England and Wales who will arrange for the entries to be cancelled. The civil partnership will need to be recorded correctly.

Q25. Can alcohol be consumed before the civil partnership on religious premises proceedings?

A25. Yes as long as it is part of a non-statutory religious service which takes place before the formation, e.g. communion wine. This does not extend to civil partnerships or marriages taking place in secular buildings.

Q26. The regulations provide for non-alcoholic drinks to be served in religious and secular premises one hour in advance of the proceedings. How will you know that they are non-alcoholic?

A26. This will be a matter for the officer attending the proceedings to determine and should be clarified with the responsible person. If the officer has any concerns then he/she should tactfully and discreetly question the responsible person to establish the facts.

Other questions

Q27. Do we have any idea of the likely take up of couples who wish to form their civil partnership in a religious building?

A27. The Impact Assessment in Annex 2 of the Civil Partnerships in religious buildings consultation response document (which may be found at <http://www.homeoffice.gov.uk/publications/equalities/lgbt-equality-publications/civilpartnership-response>) highlighted that in 2009 there were 5,687 civil partnership registrations. Using this figure, statistical information on the balance between civil and religious marriage and data from the Annual Population Survey of those currently or formerly in a civil partnership, the potential demand for civil partnerships in religious premises may be as high as 1,593 couples per annum. However, there is no estimate of the potential civil partnerships on religious premises that may be held as there are a number of influencing factors.

Q28. What would you advise a couple who enquire about forming a civil partnership in a religious building?

A28. They should be advised that the trustees or proprietors of the building will need to submit a formal application to the local authority. The couple should be aware that the consent of the governing body of the premises may be required and that if this is not forthcoming then the application will not proceed. Assuming that an application is made then there will be a waiting period of 21 days to allow for any objections, so they should allow for this when giving notice of their proposed civil partnership. They should also be advised that if the grant of approval is not in force on the date of their proposed civil partnership then the civil partnership will not proceed.

