

JOINT REPORT OF THE THEOLOGICAL FORUM AND THE LEGAL QUESTIONS COMMITTEE TO THE COMMITTEE ON RETURNS TO OVERTURES (GA14 LQC DEL 6)

May 2015

PROPOSED DELIVERANCE

The General Assembly:

1. Receive the Report.
2. Pass an Act amending the Ministers and Deacons in Civil Partnerships Act (Act # 2015) (if passed).

REPORT

Introduction

1. The Theological Forum and the Legal Questions Committee received a joint remit from GA14 in the following terms:

Recognising that same sex marriage laws may by May 2015 have been enacted and brought into force, instruct the Theological Forum in consultation with the Legal Questions Committee to prepare a report for the Committee on Returns to Overtures on whether or not same sex marriage should be recognised as equivalent to civil partnership in terms of the Overture.

2. In the same deliverance, GA14 instructed the Committee on Returns to Overtures, 'on receipt of the joint report from the Forum and LQC, to include in their Report, either (1) commentary on the question raised in (i) above, or (2) amendments to the Overture (as appropriate) which reflect the conclusions reached by the Theological Forum and the Legal Questions Committee.'

3. If the Overture is enacted by GA15 it will become The Ministers and Deacons in Civil Partnerships Act (Act # 2015). However, for the purposes of this Joint Report, the

term 'Overture' is used. If the Overture is not enacted by GA15, then the issue of extending it to ministers and deacons in same sex marriages will not arise.

4. The Forum does not consider that a test of 'equivalence' is a useful one. In secular law, civil partnership and same sex marriage are considered to be distinct institutions.

5. LQC considers that a decision whether or not the Church should extend the provisions of the Overture to ministers and deacons in same sex marriages is primarily a theological one, albeit with legal and administrative implications for individuals, congregations, presbyteries and the Church.

The Overture

6. The Overture in its current form:

- affirms 'the historic and current doctrine and practice of the Church in relation to human sexuality and their application to the ministers and deacons of the Church';

- recognises that the Church allows liberty of opinion on these points;
- recognises the diversity of views within the Church on these points;
- states that a person in a civil partnership is eligible for selection, training and, subject to restrictions, ordination as a minister or deacon;
- allows limited departure from the practice of the Church when a Kirk Session decides to depart in order to permit the ordination, induction or appointment of a minister or deacon who is in a civil partnership;
- likewise allows limited departure in order to permit a minister or deacon who enters into a civil partnership to remain in a charge or appointment; and,
- makes particular provision for ministers and deacons who were ordained or inducted or appointed before 31 May 2009.

7. The scope of GA14's decision was limited to ministers and deacons in civil partnerships. Neither expressly nor by implication did this represent a departure from the Church's position that, unless and until the Church decides that its ministers and deacons may register religious civil partnerships, they will not be permitted to do so.

Scots law

8. The Civil Partnership Act 2004 created a legally recognised relationship called 'civil partnership' and permitted two persons of the same sex to register as each other's civil partner. The Marriage and Civil Partnership (Scotland) Act 2014 introduced religious or belief civil partnership which may be registered by an approved celebrant of a religious or belief body. The Scottish Government activated the relevant provisions of the 2014 Act with effect from 16 December 2014. At present no minister or deacon of the Church is an approved celebrant for the purposes of civil partnership. In order for a minister or deacon to be an approved celebrant the Church would first require either to (i) request the Scottish Government to prescribe it as a religious body whose ministers and deacons are approved celebrants, or (ii) request the Scottish Government to recognise those ministers and

deacons who wish to register civil partnerships as entitled to do so. The Church has taken neither of these steps. It is the opinion of the Forum and LQC that, before the Church could request that all or some of its ministers and deacons be approved as celebrants, the matter would require further study, reflection and debate and specific enabling legislation enacted under Barrier Act procedure. The Overture does not constitute such enabling legislation.

9. The Marriage and Civil Partnership (Scotland) Act 2014 created a legally recognised relationship called 'same sex marriage'. Broadly, two persons of the same sex may enter into a same sex marriage (i) if they are already in a civil partnership, by changing their civil partnership into a marriage either administratively or through a civil, religious or belief ceremony; or (ii) by entering into a civil same sex marriage solemnized by a civil registrar or a religious or belief same sex marriage which is solemnized by an approved celebrant of a religious or belief body. The Scottish Government activated the relevant provisions of the 2014 Act with effect from 16 December 2014. At present no minister or deacon of the Church is an approved celebrant for the purposes of same sex marriage. In order for a minister or deacon to be an approved celebrant the Church would first require either to (i) request the Scottish Government to prescribe it as a religious body whose ministers and deacons are approved celebrants, or (ii) request the Scottish Government to recognise those ministers and deacons who wish to solemnize same sex marriages as entitled to do so. The Church has taken neither of these steps. As discussed in more detail below, it is the opinion of the Forum and LQC that, before the Church could request that all or some of its ministers and deacons be approved as celebrants, the matter would require further study, reflection and debate and specific enabling legislation enacted under Barrier Act procedure.

10. The Overture, if amended so that its provisions were extended to persons in same sex marriages, would not constitute such enabling legislation. The use of the term 'same sex marriage' in this Report identifies only the legal

relationship created by the 2014 Act and is not intended to carry any theological or other connotation.

The Church's understanding of same sex marriage

11. The Church is under no compulsion to vary its theological understanding of marriage or human sexuality to accommodate the introduction in secular law of same sex marriage and it has not done so. It can decide for itself when and how to address this issue.

12. The Human Sexuality Working Group reported to the GA12 that:

'[...] Scripture, church practice and theological reflection has defined marriage as being between men and women – and any move to regarding same-sex marriage as a legitimate Christian understanding would be a fundamental shift.'¹

13. As at the date of this Report, the Church has not made this 'fundamental shift' in its understanding of marriage. In particular, the required further theological study, reflection and debate specifically focussed on same sex marriage has not been undertaken.

14. Therefore, the Forum considers that a decision by the Church to extend the Overture to persons in same sex marriages cannot and should not be treated as acceptance of same sex marriage as an institution nor as a decision to permit ministers and deacons to solemnize same sex marriages nor as a step in that direction.

15. Nevertheless, just as the Church has had to respond to the introduction of civil partnership, so the Church now has to decide how to respond to the introduction in secular law of same sex marriage in so far as its existence may raise practical issues.

¹ Reports to the General Assembly of the Church of Scotland 2012 (Report of the Mission and Discipleship Council, Appendix 1), section 6.11.

"Constrained difference"

16. At GA14, the Forum recommended that in the light of our traditions and disagreements in the past, and in light of the differing ways of interpreting Scripture, 'that it is theologically legitimate, and possible in good conscience to allow space for [...] "constrained difference". "Constrained difference" describes 'a "constrained" or limited departure from a norm based on well-founded scriptural reasoning and not a "free for all" state of relativism.'²

17. In deciding in favour of the Overture, GA14 decided to permit constrained or limited departure from the Church's practice in respect of ministers or deacons in civil partnerships.

18. While recognising that in Scots law the institutions of marriage and civil partnership are distinct, the Forum believes that they confer an overlapping set of benefits. Such benefits include the value of making an internationally recognised, public promise of faithfulness, tax, social security, inheritance and workplace benefits and the giving of the context in which such a lived relationship is conducted.

19. The Forum considers that, if the Church is prepared to allow a *degree of constrained difference* in relation to civil partnerships, then it can, if it chooses, legitimately allow a similar degree of constrained difference in relation to same sex marriage.

Conclusions

20. Same sex marriage is regarded in secular law and by most people in Scotland as different from civil partnership. That a particular kind of same sex relationship is described as 'marriage' raises particular concerns in some quarters of the Church. Marriage carries a particular resonance – theological, liturgical and historical – which civil partnership does not.

² Reports to the General Assembly of the Church of Scotland 2014 (Report of the Theological Forum), section 2.6.1.

21. Aware that there are competing and strongly held theological and ecclesiological arguments current within the Church, the Forum and LQC recognise that the issue of same sex marriage and ministry is a difficult and divisive one for the Church and its people. However, the Forum and LQC have been tasked with advising the Church. In considering how they might do so, the Forum and LQC have had regard to the decisions of GA13 and GA14 in relation to the Overture.

22. Both GA13 and GA14 recognised that, within the Church, there exist different understandings of human sexuality and different responses to the possibility of a minister or deacon being in a civil partnership. Both Assemblies agreed that the primary or default position of the Church should remain unchanged but allowed for differences of belief and practice by introducing the mixed economy which is articulated in the Overture.

23. As explained above, the Forum and LQC consider that the Church is not currently in a position to extend its understanding of marriage to include same sex marriage. A decision to extend the Overture to persons in same sex marriages could only be made as a practical response to a new reality within the civil society in which the Church is located. It is possible that, just as some ministers and deacons may wish to enter into civil partnerships, so some may wish to enter into same sex marriages now that they too are available in secular law.

24. As explained above, if the Church decides to extend the Overture to persons in same sex marriages, the Forum considers that would be a legitimate response having regard to the overlapping set of benefits conferred by civil partnership and same sex marriage and to the Church's desire to allow some limited space for 'constrained difference' in the area of human sexuality.

25. If the Overture is extended this would permit ministers and deacons who enter into same sex marriages to be treated in the same way as ministers and deacons who enter into civil partnerships, thereby reducing the possibility of disciplinary action. The Church may consider that this is in the interests of the peace and unity of the

Church and that it is equitable and pastorally appropriate that ministers and deacons in same sex marriages are treated in the same way as those in civil partnerships. Alternatively, the Church may consider that such a course would exacerbate tensions within the Church or that it would be unhelpful in other ways.

26. In order to assist the Committee on Returns to Overtures, LQC has drafted an amending Act the effect of which would be to extend the provisions of the Overture to ministers and deacons in same sex marriages. Appendix 1 contains the amending Act. Appendix 2 contains the Overture as it would be amended if the amending Act is passed.

27. The amending Act inserts a new section 8 which makes clear that that this would not be a decision to permit ministers and deacons to solemnize same sex marriages or a step in that direction. Also included is an amendment to section 2(1) which would confirm that the historic and current doctrine and practice of the Church in relation to marriage remains unchanged.

28. The Overture extends a decision of GA11 in respect of ministers and deacons ordained, inducted or appointed before 21 May 2009. Such a minister or deacon may not be inducted or appointed to a congregation the Kirk Session of which has not decided to depart. Subject to that limitation, section 4 provides that his or her entitlement 'to remain as a minister or deacon on the same terms and with the same status as any other minister or deacon shall not be prejudiced because he or she was or is in a same sex relationship'. Civil partnerships and same sex marriages are same sex relationships.

29. If the Overture passes into Church law but the Church decides not to extend it to ministers and deacons in same sex marriages, section 4 should be amended so that it is clear how the term 'same sex relationship' is to be interpreted in respect of ministers and deacons who were ordained, inducted or appointed before 21 May 2009 and who enter into same sex marriages. Such ministers and deacons could not be inducted or appointed to a new congregation. Unless the Church decides that it wishes to

prevent them from continuing in their existing charges or appointments, section 4 should be amended so that 'same sex relationship' is defined as including not only civil partnerships but same sex marriages.

30. LQC has considered whether extending the Overture alters the risk of successful legal challenge under the Equality Act 2010. As it explained to GA14, the law is currently developing and LQC cannot assess that risk with certainty. Matters are complicated if the Church agrees that a Kirk Session should have options about the extent to which it departs.

- If the Overture is extended with only one option for departure (ie. in respect of ministers and deacons in civil partnerships and in same sex marriages) then LQC repeats its advice that the level of risk is sufficiently low that it should not deter the Church from coming to its decision on theological grounds.
- If the Overture is extended with more than one option for departure (ie. in respect of ministers and deacons in civil partnerships and same sex marriages OR ministers and deacons in civil partnerships only OR ministers and deacons in same sex marriages only), then LQC foresees a heightened risk of legal challenge, whether or not that is successful. Paradoxically, the more flexible and responsive the Church tries to be, the more open to attack (whether well-founded or not) are its statutory defences that it is (a) complying with its doctrine; and/or (b) acting to avoid conflict with the strongly held beliefs of a significant number of its members.

31. We recognise the likelihood that, if the Overture passes into Church law and the amending legislation to extend its provisions to ministers and deacons in same sex marriages is then considered by GA15, an argument will be made that the amendments be dealt with under Barrier Act procedure.

In the name of the Theological Forum and the Legal Questions Committee

IAIN TORRANCE, *Convener*
PAULINE WEIBYE, *Acting Secretary*
ALAN J HAMILTON, *Convener*
GEORGE J WHYTE, *Secretary*

APPENDIX 1

[draft amending legislation which would extend the ambit of the Ministers and Deacons in Civil Partnerships Act (Act # 2015) (if passed) to include ministers and deacons in same sex marriages]

1. in the title of the Act and wherever the Act is referred to, after "Ministers and Deacons in Civil Partnerships", insert:

'and Same Sex Marriages'
2. insert new section 1(i):
 - (i). "'same sex marriage" shall mean a marriage between persons of the same sex which is recognised as valid under Scots law.'

and renumber accordingly.
3. in section 2(1), after 'human sexuality' insert:

'(including marriage)'
4. wherever 'a civil partnership' appears, insert thereafter:

'or a same sex marriage'
5. add new section 8:
 - '8. Nothing in this Act implies that the Church permits or will permit its ministers or deacons to register civil partnerships or solemnize same sex marriages.'

and renumber accordingly.

APPENDIX 2

MINISTERS AND DEACONS IN CIVIL PARTNERSHIPS AND SAME SEX MARRIAGES ACT

1. For the purposes of this Act:
 - (a) “appointment” shall mean the appointment of a minister (other than the induction of a minister) or deacon to work with or within the life and witness of a congregation. An appointment may be part or full-time, paid or unpaid. An appointment may be made by the Kirk Session, Congregational Board, Deacons’ Court, Committee of Management or other body responsible for employing persons on behalf of a congregation or by the Presbytery or by a Council or Committee of the Church. An appointment shall include the appointment of an Interim Moderator, Ordained Local Minister, Interim Minister or Transition Minister. “Appointed” shall be construed accordingly.
 - (b) “call” means the instrument referred to in the Vacancy Procedure Act (Act VIII 2003), sections 25 and 28;
 - (c) “civil partnership” shall have the meaning assigned to it in the Civil Partnership Act 2004, section 1(6)
 - (d) “congregation” shall have the meaning assigned to it in the Appraisal and Adjustment Act (Act VII 2003), section 1(b).
 - (e) “deacon” shall mean a person who is a deacon within the meaning of the Deacons Act (Act VIII 2010), section 1.
 - (f) “linking”, “deferred linking” and “deferred union” shall have the meanings assigned to them in the Appraisal and Adjustment Act, section 10.
 - (g) “minister” shall include both a person who is a minister within the meaning of the Ministry Act (Act II 2000), section 2 and a person who is an Ordained Local Minister within the meaning of the Ordained Local Ministry Act (Act IX 2011), section 2.
 - (h) “Presbytery” shall mean the presbytery of the bounds of the congregation concerned.
 - (i) **“same sex marriage” shall mean a marriage between persons of the same sex which is recognised as valid under Scots law.**
 - (j) “vacancy” shall mean the state in which a congregation finds itself when it is without an inducted minister.
2.
 - (1) The historic and current doctrine and practice of the Church in relation to human sexuality (including marriage) and their application to the ministers and deacons of the Church are hereby affirmed.
 - (2) For the avoidance of doubt, the historic and current doctrine and practice of the Church in relation to human sexuality, their application to the ministers and deacons of the Church and the provisions of this Act are points on which there is liberty of opinion in accordance with Article Declaratory V. Departure from the doctrine of the Church is permitted to this extent.
 - (3) In recognition of the diversity of views within the Church about the historic and current doctrine and practice of the Church in relation to human sexuality and their application to the ministers and deacons of the Church and in the interests of the peace and unity of the Church, departure from the practice of the Church shall be permitted to Kirk Sessions in terms of sections 3, 4 and 5 of this Act only. In this Act,

the term 'depart' and its variants shall be construed accordingly.

3. (1) As from the date of this Act, a Kirk Session may decide to depart in order to permit the ordination, induction or appointment of a minister or a deacon who is in a civil partnership or a **same sex marriage**.
- (2) A Kirk Session may decide that it wishes to depart only:
 - (a) in time of vacancy after meeting with the advisory committee in terms of Section 12(2)(a) of the Vacancy Procedure Act and before the appointment of the nominating committee in terms of section 14 of the Vacancy Procedure Act;
 - (b) in time of vacancy between the Presbytery instructing the appointment of a fresh nominating committee and the appointment of that committee in terms of section 26(b) of the Vacancy Procedure Act;
 - (c) at the time when the making of an appointment is being considered and before applications are sought;
 - (d) in terms of section 3(3) of this Act; or,
 - (e) in terms of section 3(9) of this Act.
- (3) Where a congregation in vacancy has appointed a nominating committee prior to the date of this Act, the Kirk Session shall be entitled to make a decision to depart in respect of that vacancy in accordance with the provisions of sections 3(4)-(7).
- (4) When deciding whether or not to depart, the Kirk Session shall take account of the peace and unity and pastoral needs of the

congregation and of any parish or other grouping of which it is a part.

- (5) To be effective, a decision to depart shall require to be taken in respect of each induction or appointment and may only be taken in accordance with the following process:
 - (a) A meeting of the Kirk Session shall be held to take a first vote, of an indicative nature only, on the matter. The date and time of such meeting, and its purpose, must be properly intimated to the congregation on at least two Sundays prior to its date.
 - (b) At the first meeting, if a majority of those present and entitled to vote, cast their votes in favour of the decision to depart, then a second vote, of a determinative nature, shall require to be held at a later meeting of the Kirk Session.
 - (c) If a meeting for a second vote is to be held, the date and time of such meeting, and its purpose, must be properly intimated to the congregation on at least two Sundays prior to its date.
 - (d) At a second meeting, if a majority of those present and entitled to vote, cast their votes in favour of the decision to depart, then the decision to depart shall be deemed to be taken.
 - (e) If at either a first meeting or a second meeting, the Kirk Session's vote in favour of the decision to depart does not reach the required majority of those present and entitled to vote, then the matter shall not proceed further in respect of such induction or appointment.
- (6) Meetings in terms of the process outlined in section 3(5) shall be constituted in prayer in

- accordance with the law and practice of the Church. Only those members of the Kirk Session present at the meeting shall be entitled to vote. Voting shall be by secret ballot using voting papers printed in the form of Schedule 1 hereto. Intimation of the meetings shall be in terms of the edict annexed in Schedule 2 hereto (amended appropriately depending upon whether the meeting in question is a first meeting or a second meeting).
- (7) A Kirk Session which has decided to depart shall intimate its decision by sending an extract minute to the Presbytery Clerk within seven days.
- (8) (a) A minister or deacon in a civil partnership **or a same sex marriage** may not be inducted or appointed to a congregation which is in a linking or in deferred linking or deferred union unless the Kirk Sessions of all the other congregations affected have also decided and intimated that they wish to depart.
- (b) Where it is an explicit provision of a Basis of Union or Linking that the minister of one of the congregations involved shall be minister of the united or linked charge and that minister is in a civil partnership **or a same sex marriage**, the Basis of Union or Linking shall not be put to a vote of any of the other congregations in terms of the Appraisal and Adjustment Act, section 11(1), unless their Kirk Sessions have decided and intimated that they wish to depart.
- (9) (a) In the event of a minister or deacon subsequently entering into a civil partnership **or a same sex marriage**, that minister or deacon having been inducted or appointed to a congregation the Kirk Session of which had not decided to depart in relation to his or her induction or appointment, the Presbytery shall:
- (i) move without delay to offer support and counsel to all affected parties; and,
- (ii) in accordance with the provisions of sections 3(4)-(7) and as soon as is practicable, convene the appropriate meetings of the Kirk Session at which the Kirk Session may decide that it wishes to depart.
- (b) Unless the Kirk Session decides to depart in terms of section 3(9)(a)(ii), the pastoral tie shall be dissolved or the appointment terminated as appropriate.
- (c) Where a congregation is in a linking or in deferred linking or deferred union, the pastoral tie shall be dissolved or the appointment terminated unless the Kirk Sessions of all the other congregations affected have also decided and intimated that they wish to depart.
- (d) In the event of the pastoral tie being dissolved in terms of section 3(9)(b) or (c), provision shall be made for the minister in the same way as provided in section 9 of the Congregations in Changed Circumstances Act (Act VI 1984), with the proviso that the Committee which would review the situation at the end of a two-year period in consultation with the Presbytery shall be the Ministries Council.
- (e) Except as provided for in section 3(9)(f), sections 3(9)(a)-(d) shall apply to any minister or deacon whether inducted or appointed before or after the date of this Act.

- (f) In respect of ministers and deacons who were ordained or inducted or appointed before 31 May 2009, sections 3(9)(a)-(d) shall not apply in respect of a charge or appointment held as at the date of this Act.
- (10) For the avoidance of doubt a person in a civil partnership or a **same sex marriage** may only be ordained by a Presbytery as an Ordained Local Minister where there is an agreed designated appointment to a congregation the Kirk Session of which has decided to depart.
4. Subject to section 3(9), the entitlement of a minister or deacon who was ordained or inducted or appointed before 31 May 2009 to remain as a minister or deacon on the same terms and with the same status as any other minister or deacon shall not be prejudiced because he or she was or is in a same sex relationship. Nevertheless he or she may not be inducted or appointed to a congregation the Kirk Session of which has not decided to depart in terms of section 3.
5. (1) A person who is in a civil partnership or a **same sex marriage** shall be eligible for selection, training and, as provided for in section 3, ordination, as a minister or deacon.
- (2) Once ordained, a minister or deacon who is in a civil partnership or a **same sex marriage** shall have the same status, rights and responsibilities as any other minister or deacon respectively, except that he or she may not be inducted or appointed to a congregation the Kirk Session of which has not decided to depart in terms of section 3.
6. In relation to the doctrine and practice of the Church affirmed in section 2, the right to depart provided for in section 3 and the provisions of sections 4 and 5:
- (1) A Presbytery shall not be entitled to refuse to sustain a call to a minister solely on the ground that he or she is in a civil partnership or a **same sex marriage**, provided that the call is made by the members and adherents of a congregation the Kirk Session of which has decided to depart in terms of section 3 of this Act. The rights and responsibilities of the Presbytery to exercise superintendence over all the congregations within its bounds are otherwise unchanged.
- (2) A member of a Presbytery may decline, on the ground of his or her differing convictions, to accept appointment or to continue as Interim Moderator of a congregation the Kirk Session of which has decided to depart in terms of section 3 of this Act.
- (3) A member of a Presbytery may decline, on the ground of his or her differing convictions, to attend the ordination, induction or introduction or a minister or deacon who is in a civil partnership or a **same sex marriage** within the bounds of the Presbytery.
- (4) Other than as provided for in sections 6(2) and (3) a member of a Presbytery shall not be excused the duties or responsibilities of membership.
- (5) A Presbytery shall take account of differences of opinion among its members and congregations when conducting its business and fulfilling its duties and responsibilities and shall at all times have regard to the peace and unity of the Church.
- (6) If required, a Presbytery shall invite one or more members of one or more other Presbyteries to associate with the Presbytery for the purpose of effecting an ordination, induction or introduction. Such members of other presbyteries shall be deemed to be members of the inviting Presbytery for the

purpose of effecting the ordination, induction or introduction only. Section 30 of the Church Courts Act (Act III 2000) shall be construed accordingly.

7. The provisions of this Act give effect to the strongly held religious convictions of significant numbers of the followers of the Church of Scotland.
8. **Nothing in this Act implies that the Church permits or will permit its ministers or deacons to register civil partnerships or solemnize same sex marriages.**
9. For the avoidance of doubt, a person with a legitimate interest who is aggrieved by a decision made by a court in terms of this Act, may appeal to Presbytery only on one or more of the legal grounds specified in section 1 of the Intimation of Appeals Act (Act V 2004).

Schedule 1

Voting Paper – section 3(6)

FOR departure from the Church's practice in relation to human sexuality in respect of [<i>*the current vacancy / *the proposed appointment of a (insert title of appointment)</i>]	
AGAINST departure from the Church's practice in relation to human sexuality in respect of [<i>*the current vacancy / *the proposed appointment of a (insert title of appointment)</i>]	

*Footnote: A vote in favour of departure will allow applications for [**the current vacancy / *the proposed appointment of a (insert title of appointment)*] to be considered from, amongst others, individuals who are in a civil partnership or a same sex marriage. *Please select appropriate alternative*

Schedule 2

Edictal intimation of Kirk Session meeting to be read out to congregation – section 3(6)

To be read on two Sundays

This is intimation that a meeting of the Kirk Session of this congregation is to be held at [*place*] on [*date*] at [*time*].

In recognition of the diversity of views within the Church about the historic and current doctrine and practice of the Church in relation to human sexuality and in the interests of the peace and unity of the Church, departure from the practice of the Church in relation to human sexuality is permitted in certain circumstances.

The purpose of the Kirk Session meeting just intimated will be for the Kirk Session to decide whether to depart from the Church's practice in relation to human sexuality in order for applications for [**the current vacancy / *the proposed appointment of a (insert title of appointment)*] to be considered from, amongst others, individuals who are in a civil partnership or a same sex marriage.

In terms of the process for a decision to depart contained in the Ministers and Deacons in Civil Partnerships and Same Sex Marriages Act 2015, this will be a [**first meeting of the Kirk Session on this matter and therefore the vote will be of an indicative nature only. It will require to be followed up at a subsequent meeting of the Kirk Session by a second vote in favour of the decision to depart in order to take effect.*

OR [**second meeting of the Kirk Session on this matter and therefore the vote will be of a determinative nature. If the vote is in favour of the decision to depart, then that decision will take effect.*]

Both votes on this matter must achieve a majority of those present and entitled to vote in order to take effect.

**Please select appropriate alternative. Note: the form of the above edictal intimation will require to be amended appropriately where the charge in question is part of a linking, deferred linking or deferred union.*