

GUIDELINES TO FACILITATE CALLS AND ELECTION OF LGBTQI CANDIDATES (PROVISIONAL)

(Clerks of Assembly, Interim Report, p. 5–8)

The Clerks of Assembly welcome feedback on these proposed guidelines. This feedback may be forwarded to the Clerks through the General Assembly Office by January 31, 2021.

The 2019 General Assembly approved the following recommendation as part of the report that approved sending remits to the church that would permit same sex marriage and the ordination of LGBTQI persons, married or single:

That the Clerks of Assembly be instructed to provisionally prepare guidelines to ensure that calls to LGBTQI ministers and the election of LGBTQI elders are facilitated in presbyteries and congregations. (A&P 2019, p. 48)

The Clerks interpret the term ‘provisionally’ to mean that the guidelines would be considered only after a decision has been made on the remits by the church. Nevertheless, if the remits pass, there will be a need to provide support to congregations, sessions and presbyteries, along with LGBTQI individuals, regarding how calls to ministers and the election of elders can be facilitated.

In many cases, the Clerks expect this would happen naturally through the usual process of discernment that our church uses for calling and ordaining ministers and electing elders. Presbyteries and congregations will continue to make decisions regarding the suitability of individuals for providing ordained leadership and service within the church. These guidelines provide direction regarding considerations to keep in mind while following these usual steps.

The Clerks of Assembly hope these guidelines will help with this period of transition. They are not intended to be the final word on how our church will live into these remits but are suggestions for beginning that journey. Recommendations following these guidelines invite feedback from the church on the lived experience that will be considered in future versions.

GUIDELINES

Ministry

The Lord continues his ministry in and through the church.

All Christians are called
to participate in the ministry of Christ.
As his body on earth
we all have gifts to use
in the church and in the world
to the glory of Christ, our King and Head.

Through the church God orders this ministry by calling some to special tasks
in the equipping of the saints
for the work of ministry,
for building up the body of Christ.
(Living Faith 7.2.1-2)

Living Faith affirms that it is Christ’s ministry that is exercised through the church and all Christians are called to this ministry. It also affirms that God orders ministry by calling some to particular tasks. We understand some of these tasks to be the purview of ministers of Word and Sacraments and ruling elders. Both these orders of ministry are part of the sacred task that God gives the church for building up the body of Christ.

These guidelines seek to assist the church to be a more diverse and inclusive community, encouraging hospitality, respect and welcome to all. At the same time, they seek to address liberty of conscience and action for those who believe, in accordance with our churches’ policy, that marriage is between a man and a woman. (Remit B 2019)

Remit C

With the decision of the 2020 General Assembly to approve Remit C, a previously understood barrier to being called to ordained ministry in the church has been removed:

That congregations and presbyteries may call and ordain as ministers and elect and ordain as ruling elders LGBTQI persons (married or single) with the provision that liberty of conscience and action regarding participation in ordinations, inductions and installations be granted to ministers and ruling elders. (Remit C, 2019)

Interviews and Human Rights considerations

Candidates for these ministries should not be asked anything about their status as an LGBTQI person, just as non-LGBTQI persons are not asked questions related to their sexuality. Indeed, for many years, the document Calling a Minister – guidelines for presbyteries, interim moderators and search committees (1999, updated 2019) has included guidance on questions permitted under Human Rights Legislation (see below). This is a reminder of the approach our church has taken for decades.

With the approval of Remit C, LGBTQI persons should be free from what has been, for some, an uncomfortable or even untenable silence about this important aspect of their life. Therefore, in the same way that non-LGBTQI have been able to speak comfortably of their family situation, LGBTQI persons should not face discrimination or alienation within the church for being open about their relationships.

The 2019 General Assembly asked that these guidelines be prepared to ‘ensure facilitation’. The Clerks believe that the facilitation of calls, ordinations and inductions still must be within the context of our usual discernment processes. These guidelines therefore do not make special provisions but seek to ensure equality of consideration.

Equality of consideration and liberty of conscience and action

This consideration will need to take place within the framework of liberty of conscience as contained within the remits.

Equality of consideration means that a presbytery or a session would not ask questions any differently of someone based on their sexual orientation or gender identity.

If a candidate freely chooses to disclose that they are LGBTQI it should make no difference in our process. Sexuality itself has never been a barrier to office in our church (A&P 2003, p. 526–47, 26, 34, 37–41, 43–45). If a candidate discloses that they are LGBTQI and married, it should still make no difference in our process.

However, since Remit B, 2019 approved the acceptability of two parallel definitions of marriage, members of courts are permitted to believe that marriage is between a man and a woman, or between two adults.

With the passing of the remits, the policy of the church allows for the acceptability of same-sex marriage and the ordination of LGBTQI persons (married or single). A church court should therefore respect the right of such a person to be welcomed to leadership, provided they have the usual and necessary skills and gifts for ministry.

An individual who holds the belief that marriage is between a man and a woman is permitted to exercise liberty of conscience and action in this situation and be assured that they will not be censured on account of this exercise.

Exercising liberty of conscience and action

How does a member of a church court exercise liberty of conscience and action regarding the potential calling, ordination or induction of an LGBTQI person? The legislation in Remit C stipulates that liberty of conscience and action applies to ‘participation’ in ordinations (ruling and teaching elders), inductions (teaching elders) and installations (ruling elders).

Such a person may, without fear of censure:

- Abstain from voting for the ordination, induction or installation
- Vote against the ordination, induction or installation
- Send regrets to any meeting dealing with the ordination, induction or installation

This would apply in the context of a presbytery considering a call, ordination or induction of a minister of Word and Sacraments, or of a session, considering candidates for ruling eldership.

This does not apply in any situation where a candidate has chosen not to disclose their sexual orientation or gender identity. Under no circumstances it is appropriate to inquire or pry into that part of a person's life (note Human Rights considerations, below).

Liturgical and pastoral considerations

The presbytery is responsible for the conduct of worship at an ordination or induction and this is normally left in the hands of the moderator. As usual, care should be taken that the language used in any service is appropriate and pastoral. The Clerks of Assembly do not anticipate the need for changes to the ordination and induction services found in the Book of Common Worship but suggest that each liturgy be conducted with sensitivity. For example, if a candidate has identified a preference for the use of a particular identifying pronoun that should be respected. The Life and Mission Agency is available for consultation on liturgy. When there is an opportunity to welcome members of a family (perhaps at a reception), care should be taken to acknowledge and welcome a same-sex spouse, if appropriate, after consulting with the candidate.

Once an ordination has been approved by a presbytery or session and taken place through prayer and the laying on of hands, the ordination is deemed valid throughout the church.

Recommendation No. 3 (will be presented in final report to the General Assembly)

Recommendation No. 4 (will be presented in final report to the General Assembly)

Legislation

The Clerks of Assembly have considered the possible need for new legislation as a result of the passing of the remits. It is common for remits to be based upon an amendment to a specific section of the Book of Forms. Then, when the remit passes, the Book of Forms is automatically updated. This is not always the case. The fact that Remits B and C do not attach to a specific section of the Book of Forms does not diminish their legal standing. Once approved through the process of the Barrier Act, they become the law of the church. In order that the wording remits B and C be readily available, the Clerks of Assembly recommend that a new Appendix L be added to the Book of Forms containing the remits and the date they were adopted.

APPENDIX L POLICY REGARDING MARRIAGE AND THE ORDINATION OF LGBTQI PERSONS

The 2020 General Assembly approved the following remits under the Barrier Act:

Remit B, 2020

The Presbyterian Church in Canada holds two parallel definitions of marriage and recognizes that faithful, Holy Spirit filled, Christ centred, God honouring people can understand marriage as a covenant relationship between a man and a woman or as a covenant relationship between two adult persons.

That congregations, sessions, ruling and teaching elders be granted liberty of conscience and action on marriage.

Remit C, 2020

That congregations and presbyteries may call and ordain as ministers and elect and ordain as ruling elders LGBTQI persons (married or single) with the provision that liberty of conscience and action regarding participation in ordinations, inductions and installations be granted to ministers and ruling elders.

Recommendation No. 5 (will be presented in final report to the General Assembly)

Book of Forms, 11.2

There is one section of the Book of Forms that the Clerks of Assembly believe to be possibly in conflict with the remits.

Section 11.2 is a Declaratory Act (a decision of a General Assembly that provides an authoritative interpretation on an existing church law) adopted in 1989 at the time that liberty of conscience and action regarding participation in the ordination of women was being discussed. At that time, legislation was proposed that stipulated ministers were not permitted to absent themselves from the ordination of a woman. And presbyteries, though not permitted to condone disobeying church law, were enjoined to deal with cases of conscience pastorally. On the floor of the Assembly, the reference to women was removed, leaving the Act to stipulate that ministers were not permitted to absent themselves from any ordination:

11.2 The following Declaratory Act was adopted by the 1989 General Assembly and ordered inserted in the Book of Forms (A&P 1981, p. 90; A&P 1989, p. 271, 65): By virtue of their ordination vows, all ministers and elders are obliged to exercise full ministry including, among other things, active participation in the ordination of candidates to the eldership and to the ministry of Word and Sacraments. Though presbyteries have no authority to grant permission to disobey church law and doctrine, yet they are enjoined to deal with cases of conscience on any question with pastoral care and understanding for the parties involved, with concern and sensitivity for the peace and unity of the whole church.

In today's context, section 11.2 could be taken to restrict the freedom of conscience and action related to participating in ordinations and inductions that is permitted in Remit C.

The Clerks of Assembly believe that this legislation is no longer necessary regarding the ordination of women and could pose a conflict to those who wish to claim the freedom of conscience and action granted in Remit C.

It is possible for this Assembly to remit the deletion of section 11.2 to presbyteries under the Barrier Act to seek their approval. It is also possible for this Assembly to adopt an interim act that would allow the church to function as if section 11.2 was deleted until the presbyteries have responded with their judgment about the deletion. By approving Remit C, however, the church has expressed its support for freedom of action as it pertains to ordinations. Deleting this section immediately would bring the legislation in line with the approved remit and provide a degree of comfort to ministers and elders who may wish to exercise freedom of conscience and action regarding participation in ordinations, inductions and installations. Therefore, the Clerks of Assembly are prepared to recommend that section 11.2 be deleted from the Book of Forms.

Recommendation No. 6 (will be presented in final report to the General Assembly)

Human Rights Matters

(Calling a Minister – Supplement 4 – Guidelines for Interviewing Candidates)

One critical pre-interview task is for the interviewers to ensure they are well informed about the limitations placed on employers by human rights legislation. The underlying principle is that employment decisions should be based on criteria relating to the applicant's ability to do the job in question – and not on factors unrelated to job performance. In particular, employers are prohibited from enquiries that, directly or indirectly, classify or indicate qualifications on the basis of any of the grounds protected against discrimination. These “prohibited grounds of discrimination” include characteristics such as: race; ancestry, place of origin, or ethnic origin; colour; creed or religion; sex (including pregnancy); sexual orientation; gender identity; age; marital status; family status; and disability (physical or mental).

In preparing for conversation with the candidates, interviewers should discuss together and come to agreement on: “What topics are we permitted to raise? What questions may we ask?” Employers are expected to evaluate the suitability of the different candidates based on the position's essential duties and bona fide requirements. Therefore, seeking information that falls outside this scope is not appropriate.

Typically, employers are not permitted to ask questions, either directly or indirectly, about one of the protected grounds. By way of illustration, this rules out enquiries such as the following:

Category	Prohibited Inquiries during Selection Process
Sex	- marital status
Marital Status	- maiden or birth name
Family Status	- children or dependents
	- arrangements for child-care
	- child-bearing or adoption plans

	<ul style="list-style-type: none"> - pregnancy - information about spouse (e.g. is spouse willing to transfer), second income - sexual orientation
Age	<ul style="list-style-type: none"> - age - date of birth
Citizenship	<ul style="list-style-type: none"> - birthplace - nationality of ancestors, spouse, or other relatives - asking whether born in Canada - asking for proof of citizenship
Disability	<ul style="list-style-type: none"> - health, illnesses, medical history, or medication - physical disabilities, learning disabilities, limitations or health problems - applicant's use of alcohol or drugs - mental disorders and conditions, history of psychiatric care or hospitalization - whether the applicant has received worker's compensation - requirement that applicants undergo pre-interview medical examination

The same limitations apply to employer communication with the confidential references named by the applicant. References may be asked for information pertinent to job performance. However, it is prohibited to make any enquiry of a reference that would reveal the applicant's race, colour, sex, sexual orientation, age, marital status, family status, ethnic or national origin or ancestry, disability, or any other ground protected against discrimination.

After hiring, it should be noted that employers are permitted to ask the successful candidate:

- to answer enquiries about sex, marital status, dependents or age that are pertinent to an employee's superannuation, pension or insurance plan;
- to present documentation of eligibility to work in Canada;
- to answer genuine and reasonable enquiries about disabilities that are pertinent to legitimate personnel purposes such as relating to superannuation, pension, disability, life insurance or other benefit plan.

Since human rights legislation is enacted provincially, some differences exist across Canada in the list of grounds that are protected against discrimination. As an example, some but not all provinces prohibit discrimination based on criminal conviction that is unrelated to employment or for which a pardon has been received.