

The Roman Catholic Church has a system of ecclesiastical courts to investigate requests for a declaration of the nullity of a marriage. Such a request would be based on the claim of a divorced spouse that the form of marriage was defective or that an impediment forbade the marriage or that the consent given at the time of the wedding was defective.

A positive intention to exclude one of the essential properties of marriage (for example, fidelity or permanency) can render the consent defective. Or the Ecclesiastical Court may determine that a spouse was so immature or emotionally unbalanced at the time of the wedding that he or she was incapable of giving the type of consent which brings marriage into existence. Serious personality problems may also convince the court that a person at the time of the wedding was incapable of establishing and maintaining a common conjugal life.

When the court is convinced that there are sufficient grounds for the declaration of the nullity of the marriage consent, and this decision has been accepted as being correct by a Court of Review, then the spouses may be given permission to contract a new union in the Roman Catholic Church.

The Uniting Church's view

The Uniting Church has not made any definitive statement regarding marriage and divorce, but the church's practice relates to the practice and attitude of the denominations that united to form the Uniting Church in Australia in 1977. These three denominations were Congregational, Methodist and Presbyterian.

While the Uniting Church has not provided a specific policy statement on marriage and divorce, there are two significant resources that provide guidance for ministers of the Uniting Church:

- 1 'The Marriage Service' in *Uniting in Worship* (UIW), 1988, particularly the introductory notes.
- 2 The report arising from the work of the Lutheran-Uniting Church Dialogue Group, *A Pastoral Statement on Marriage* (1987).

The declaration of purpose in 'The Marriage Service' states 'The Church believes that marriage is a gift of God in creation ... the sacred and lifelong union of a man and a woman' (p. 380). The national Standing Committee of the Uniting Church has stated 'that our church's understanding of marriage is that it is a lifelong commitment between a man and a woman in love and fidelity' (September, 1991).

The Uniting Church regards the Christian marriage service as 'an act of worship, an expression of the church's offering of the whole life to God' (UIW, p. 373). Normally the marriage service is conducted in a church, but the minister has discretion to use a 'non-ecclesiastical setting' (p. 373). The Uniting Church places no restriction on who the minister can marry. Ministers are able to celebrate the marriage of people who are not members of the Uniting Church, or indeed of any church. Ministers have full discretion to decide on each request for marriage.

The Uniting Church has not issued any statements of policy or guidelines concerning the remarriage of divorced persons, but continues to follow the practice of the three former churches. While the church holds that marriage is a lifelong union, it also recognises that a marriage may fail to achieve this ideal and result in separation and divorce. The church acknowledges that in some circumstances divorce is the best course of action for the people involved.

The question of the remarriage of divorced persons is a matter for the particular minister concerned. Divorced people certainly may be remarried by ministers of the Uniting Church, and church buildings can be used. *A Pastoral Statement on Marriage* states 'Ministers have freedom (within their responsibility to the church and their colleagues) to minister the gospel appropriately in each situation' (Part V). The use of 'gospel' in this sentence points to the pastoral dimension of forgiveness and restoration which any request for remarriage highlights.