CONSULTATION QUESTIONS

The registration of civil partnerships

Question 1  (Paragraphs 2.12 and 2.13)

Do you agree that legislation should be changed so that civil partnerships could be registered through religious ceremonies?

Yes  □
No   □
Don’t know  □

Please give reasons for your answer.

Comments

We strongly believe that civil partnerships should not be registered through religious ceremonies and that the law should not be changed to permit this.

When civil partnership was introduced in 2005, it was emphasised that its status was solely civil and secular.

In response to the 2003 Consultation prior to the passing of the Civil Partnership Act, the government stated (paragraph 3.12, page 19): “The registration of a civil partnership would be a purely civil process and involves no religious element.”

During the passage of the Civil Partnership Bill through Parliament, the government continued to repeat this assurance. For example, Lady Scotland, on 12 May 2004, said in the House of Lords: “The government decided to ensure that these partnerships stay absolutely within the secular field and do not trespass on the different and sometimes conflicting religious beliefs of others.” “These unions will be entirely secular, and the restrictions on religious content and religious premises therefore mirror the position of civil marriage.” [House of Lords, Hansard, 12 May 2004, col.139GC]

We are greatly concerned that this unequivocal assurance now threatens to be overturned. We are concerned that it is even being considered that while it is axiomatic that a civil wedding be conducted in a wholly secular manner, a different approach be taken to civil partnerships.

It is not religious groups who are chiefly responsible for the present drive to extend the registration of civil partnerships to religious premises. Very few religious bodies have asked for or supported this.
**Question 2**  (Paragraphs 2.14 to 2.19)

Do you think that the proposals in England and Wales on registration of civil partnerships in religious premises would be appropriate for Scotland?

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If you have answered no, please explain what elements of the proposals in England and Wales you consider inappropriate for Scotland.

**Comments**

There are strong arguments that the proposed arrangements in England and Wales will be procedurally unworkable there, in respect of independent local churches, given the governance structures applicable to churches of this type.

However, in any event, the consultation document underlines that *the proposal for registrars to carry out official duties on religious premises would be contrary to the law, practice and tradition in Scotland, where a distinction has always been made between civil and religious ceremonies*. It would be wholly inappropriate and inconsistent to remove that bar for one group while properly retaining it for another.

Fundamentally, however, we are opposed to the principle and recognition of civil partnerships, on the basis that the Bible, upon which the faith and doctrines of our church is based, makes it clear that same-sex relationships are sinful and displeasing to God.

In our view there is nothing about civil partnership which necessitates, or which justifies, the provision of the facility for a religious involvement. This is different from marriage, since marriage as an institution, as currently defined, is promoted and commended by all religions, whether or not the individual marriages being entered into are of a secular or religious nature.

Across the spectrum of church denominations and other religious groups, the provision of the opportunity for civil partnerships to be registered on church premises will lead to needless confusion, controversy and tension within religious circles. Potentially, it could also lead to difficulties arising between same-sex couples wanting to register a civil partnership and churches and ministers not wishing to use their church premises for same-sex ceremonies. These conflicts cannot arise in the present situation.

**Question 3**  (Paragraphs 2.20 to 2.24)
Do you agree with allowing religious celebrants to register civil partnerships in religious premises?

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<th>Yes</th>
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Please give reasons for your answer

Comments

As we have set out in response to question 2, we do not consider that it is appropriate for there to be a religious element in civil partnership. If no civil partnerships are permitted to be registered on church premises, which we hope will be the outcome of the Consultation, the detail addressed in Question 3 will not arise.

We cannot see how, on any view, the proposals meet the stated outcome of maintaining the clear distinction between a religious ceremony and a civil ceremony. A civil partnership is, by definition, a civil ceremony. There is no scope for any religious involvement in a civil ceremony. Any involvement will create confusion and a lack of distinction.

Our principled objection to religious involvement in civil partnerships is set out above. On that basis, we do not consider that celebrants ought to have any role to play in their registration.

**Question 4  (Paragraphs 2.20 to 2.24)**

Do you agree with allowing religious celebrants to register civil partnerships in other places agreed between the celebrant and the couple?

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Please give reasons for your answer

Comments

In the light of the objections in principle set out above, we do not believe that it would be appropriate for any religious celebrant to conduct a civil partnership ceremony, irrespective of the venue.
Do you agree that religious bodies should not be required to register civil partnerships?

Yes ☒
No ☐
Don’t know ☐

Please give reasons for your answer

Comments

The government makes it clear, in paragraphs 2.13 and 2.25 of the Consultation Document, that it believes that religious bodies should not be “required” to solemnise civil partnerships.

We support the government’s view.

In our view, and in line with current marriage legislation, no question of a requirement to conduct a partnership ought to arise at all. This is because in respect of the registration of marriages as currently defined, there is no present requirement that any religious body should be willing to conduct these. Given that no religious body is at present compelled to provide for the conduct of marriages, we cannot see why the spectre of compulsion should even be considered in respect of the registration of civil partnerships on church premises.

The only way a requirement could be imposed in practice would be to make the granting of permission to register marriages, as currently defined, conditional upon the willingness of the applicant party also to register civil partnerships and same-sex marriages. Such a condition would be an outrageous and draconian infringement of the freedom of religion, but it would also be unworkable, since those who have conscientious reasons for not being involved with civil partnerships and same-sex marriages would continue not to be involved with them, however high the price they had to pay for taking this stance.

As a result, the government would be preventing couples from being married in their own places of worship or by their own ministers of religion, because the necessary registration facilities had been denied them. We are confident that the government will have taken this outcome into account in coming to its position on this matter.

In our view, the protection of religious groups not wishing to be involved in civil partnerships and same-sex marriages is only a minor aspect of the significance of this Consultation. Of far greater concern is the principle of the registration of civil partnerships in places of worship, which we believe to be wholly inappropriate.
Question 6  (Paragraphs 2.26 and 2.27)

Do you consider that religious celebrants should not be allowed to register civil partnerships if their religious body has decided against registering civil partnerships?

Yes ❌
No ❌
Don’t know ❌

Please give reasons for your answer

Comments

As a general principle, the State should use its good offices to support the rights of a religious body to practise its faith in a way entirely consistent with its beliefs and principles, and grant it freedom under the law to do so.

Most issues connected with the relationship between a religious body and its own ministers of religion are matters to be resolved within the procedures of the religious bodies themselves, and are not for the State to determine or influence.

We consider it appropriate that celebrants at civil partnership ceremonies should be approved and registered by the State, as is currently the case in respect of the registration of marriage celebrants. Nor do we think it unreasonable for the State, in order to prevent frivolous and inappropriate registrations, to require that celebrants are acting on behalf of a legitimate religious body. Under the present system operated by National Records of Scotland, a religious body makes registration applications, naming its proposed celebrants. If this system is retained in respect of civil partnerships, it will ensure that only those celebrants which have the support of a religious body will qualify for registration.

As far as the individual celebrant is concerned, it is not a denial of his freedom of religion to refuse to register him as a celebrant without the consent of his religious body. He is entirely free to join a religious body which holds to the same view as he does and which would be willing to acknowledge him as a celebrant. His conscience should not be expected to oblige any religious body to fail to act in a way consistent with its own tenets.

Question 7 (Paragraphs 2.28 to 2.30)

Do you agree that individual religious celebrants should not be required to register civil partnerships?
The government makes it clear in paragraphs 2.13 and 2.29 of the Consultation Document that it believes that individual celebrants should be entitled not to register a civil partnership if they do not wish to do so.

We support the government’s view that there should be no requirement upon religious celebrants to solemnise civil partnerships. However it should be emphasised that there is currently no requirement on any minister of religion to register to conduct marriages as currently defined, and therefore it would be outrageous if any requirement was now imposed on anyone in respect of the conduct of civil partnerships.

For our further comments on the general principle of “requirement,” please see our answer to Question 5.

Question 7 particularly addresses a situation where a religious body is willing to register civil partnerships, but an individual minister, for reasons of belief or conscience, is not willing to do so. In these circumstances, the law should certainly not impose a requirement upon an individual minister to act against his belief or conscience. The relationship between a religious body and its ministers is one for the parties to resolve, rather than for the law to determine.

However, in our view, the protection of religious groups and individual ministers of religion not wishing to be involved in civil partnerships is only a minor aspect of the significance of this Consultation. We are concerned that the government and others might consider that concessions and exemptions will be sufficient to satisfy the concerns of religious groups. Nothing could be further from the case. A far greater issue than the protection of conscientious objectors is the principle, which we wholly oppose, of the introduction of a religious involvement of any kind in the registration of civil partnerships.

Question 8 (Paragraphs 2.31 to 2.35)

Which of the options do you favour to ensure that religious bodies and celebrants do not have to register civil partnerships against their will?

Do you favour:

Option 1
Option 2
Neither ☐
If you have another option, please describe it.

Comments

As we have indicated in answer to other questions, our strongly-held view is that civil partnerships should not be registered on the premises of any religious body.

Our answer to question 8 therefore is only applicable in the event that the government determines to introduce the opportunity for civil partnerships to be registered on church premises, in spite of the concerns and objections of which it has been made aware. Our answering this question is not to be interpreted as any degree of acquiescence in respect of such a decision.

Of the two Options, we would favour Option 2, as this will achieve a complete separation between our religious body and its celebrants on the one hand, and the procedure for registering civil partnerships on the other. It would be preferable both to churches and to ministers if the system in place was one which made them ineligible to be involved in hosting or officiating at civil partnerships, rather than one which simply extended their existing authority in respect of marriages, but in their case left that authority unused. The separate process required by Option 2 puts a greater distance between the official procedures governing marriages and civil partnerships, and this stronger distinction would enable our celebrants to feel that they were not associated with the procedure for civil partnerships in any way.

We note the references to the Equality Act 2010 and the European Convention on Human Rights. In our view equality between civil weddings and civil partnership is best maintained by the continued exclusion of any religious element from both.

Question 9   (Paragraphs 2.36 to 2.40)

Religious bodies may not wish their premises to be used to register civil partnerships. Do you agree that no legislative provision is required to ensure religious premises cannot be used against the wishes of the relevant religious body?

Yes ☐
No ☒
Don’t know ☐

Please give reasons for your answer

Comments
It is essential that specific law is put in place to guarantee that premises under the control of local congregations and proprietorial trustees cannot be used for the registration of civil partnerships against their wishes.

These two types of religious body have control of premises at different levels and for different purposes:

(a) The local congregation is responsible for the everyday life of the church, its regular activities and the use of the premises;
(b) The proprietorial trustee, which may be a trust corporation or a group of individuals, is the legal owner of the building and is responsible for ensuring that the building is used in accordance with the provisions of the trust deed or equivalent authoritative document.

Unless both of these types of body are specified in the legislation, there will be a risk of confusion and conflict as to who is entitled to make or veto applications. In the independent church sector, giving a statutory right to both types of body to refuse to allow the use of their premises for civil partnership ceremonies will avoid that confusion and conflict.

The law needs to create a situation in which if either body refuses to sanction the use of the premises for the registration of civil partnerships, then any such use would be unlawful. In other words, the approval of both the relevant bodies in each case would be required before the registration of civil partnerships on the church’s premises could take place.
Same sex marriage

Question 10 (Paragraphs 3.11 and 3.12)

Do you agree that the law in Scotland should be changed to allow same sex marriage?

Yes ☐
No ☒
Don’t know ☐

Please give reasons for your answer

Comments

Marriage, as at present defined – “the union of one man and one woman” - is a unique relationship. It is not an umbrella status incorporating a number of different types of relationship. Any change to the law in the way addressed by this Consultation would therefore fundamentally change the way in which marriage is understood and has been recognised by society and mankind the world over for thousands of years.

Allowing a different category of relationship to be called “marriage” will immediately remove the uniqueness and distinctiveness of marriage as currently defined, to the great detriment of society. The loss of special status for marriage as currently defined will inevitably lead to fewer marriages taking place, which will in turn increase the incidence of family and social breakdown, at great cost to society, given the repeated statistical proof that families based on marriage are the safest, happiest and healthiest environments for the raising of children.

Throughout human history, in a wide variety of cultures and community environments, marriage as currently understood has been the strength and pillar of human social structure, to the well-being of society and the world as a whole, and to the happiness of individuals, families and communities. All this would be threatened by the proposed change.

The teaching and principles of the Bible also unequivocally endorse both the uniqueness and the benefit to society of marriage as currently defined, and only as currently defined, of one man and one woman. The Bible has contributed greatly to the strength, structures and well-being of Scottish society over many centuries, and its wisdom should not be lightly brushed aside.

The number of people in the UK who profess to have a same-sex orientation is very small indeed. Official statistics published by the ONS in September 2010 [Measuring Sexual Identity: An Evaluation Report] indicated that only 1% of the population was homosexual or lesbian, while a further 0.5% claimed to be bi-sexual.
We are greatly concerned at the impact any revised view of marriage will have on children and young people as they grow up and pass through puberty and adolescence into adulthood. The confusion and uncertainty they will face is a gratuitous and undeserved burden to place upon them, which again will have disturbing social consequences both for the individuals concerned and wider society.

For all the above reasons, no change should be made to the present definition of marriage.

Question 11  (Paragraph 3.13)

Do you agree that religious bodies and celebrants should not be required to solemnise same sex marriage?

Yes ☒
No ☐
Don’t know ☐

Please give reasons for your answer

Comments

For our comments on whether religious bodies should be required to solemnise same-sex marriages, please see our answer to Question 14.

For our comments on whether individual ministers of religion should be required to solemnise same-sex marriages, please see our answer to Question 16.

Question 12  (Paragraphs 3.14 to 3.18)

Do you agree with the introduction of same-sex civil marriage only?

Yes ☐
No ☒
Don’t know ☐

Please give reasons for your answer

Comments

We are opposed to same-sex marriage in any context.

Our view about same-sex marriage is based on the nature of marriage itself, rather than on whether the ceremony takes place in a civil or religious context. We are equally opposed to the introduction of same-sex marriage,
whether in a civil or religious environment.

If same-sex marriage is introduced in any context, this would be a disaster for society. In comparison with so huge a step, the issue of whether same-sex marriage should be limited to civil contexts is a minor detail. For a more extensive statement of our views on same-sex marriage, please see our answer to Question 10.

Without prejudice to our general views on same-sex marriage, it would be better for our churches and celebrants if it was confined to civil contexts, since this would avoid any possible repercussions on the basis of discrimination. To refuse to do what is not permitted will lead to fewer allegations of discrimination than would result from refusing to do what is permitted.

The same, of course, applies to civil partnerships, and we strongly support the consistency which will result from ensuring that neither type of union is permitted to be registered on religious premises.

Question 13  (Paragraph 3.19)

Do you agree with the introduction of same-sex marriage, both religious and civil?

- Yes [ ]
- No [x]
- Don’t know [ ]

Please give reasons for your answer

Comments

We are wholly and unreservedly opposed to the introduction of same-sex marriage, whether in a religious or civil context.

Marriage, as at present defined – “the union of one man and one woman” - is a unique relationship. It is not an umbrella status incorporating more than one type of relationship. Any change to the law in the way addressed by this Consultation would therefore fundamentally change the way in which marriage is understood and recognised by society.

Allowing a different category of relationship to be called “marriage” will remove the uniqueness and distinctiveness of marriage as currently defined, to the great detriment of society. The loss of special status for marriage as currently defined will inevitably lead to fewer marriages taking place, which will in turn increase the incidence of family and social breakdown, at great cost to society, given the repeated statistical proof that families based on marriage are the safest, happiest and healthiest
environments for the raising of children.

Throughout human history, in almost all societies the world over, marriage as currently understood has been the strength and pillar of human social structure, to the well-being of society and the world as a whole, and to the happiness of individuals, families and communities. All this would be threatened by the proposed change, for very little gain.

The Biblical teaching on marriage is clear, unambiguous and validated by centuries of human experience in different contexts and different places. Marriage is the joining together of one man and one woman, for their mutual support and for the raising and nurturing of children.

For all the above reasons, we are opposed to the introduction of same-sex marriage, whether in a religious or in a civil context.

Question 14 (Paragraphs 3.23 and 3.24)

Do you agree that religious bodies should not be required to solemnise same sex marriage?

Yes ☒

No ☐

Don’t know ☐

Please give reasons for your answer

Comments

The government makes it clear in paragraph 3.13 of the Consultation Document that it believes that no religious body should be required to solemnise same-sex marriage.

We support the government’s view that there should be no “requirement” upon religious bodies to solemnise same-sex marriages. However it should be emphasised that there is currently no “requirement” on any minister of religion to register to conduct marriages as currently defined, and therefore it would be outrageous if any “requirement” was now imposed on anyone in respect of the conduct of same-sex marriages.

Question 14 particularly addresses a situation where a religious body is unwilling, for reasons of belief or conscience, to register same-sex marriages. In these circumstances, the law should certainly not impose a requirement upon a religious body to carry out practices which are in conflict with its beliefs or principles. In fact, the State should be careful to ensure that it does not go beyond the boundaries of its jurisdiction by seeking to prohibit, require or control religious practices based on belief.

However, it needs to be emphasised that the protection of religious groups
and individual ministers of religion not wishing to be involved in same-sex marriages is only a minor aspect of the significance of this Consultation. We are concerned that the government might be taking the view that if it grants sufficient concessions and exemptions after the Consultation, this will satisfy the concerns of religious groups. Nothing could be further from the case. Of far greater concern to us is the well-being of society as a whole, and this will be fundamentally and detrimentally affected by a redefinition of marriage to include same-sex relationships. We are wholly opposed to the government’s determination to bring this about, and hope that as a result of the Consultation the government will have the wisdom to drop the proposals outlined in the Consultation Document.

Question 15  (Paragraphs 3.25 and 3.26)

Do you consider that religious celebrants should not be allowed to solemnise same sex marriages if their religious body has decided against solemnising same sex marriage?

Yes ☒
No ☐
Don’t know ☐

Please give reasons for your answer

Comments

As a general principle, the State should use its good offices to support the rights of a religious body to practise its faith in a way entirely consistent with its beliefs and principles, and grant it freedom under the law to do so.

Most issues connected with the relationship between a religious body and its own ministers of religion are matters to be resolved within the procedures of the religious bodies themselves, and are not for the State to determine or influence.

Therefore, we consider it appropriate that celebrants at civil same-sex marriage ceremonies should be approved and registered by the State, as is currently the case in respect of the registration of marriage celebrants. Nor do we think it unreasonable for the State, in order to prevent frivolous and inappropriate registrations, to require that celebrants are acting on behalf of a legitimate religious body. Under the present system operated by National Records of Scotland, a religious body makes registration applications, naming its proposed celebrants. If this system is retained in respect of same-sex marriages, this will ensure that only those celebrants which have the support of a religious body will qualify for registration.

As far as the individual celebrant is concerned, it is not a denial of his
freedom of religion to refuse to register him as a celebrant without the consent of his religious body. He is entirely free to join a religious body which holds to the same view as he does and which would be willing to acknowledge him as a celebrant. His conscience should not be expected to oblige any religious body to fail to act in a way consistent with its own tenets.

Question 16 (Paragraphs 3.27 and 3.28)
Do you agree that individual religious celebrants should not be required to solemnise same sex marriage?

- Yes ☒
- No
- Don’t know

Please give reasons for your answer

Comments

The government makes it clear in paragraph 3.27 of the Consultation Document that it believes that individual celebrants should be entitled not to register a same-sex marriage.

We support the government’s view that there should be no “requirement” upon religious celebrants to solemnise same-sex marriages. However it should be emphasised that there is currently no “requirement” on any minister of religion to register to conduct marriages as currently defined, and therefore it would be outrageous if any “requirement” was now imposed on anyone in respect of the conduct of same-sex marriages.

Question 16 particularly addresses a situation where a religious body is willing to register same-sex marriages, but an individual minister, for reasons of belief or conscience, is not willing to do so. In these circumstances, the law should certainly not impose a requirement upon an individual minister to act against his belief or conscience. However, the State needs to remind itself that the law’s responsibility is to uphold freedom of religion, rather than to rule on religious practices. It needs to be careful not to trespass beyond the boundaries of its jurisdiction. The relationship between a religious body and its ministers is one for the parties to resolve within their own religious context, rather than for the law to determine.

However, it needs to be emphasised that the protection of individual ministers of religion not wishing to be involved in same-sex marriages is only a minor aspect of the significance of this Consultation. We fear that the government and others may think that provided sufficient concessions and exemptions are provided for religious bodies and celebrants, this will be sufficient to satisfy the concerns of religious groups. Nothing could be
further from the case. A far greater issue for us is the well-being of society as a whole, and this will be fundamentally and detrimentally affected by a redefinition of marriage to include same-sex marriages. We are wholly opposed to the government’s determination to bring this about, and hope that as a result of the Consultation the government will have the wisdom to drop the proposals outlined in the Consultation Document.

Question 17  (Paragraphs 3.29 to 3.33)

Which of the options do you favour to ensure that religious bodies and celebrants do not have to solemnise same sex marriage against their will?

Do you favour:
Option 1
Option 2 ☒
Neither ☐
Don’t know ☐

Please give reasons for your answer and if you have another option, please describe it.

Comments

As we have indicated in answer to other questions, our strongly-held view is that marriage should not be redefined and that there should be no such status as that of same-sex marriage.

Our answer to question 17 therefore is only applicable in the event that the government perseveres in its determination to introduce same-sex marriage, in spite of the many concerns and objections it has received. Our answering this question is not to be interpreted as any degree of acceptance of such a decision.

Of the two Options, we would favour Option 2, as this will achieve a complete separation between a religious body and its celebrants on the one hand, and the procedure for registering same-sex marriages on the other. It would be preferable both to our church and to our ministers if the system in place was one which made them ineligible to be involved in same-sex marriages, rather than one which simply extended their existing authority in respect of marriages as currently defined, but in their case left that authority unused. The separate process required by Option 2 puts a greater distance between the two types of marriage and would enable our celebrants to feel that they were not associated with the institution of same-sex marriage in any way. That distance would be welcomed.

Question 18 (Paragraphs 3.34 to 3.39)
Religious bodies may not wish their premises to be used to solemnise same sex marriage. Do you agree that no legislative provision is required to ensure religious premises cannot be used against the wishes of the relevant religious body?

Yes ☐  No ☒  Don’t know ☐

Please give reasons for your answer

Comments

We refer to the answer to question 9 above. The same holds true for same sex marriage.

Question 19  (Paragraph 3.41)

If Scotland should introduce same-sex marriage, do you consider that civil partnerships should remain available?

Yes ☐  No ☐  Don’t know ☐

Please give reasons for your answer

Comments

The provision of civil partnership is wholly separate from any religious involvement and ought to remain so. On that basis we have not answered the question.

Question 20  (Paragraph 4.19)

Do you have any other comments?

Yes ☐  No ☒

We are particularly interested in your views on:

- potential implications of the proposals for transgender people (paragraph 3.42)
- possible transitional arrangements (paragraphs 3.43 and 3.44);
- recognition of Scottish same sex marriages elsewhere (paragraphs 3.45 to 3.49);
- any comments on forced marriage (paragraphs 3.51 and 3.52)
- any comments on sham marriage (paragraph 3.53)
- potential financial implications (paragraphs 4.01 to 4.08);
- potential equality implications (paragraphs 4.09 to 4.14).