Consultation on Registration of Civil Partnerships and Same Sex Marriage

LGBT Youth Scotland
December 2011
About LGBT Youth Scotland

LGBT Youth Scotland's mission is to empower lesbian, gay, bisexual and transgender young people and the wider LGBT community so that they are embraced as full members of the Scottish family at home, school and in every community.

We provide a range of services and opportunities for young people, families and professionals, which aim to increase awareness and confidence, and reduce isolation and discrimination.

LGBT Youth Scotland works towards this vision by mainstreaming LGBT equality into generic services, and through the provision of specialist services directly to young people. Direct youth work including youth groups, volunteering and outreach are key aspects of the organisation’s activity as are policy, research and practice development work.

Introduction

LGBT Youth Scotland is both a third sector youth work organisation and an LGBT equality organisation and welcomes the opportunity to respond to the Scottish Government’s consultation on the Registration of Civil Partnerships and Same Sex Marriage. We commend the Scottish Government for making their initial views of support for same-sex marriage known within the consultation document. This response is LGBT Youth Scotland’s
organisational response; however many of the LGBT young people we work with have also wanted their voices to be heard directly. This consultation has received the most interest from LGBT young people of any consultation the Scottish Government has ever taken forward. The Scottish Government will therefore be receiving a further 917 individual responses both directly from and recruited by LGBT young people in Scotland.

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<th>Question 1 (Paragraphs 2.12 and 2.13)</th>
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<td>Do you agree that legislation should be changed so that civil partnerships could be registered through religious ceremonies?</td>
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LGBT young people have clearly stated that this change, while positive, does not go far enough, as the change on its own is not a big enough step towards equality. LGBT young people from LGBT Youth Scotland’s National Youth Council published their Scottish Manifesto in May 2010, which highlighted the need for change in terms of marriage and civil partnership equality. At this time the issue of religious civil partnerships was being discussed in England and Wales. LGBT Young People felt quite clear that while they saw this as a small step, they did see it as an improvement and did not want to see Scotland left behind on this issue. LGBT Youth Scotland therefore thinks it is important that legislation is changed so that civil partnerships can be registered through religious ceremonies, with the caveat that this on its own does not go far enough.
For individuals of faith, religious beliefs and participation in the religious community are important aspects of identity, regardless of sexual orientation. Just as for mixed-sex couples, same-sex couples of faith may find the religious recognition of their relationship as important—if not more—as the legal recognition of their relationship.

At present, if a couple entering into a civil partnership wishes to mark the occasion with a religious ceremony, they must arrange an event separate from the legal registration, this is not an obligation placed on those entering into marriage in a religious institution.

As marriages can currently be registered through either civil or religious ceremonies and civil partnerships are restricted to civil ceremonies, there is inequality in the legal recognition of partnerships which denies same-sex couples the ability for the law to be integrated into, and witnessed by, their religious community.

**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?

Yes  □
No   ❌
Don’t know □

If you have answered no, please explain what elements of the proposals in England and Wales you consider inappropriate for Scotland.
As outlined in sections 2.16, 2.18 and 2.19 within the consultation document, the proposed civil partnership registrations in England and Wales—although soon to be permitted to take place in a religious building—will continue to be civil and not allow for a religious ceremony, which is inappropriate for Scotland. This is quite different from what the LGBT young people we work with initially thought was being proposed by England and Wales. It was their view that England and Wales were introducing religious civil partnerships and as stated in Question 1 this was the issue they discussed, explored and supported. They were very supportive of that improvement being made for same-sex couples, although they did not think that it went far enough. While it could still be argued that the proposals in England and Wales are an improvement, they quite simply do not go far enough and are therefore not suitable for Scotland.

A ceremony in a religious building, likely attended by members of the couple’s religious community, should not have to be secular in nature. Religion is cultural and the community has the right to mark the occasion in the religiously appropriate way by using particular prayers, religious songs, or readings. The Universal Declaration of Human Rights underpins this right to manifest religion or belief through worship, practice or observance. This is also echoed in the European Convention on Human Rights. The proposal for England and Wales would be a compromise that does not recognise the importance of religious communities and religious life for many same-sex couples.
Do you agree with allowing religious celebrants to register civil partnerships in religious premises?

Yes ☒
No ☐
Don't know ☐

Please give reasons for your answer

We agree with the proposal to allow religious celebrants to register civil partnerships in religious premises, as this recognises the importance that religion may have in the life of same-sex couples.

Permitting religious celebrants to register civil partnerships in religious premises is important, yet the proposal must allow them the ability to conduct a religious ceremony as part of the legal 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?

Yes ☒
No ☐
Don't know ☐

Please give reasons for your answer

We agree that religious celebrants should be allowed to register civil partnerships in other places agreed by the celebrant and the couple, as this is currently the case for registration of marriage. There are many alternative locations where marriages can currently be conducted with agreement from both the couple and
religious celebrant. For many couples, being able to choose a significant location, in addition to the choice of a religious location, with a religious celebrant, is central to recognising important aspects of the couple's identity. Any other discrepancy is inequality and must be redressed.

Question 5  (Paragraph 2.25)
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

LGBT Youth Scotland agrees that religious bodies should not be required to register civil partnerships. The LGBT young people we work with have quite clearly stated that they want religious bodies to be allowed to opt out of conducting any religious ceremony for same-sex couples, be that civil partnership or marriage. While LGBT young people want to be fully accepted and included by everyone in society, they are quite clear that they want to respect a religious bodies’ freedom to choose.

Freedom of religion is the key issue; faith bodies who do not want to register civil partnerships or conduct same-sex marriages should not have to. However, to truly provide freedom of religion, the many faith bodies who do want to be able to register civil partnerships and same-sex marriage should be able to do so. Providing this clear opt out ensures everyone is afforded their right to freedom of religion. The LGBT young people we have
consulted on this issue strongly believe in fairness and equality and that belief extends to all people.

While LGBT Youth Scotland wishes to see equality and therefore the right to choose the type of legal partnership ceremony (whether civil partnership, marriage, secular or religious), we do not want religious bodies to be forced into registering civil partnerships if they do not wish to do so.

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

Although we work with LGBT young people of faith, we are not experts on the internal functions of the wide range of religious bodies. We would be content with either option and believe that this decision is best left to the religious bodies to decide.

Question 7 ( Paragraphs 2.28 to 2.30 )

Do you agree that individual religious celebrants should not be required to register civil partnerships?

Yes ☑
No ☐
Don’t know ☐

Please give reasons for your answer
Similarly to our answer at Question 5, the LGBT young people we work with do not want to force individual religious celebrants to register civil partnerships in the same way that they do not want to force religious bodies to do so. Please refer to question 5 for further detail.

There should also be some discussion by faith bodies about what a same-sex couple should do in the circumstances where they live in a remote area of Scotland, their faith body has agreed to register civil partnerships but the individual celebrant in that local area has not agreed. While we do not agree that a local celebrant should be forced to conduct the ceremony we do believe that it would be beneficial, in those circumstances, for a faith body to discuss and agree what suitable arrangements they could put in place to support the couple. A possible option could be to have another celebrant, who was agreeable, to attend and conduct the ceremony within that local area, to enable same-sex couples to celebrate their relationship in the area in which they live, without stigma or disadvantage. We believe it is important for faith bodies to consider this important issue and provide clear guidance for members of their faith body. It is crucial that institutions who have agreed to register civil partnerships ensure that they have put procedures in place which will cause the least amount of upset as possible to the couple getting married.

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.

In consideration of the proposed options, we favour Option 1: to extend the existing authorisations of celebrants listed in the Marriage (Scotland) Act 1977 to have the ability to register civil partnerships. This option would equalise this part of the process. As the proposal states that it would make clear that neither religious bodies nor celebrants would be required to register civil partnerships, Option 1 is likely the quickest and clearest route to listing those who are authorised to register civil partnerships. It is important for this option, that those who do not wish to take part must not be obliged to ‘opt out’ of the list. Instead, the list is simply those who are permitted to do so.

We do not consider Option 2 to be an adequate option, as it would place the burden of ‘opting in’ on those who wish to offer services equally to all couples. Additionally, if the religious body overall supports registering civil partnerships, and has agreed to allow its celebrants to conduct registrations, there may still be tangible pressure on the individual celebrant. The individual may face a difficult task of asking to be put forward, and the administrative opt-in as proposed in Option 2 places the onus on those who wish to promote equality rather than those who seek to avoid taking part in an equal system. Ultimately, Option 2 is a separate system from the existing list of authorised celebrants and therefore not an equal process.
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

Again as stated in question 5 and 7 the LGBT young people who have been involved in the consultation believe in religious bodies rights to choose on these matters. We therefore agree that the Scottish Government does not need to legislate on the use of religious premises and agree that religious bodies should come to their own decision on whether or not to allow ceremonies to take place in their premises.

Section 202 of the Equality Act states that ‘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’, this is therefore sufficient legislation.

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
LGBT Youth Scotland agrees that the law should be changed to allow same sex marriage. The current system is segregated and therefore unequal.

Since before the Civil Partnership Act 2004 came into effect in 2005, the LGBT young people we work with have been raising the issue of equal partnership rights. When the Act was passed, the LGBT young people in our youth groups responded to staff and volunteers that while they thought it was an improvement, they did not understand why the Act did not grant full equality (i.e. the option to enter into marriage for same-sex couples). LGBT young people have continued to raise concerns about this inequality.

The LGBT National Youth Council (NYC) was established in 2003 to give LGBT young people a voice on issues that matter to them. The LGBT NYC address the issues facing LGBT young people in Scotland and, over the past two years, marriage equality has been one of their top priority campaign areas. The LGBT NYC consulted with their peers and used the findings to develop a manifesto outlining the top eight issues affecting young people. The priority issues were then taken to a national gathering of young people in 2009, where the LGBT NYC asked their peers to rank the priority issues. Marriage equality was voted as the top issue by 96 young people. This vote was to prioritise the issue the young people wanted their LGBT NYC members to campaign on. Between 2009 and September 2011, the LGBT NYC undertook a photo campaign at public events such as Pride, launches of youth groups and many other events.
The LGBT NYC explicitly called for opening up marriage to same-sex couples and opening civil partnerships to mixed-sex couples. The campaign asked individuals to take part in a photo petition wherein participants signed a statement declaring that they ‘support marriage equality for everyone’ and were then photographed holding the statement. Over 700 individuals—MSPs, Councillors, religious celebrants, young people, families, and many others—signed up to the campaign. While several events were aimed at the LGBT community, there were other wider events and the LGBT NYC collected photo petitions from their family, friends and local communities. Seven hundred photographs, requiring a larger personal investment than a simple signature, is an indication of the general public's commitment to equality. The LGBT National Youth Council have pulled many of these images together into a year book. They have submitted this as evidence for this consultation, alongside their own individual response.

The recent Scottish Social Attitudes Survey\(^1\) found that 61% of the overall population agreed that same-sex couples should have the right to marry, which was a sizeable increase from the minority at 41% in 2002. The approval rating for equality is even higher in young people.

Equal marriage rights are such an important issue to all young people in Scotland, regardless of sexual orientation and gender identity. The Scottish Youth Parliament and the National Union of Students Scotland have prioritised the issue. Both organisations represent the voices of the wider population of young people in

\[\text{\(^1\) Scottish Social Attitudes survey 2010: Attitudes to discrimination and positive action, Scottish Centre for Social Research}\]
Scotland and show, along with the LGBT NYC, that young people view the current segregated partnership system as inequality. The Scottish Youth Parliament's consultation with almost 43,000 young people, found that 74% of young people in Scotland support full marriage equality.

One of the main priorities for young people within their ‘marriage equality too’ campaign was to end the discrimination faced by transgender people. They felt very strongly that the legal requirement for trans people to get divorced if they transitioned after they were married just to enable them to have their gender legally recognised through a gender recognition certificate was completely unfair. This requirement to divorce exists purely because the law will not allow for same-sex marriages to exist and is one key reason why same-sex marriages must be introduced.

Many opponents of equality would argue that civil partnership is just the same as marriage, in all but name, however this quite simply is not true. Civil Partnerships are often treated as inferior, and oftentimes people are treated as second class citizens. Evidence of this was a recent case in England where a bed and breakfast owner refused a gay couple who were in a civil partnership as they only accepted married couples. This shows that there is a clear view that marriage and civil partnership are not ‘just the same’, but rather that marriage is viewed by some people as being superior to civil partnerships. The Equality Network did a recent survey with its members and of the 109 members in civil partnerships, 58% said they are not afforded the same rights and respect as married couples were.
While civil partnerships were an improvement and certainly a step towards equality, it is still a segregated system. Segregation of any kind is ultimately founded in inequality and discriminatory attitudes and is bad for all of society. Scotland is a country that strives for equality for all of its citizens, as it should, however currently it is falling short of that aim. Working towards equality is never an easy task; not for the group being oppressed nor the government trying to introduce change. However, just because it might not always feel like an easy task does not mean it is not the right thing to do. 61% of Scots have said they support same-sex marriage; this is therefore the right thing for Scotland. It is the right thing for all the LGBT people who are not being afforded their basic human rights. It is the right thing for all of the Scottish people who want to live in a country that provides dignity, respect and equality to all of it’s citizens.

Evidence clearly shows that each step that we take towards LGBT equality helps to improve public attitudes towards LGBT people in general. This can clearly be seen when comparing the Scottish social attitudes surveys of 2002, 2006 and 2010. However, having distinct and different partnership rights for same-sex couples and opposite sex couples helps to maintain a system where one group of people are both seen and treated more favourably than another. This type of state sanctioned segregation inadvertently tells society that being LGBT is somehow lesser. It is therefore no surprise that LGBT young people experience higher levels of abuse and discrimination than their non-LGBT peers².

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² National Union of Students’ report, No Place for Hate, showed that LGBT students are 10 times more likely than non-LGBT students to have concerns about being subject to abuse while studying at university or college, that 31% have experienced at least one incident of hate crime related to
LGBT Youth Scotland has been working on the issue of homophobia and homophobic bullying since it was established in Edinburgh in 1989 and as a national organisation in 2003. We conducted research\(^3\) into the issue in 2006 which showed that 52% of LGBT young people were either experiencing or had experienced homophobic bullying in their schools. We now work in several local areas across Scotland supporting schools and young people on this issue. As an organisation homophobic bullying is a top priority for our work, as year in year out it is identified as a top priority by the LGBT young people whom we work with. It is clear from the work that we do that homophobia and homophobic bullying in schools is still happening at the levels it did in 2006. This is in no small part down to the fact that LGBT people are both seen as and treated differently by society. If we want as a nation, to improve the lives of all of our young people, we must introduce same-sex marriage so that we can show young people that being LGB or T does not make them second class citizens. LGBT young people want to live in a Scotland that is committed to ending homophobia and homophobic bullying. The Scottish Government must see the links between all the forms of inequality LGBT people experience and work hard to end that inequality. The introduction of same-sex marriage will be a clear indication that Scotland is a country that will stand up for the rights of LGBT people and make legislative changes to help improve their lives. LGBT young people don’t want special

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\(^3\) Promoting Equal Opportunities in Education, Project Two Guidance on Dealing with Homophobic Incidents, Phase 1 Report and Recommendations, LGBT Youth Scotland, 2006
treatment; they just want the same rights afforded to everyone else in society. Same-sex marriage is a big step in the right direction and we believe it will, over time, have a big impact on the inclusion and acceptance of LGBT people in Scotland, as well as affording them what is rightfully theirs, the basic human right to marriage.

Currently the civil partnership system highlights this inequality within the ceremony. For instance, during the ceremony, the registrar explicitly states that legislative changes have ‘allowed’ the couple to have their relationship legally recognised. This is a reminder on the couple’s important day that their commitment is now ‘permitted’ due to legislation, which only enforces the fact that it is not perceived to be the same as a marriage, because it cannot be legally called a marriage, nor can the partners refer to one another as husband or wife.

In a society where civil partnerships are processed differently from marriages and often treated very differently, this has ramifications for children and young people belonging to such families. If all individuals had equal access to legal partnership recognition, the commitment of a young person’s parents would be acknowledged as just that: a commitment. At present, it is segregated and therefore often treated as ‘less’. The fact that same-sex couples cannot enter into marriage and mixed-sex couples cannot enter into civil partnerships creates the difference. If all couples had equal choices to enter into either civil partnerships or marriage, then the commitment of these individuals would be recognised as equal to all others and society
would view children and young people raised in all legal partnerships as equal.

Same-sex couples provide loving and supportive family environment’s for their children. This was overwhelmingly found to be the case in 2007 when the Adoption and Children (Scotland) Act 2007 was passed. This video clip shows a young man talking about the issue of marriage equality, which he wants for his two mothers’. www.youtube.com/watch?v=yMLZO-sObzQ This video from Iowa shows that this important issue is not just an issue for Scotland but is an important issue for LGBT people and their families from all around the world.

Since devolution, the Scottish Government has worked to uphold its founding principles, including equality of opportunity. Scotland now needs to recognise that limiting same-sex couples to civil partnerships and mixed-sex couples to marriage creates inequality.

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

The LGBT young people we work with do not want to force religious bodies or religious celebrants to solemnise same-sex marriages.
The answers outlined in questions 5 and 7 apply to this question; please refer to them for further detail.

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

While the introduction of same-sex civil marriage is hugely important to LGBT people, on its own it is not enough. Civil Marriage currently accounts for 51% of all marriages in Scotland, and humanist marriages account for 7%, it is therefore likely that the majority of same-sex marriages in Scotland will also be secular in nature.

However, we do not agree that the introduction of same-sex civil marriage is a sufficient step toward equality, as it is not a true choice of legal and religious recognition. The LGBT young people we work with are quite clear that there are many LGBT people who do want religious marriage and must be afforded that choice.

In September 2011, several religious bodies (Scottish Unitarians, Liberal Jewish Community, Quakers, Metropolitan Community Church and the Pagan Federation) took part in a press release in response to this consultation and clearly stated that they wish to perform same-sex religious marriage registrations. Additionally,

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4 It is important to note that while humanist marriages are viewed as secular, they are still legally classed as a ‘religious’ marriage, due to the fact that they are not provided for by the state.
the Humanists—who are the third largest provider of marriages in Scotland—have spoken out in support of same-sex marriage and their wish to be able to conduct them.

Question 13  (Paragraph 3.19)
Do you agree with the introduction of same-sex marriage, both religious and civil?

Yes ☒
No ☐
Don’t know ☐

Please give reasons for your answer

Please see our answers to questions 10 and 12. We firmly agree with the proposed introduction of both religious and civil same-sex marriage. Mixed-sex couples currently have the option of either civil or religious marriage and there is no reason why this should be restricted based on sexual orientation. To continue to do so is a clear breach of LGBT people’s human right to marriage. Human rights are just that, human rights, which by its very definition means they are rights for all human beings. “all human beings are born equal in dignity and rights.” The right to marriage therefore already exists, what we need now is for the Scottish Government to enshrine that right in law.

It is also important to note that the majority of same-sex couples would prefer a marriage to a civil partnership. There is however, a considerable minority who would prefer civil partnership to marriage. This can be backed up by consultations undertaken by LGBT Youth Scotland and by the Equality Network. We would therefore strongly advocate for not just civil and religious
marriage built also the retention of civil partnerships. Again, LGBT Young People feel quite strongly that while marriage should be extended to same-sex couples, civil partnerships should be extended to opposite sex couples.

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

Please refer to our answer to question 5, we do not agree that religious bodies should be required to solemnise same-sex marriage for the exact same reasons we outlined above.

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

Although we work with LGBT people of faith, we are not experts on the internal functions of the wide range of religious bodies. We would be content with either option and believe that this decision is best left to the religious bodies to decide.
Question 16 (Paragraphs 3.27 and 3.28)

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

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Please give reasons for your answer

Similarly to our answer at Question 5 and 7, the LGBT Young People we work with do not want to force individual religious celebrants to solemnise same-sex marriage.

Please refer to questions 5 and 7 for further detail.

There should also be some discussion by faith bodies about what a same-sex couple should do in the circumstances where they live in a remote area of Scotland, their faith body has agreed to solemnise marriages for same-sex couples but the individual celebrant in that local area has not agreed. While we do not agree that that local celebrant should be forced to conduct the ceremony we do believe that it would be beneficial, in those circumstances, for a faith body to discuss and agree what suitable arrangements they could put in place to support the couple. A possible option could be for have another celebrant, who was agreeable, to attend and conduct the ceremony within that local area, to enable same-sex couples to celebrate their relationship in the area in which they live. We believe it is important for faith bodies to consider this important issue and provide clear guidance for members of their faith body. It is crucial that institutions who have agreed to solemnise same-sex marriages ensure that they have put
procedures in place which will cause the least amount of upset as possible to the couple getting married.

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.

In consideration of the proposed options, LGBT Youth Scotland favours Option 1: to extend the existing authorisations of celebrants under the Marriage (Scotland) Act 1977 so that the same celebrants would have the ability to solemnise same sex marriage.

Question 8 which outlines our views on the above point in terms of religious civil partnership are the same as for religious marriage. Please refer to Question 8 for further detail.

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 ☐
Again as stated in question 5 and 7 the LGBT young people who have been involved in the consultation believe that religious bodies have the right to choose in these matters. We therefore agree that the Scottish Government does not need to legislate on the use of religious premises and agree that religious bodies should come to their own decision on whether or not to allow ceremonies to take place in their premises.

We believe that the rules within the Equality Act 2010 are sufficient but would not object to further legal exemptions if they are required to meet this aim.

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

LGBT young people firmly agree that civil partnerships should remain available if Scotland introduces same-sex marriage.

The LGBT young people that we work with have been speaking out on the issue since the introduction of the Civil Partnership Act 2004 and believe that civil partnerships should not only remain available, but should also become available to mixed-sex couples.
This view ultimately stems from their strong belief in fairness and equality for all. They want to live in a Scotland that is equal for all people; they know that many of their peers want to be able to enter into civil partnerships so they therefore believe that it is only fair that this option is available to all. The ‘Equal Love’ campaign has also demonstrated that there is a demand for opposite sex civil partnerships. It is crucial in a Scotland that strives for equality to afford all couples the same choices of legal partnership recognition.

The retention of civil partnerships is important for many LGBT people for many personal and ideological reasons, which should be heard by the Scottish Government. For some LGBT people, they view the institution of marriage as having historically excluded them and they would not want to participate in it but still want to legally recognise their love and commitment to their partner. Many mixed-sex couples are also uncomfortable with the long history of exclusion of LGBT people by this institution and would rather not benefit from their heterosexual privilege. Unfortunately, they do not currently have access to civil partnerships.

Some feel that as marriage has been restricted to opposite sex couples for so long, it is a system which applies proscribed gender roles onto the parties which enter into it and this does not sit comfortably with them or their identity.

For others, even civil marriage has religious connotations, and due to the rejection of their relationships at the hands of many
religious groups, they feel they would rather enter into a civil partnership which does not hold any of this history.

As has been stated already, this is not the majority view; however it is a sizeable minority view and should be respected.

Paragraph 4.10 touches upon the proposal that transgender people would not need to divorce prior to receiving a gender recognition certificate. As we are advocating for the retention of civil partnerships, the requirement to dissolve your civil partnership to get a gender recognition certificate must also be removed. This would be resolved if civil partnerships were available to opposite sex couples, as well as same-sex couples. By making civil partnerships gender neutral the law would no longer need to prevent an opposite sex civil partnership being created after a trans person acquired their GRC.

We do appreciate that changes to civil partnership legislation is more difficult for the Scottish Government to change, however we would urge the Government to engage in discussions with Westminster to make this change a reality for Scotland.

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);
Transgender People

As previously stated, ending the discrimination experienced by transgender people through our legal partnership systems is one of the main priorities of LGBT young people’s ‘Marriage Equality Campaign’. LGBT Youth Scotland believes that the proposals covered in the consultation are insufficient in their current form. While we welcome the fact that divorce would no longer be required for transgender people prior to receiving a GRC if marriage were available to all couples, we argue that civil partnership must also be open to all couples, to truly create a gender-neutral system. This requirement to divorce or dissolve current legal relationships prior to receiving a GRC, is the only time that the government interferes in an individual’s family life in such an intrusive manner. Equal partnership rights would remove the inequalities faced by transgender people in the legal partnership system.

Individuals who identify as transgender but who do not want a Gender Recognition Certificate will currently be restricted from legally committing to their partner in their true gender. There are also other transgender people who are affected by a dual partnership system predicated on sexual orientation (as legally reinforced by an individual’s birth sex or legally recognised gender). Androgyne people, (who do not identify as male or female) will be unable to enter into a marriage or civil partnership
if their birth sex is not the ‘correct’ one required by the laws outlining marriage and civil partnership. A gender neutral system would remedy this.

**Transitional Arrangements**

It is important to allow for a sufficient transitional period, during which couples who wish to can change their legal status from one partnership option to another. We suggest allowing couples a short period of time, possibly one year, to re-register the relationship. As they would not have had the option between civil partnership or marriage, it is our view that a re-signing and re-issuance of a new certificate should incur only a nominal administrative fee. Couples who wish to have a ceremony should not have a time limit on this and clearly in these circumstances ceremony and registration fees should be the same as for anyone else. Crucially though, there should be no automatic changeover as many people will want to retain their civil partnership status.

**Financial Implications**

Far out-weighing any financial output to update documents and forms to gender-neutral language, are the financial benefits of opening up same-sex marriage (and, we argue, civil partnership to mixed-sex couples). Scotland does not have a residency requirement prior to legally registering a partnership. If partnership rights were equalised in Scotland, it would be at a significant advantage to receive further visitors wanting to get married in Scotland. Scotland has always been a country that has encouraged visitors to travel here to get married and this would be an extension of that welcoming tradition.
In Canada, same-sex marriages were first included in national statistical data in 2003. Statistics showed that of the same-sex marriages that took place, 56% of them were with non-residents of Canada\textsuperscript{5}. Opening up both marriage and civil partnership to all couples and allowing these registration ceremonies to take place in locations outside of registration offices and religious premises would have the most beneficial economic impact. Visitors and Scots alike could celebrate their partnership as they wish, which means that couples and guests are more likely to spend money on wedding-related goods and services as well as accommodation, travel and sight-seeing.

**Equality Implications**
Ultimately, the potential equality impacts are at the crux of our response, as they are disproportionately relevant to LGBT people. The Universal Declaration of Human rights states that everyone has the right to enter into marriage. There are no justifiable legal reasons why access to marriage and civil partnership are restricted by sexual orientation or gender identity.

**Conclusion**
LGBT Youth Scotland welcomes the Scottish Government’s commitment to equality in this consultation. The one main area which is not as clearly outlined, which we would strongly advocate for, is the opening up of civil partnership’s to opposite sex couples, many bisexual, transgender and non LGBT people want to have this option and the LGBT young people we work with strongly believe in this change.

As discussed, this change on top of the introduction of same-sex marriage would end the discrimination currently being experienced by transgender people who are married or civilly partnered.

We believe that religious bodies should have the right to conduct registrations of civil partnership and legally solemnise marriages if they wish to do so, changes must be made to ensure this can happen. We also accept that some faith bodies and celebrants do not wish to do so and they should be provided with this choice.

These changes are ultimately an issue of equality, LGBT Youth Scotland and the young people we work with want Scotland to be a country that not only believes that all of its citizens are born free and equal, but also legislates to ensure that is a reality. Scotland must make these changes to embody the Scottish Parliament’s founding principle of equality of opportunity.

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*For clarity, we have used the terms 'mixed-sex' and 'same-sex' in our response to this consultation. If marriage and civil partnership were to be opened up to all couples we hope that they would not be qualified, neither by law nor by society, as ‘same-sex’ or ‘mixed-sex’, but simply as ‘marriage’ and ‘civil partnership’.*