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.

Stonewall Scotland is pleased to respond to the proposals to remove the restriction on civil partnerships being registered on religious premises with the consent of faith groups. Stonewall Scotland led calls for such a change in the law, which many regard as an important issue of religious freedom.

We strongly support a permissive approach to enable the various religious denominations who wish to register and celebrate same-sex civil partnerships in their premises to be able to do so. A number of religious groups - including the Quakers, Liberal Judaism and the Unitarian Church - have publicly supported such a change. Lesbian, gay and bisexual people of faith feel that it is enormously important to be able to celebrate their civil partnerships in their own place of worship.
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.

Stonewall worked closely in Westminster with a cross-party group of peers led by Lord Alli that secured changes to the Equality Act in March 2010 by a significant majority, reflecting support from all sides of the House of Lords.

We believe that the proposals to enable civil partnerships in religious premises in England and Wales offer an appropriate example of how these changes can be made.

Stonewall Scotland firmly believes that these changes should be entirely permissive and respects the autonomous decision-making processes of individual faith groups.

Stonewall Scotland supports the proposal to require faith groups' prior consent before application to a local authority for the use of a religious building to register civil partnerships. We welcome the autonomy for faith groups to decide for themselves whether they wish to register civil partnerships on their premises. As noted above, a number of religious denominations have already expressed a desire to take advantage of this change in the law and are anticipating implementation of the measures as soon as possible. We encourage the Scottish Government to listen particularly to the views of those religious organisations who actually wish to register civil partnerships in order to ensure that the proposed approach works in practical terms for them. It's important that faith groups who wish to register civil partnerships are able to reach consent, according to their own structures and processes, without inappropriate intervention or obstruction from other groups. Equally, it is important that faith groups who do not opt to celebrate civil partnerships should have no bearing on the decisions of groups that do.

Question 3  (Paragraphs 2.20 to 2.24)

Do you agree with allowing religious celebrants to register civil partnerships in religious premises?

Yes ☒
Yes. We view these proposed changes as an important question of religious freedom. It is right that religious groups and religious celebrants who wish to perform civil partnership ceremonies should be able to do so.

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

In line with the permissive nature of this legislation, we believe that any decision on registering civil partnerships should be consistent with the wishes of the celebrant, the couple entering into a civil partnership and the wishes of faith groups and regulations dictating approved venues for conducting civil partnership ceremonies.

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

We believe that these changes should be entirely permissive. It is right that
this move should extend the freedom to faith groups who wish to perform civil partnerships whilst respecting the wishes of those who do not. As previously noted, many faith groups - including the Quakers, Liberal Judaism and the Unitarian Church - have publicly supported such a change.

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?

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Please give reasons for your answer

Some religious bodies may wish to allow individual celebrants to reach their own view about whether or not to register civil partnerships. In line with the permissive nature of these proposed changes we believe that restrictions on religious celebrants conducting civil partnerships should be consistent with the rules and governance of individual faith groups.

Question 7 (Paragraphs 2.28 to 2.30)
Do you agree that individual religious celebrants should not be required to register civil partnerships?

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Please give reasons for your answer

Issues regarding individuals who may or may not wish to conduct civil partnership ceremonies should be dealt with in a way that is consistent with the individual governance and procedures of religious organisations and faith groups.

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.

We believe that extending the existing authorisations of celebrants under the Marriage (Scotland) Act 1977 for opposite sex marriage and making it clear that religious bodies and celebrants who do not wish to register civil partnerships will not be required to do so will be the most effective way to ensure that religious bodies and celebrants do not have to register civil partnerships against their will.

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?

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Please give reasons for your answer

Stonewall Scotland believes that decisions on the use of premises would generally be for the hierarchy of the body rather than for the individual celebrant who generally uses the premises as is frequently the case when registering a premises for marriage.

However, it is important to recognise that in some faiths decisions may be for the celebrant or may have been delegated to the celebrant. As the consultation sets out, where the religious body owns the premises outright, it seems straightforward enough for the body to decide the premises should not be used, when it wishes to do so.
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

Stonewall Scotland seeks to secure marriage for same-sex couples on the same basis as heterosexual marriage but without a mandate on religious organisations to celebrate it. We seek to retain civil partnerships for same-sex couples recognising their special and unique status.

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

As mentioned above, Stonewall Scotland seeks to secure marriage for same-sex couples on the same basis as heterosexual marriage but without a mandate on religious organisations to solemnise it.

There are already religious organisations which wish to celebrate marriage between two people of the same-sex; this is an important issue of religious liberty and respect. As far as such religious organisations are concerned, any approach should be entirely permissive and the autonomous decision-making processes of individual faith groups should be respected. It is important that faith groups that wish to celebrate same-sex marriages
should be able to do so without inappropriate intervention or obstruction from other groups. Equally, it is important that faith groups who do not opt to celebrate same-sex marriages should have no bearing on the decision of groups who do.

We would caution against manufactured or alarmist claims from some religious groups suggesting inaccurately that they might be forced to celebrate such marriages if such a permissive, rather than mandatory, mechanism is introduced to effect this.

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

We believe that same-sex marriage should be available both on a civil basis on the same basis of heterosexual marriage, and in religious premises but without a mandate on religious organisations to celebrate it.

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

Yes. We believe that religious organisations should be able to conduct same-sex marriages in accordance with their individual wishes. Any approach should be entirely permissive and the autonomous decision-making processes of faith groups should be respected.

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

Stonewall Scotland believes that any proposals must be entirely permissive and should respect the decision-making processes of individual faith groups.
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

Some religious bodies may wish to allow individual celebrants to reach their own view about whether or not to solemnise same-sex marriage. In line with the permissive nature of these proposed changes we believe that restrictions on religious celebrants conducting same-sex marriages should be consistent with the rules and governance of individual faith groups.

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

Issues regarding individuals who may or may not wish to solemnise same-sex marriage ceremonies should be dealt with in a way that is consistent with the individual governance and procedures of religious organisations.
and faith groups.

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.

We believe that extending the existing authorisations of celebrants under the Marriage (Scotland) Act 1977 for opposite sex marriage and making it clear that religious bodies and celebrants who do not wish to register same-sex marriages will not be required to do so will be the most effective way to ensure that religious bodies and celebrants do not have to register same-sex marriages against their will.

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?
The critical test is whether faith groups who intend to register same-sex marriages support any new legislative provisions as practical and workable.

We support a ‘light touch’ process that is not excessively bureaucratic.

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

Stonewall Scotland and Stonewall GB campaigned actively for the introduction of civil partnerships. Before their introduction, same-sex couples had no legal recognition and were regularly refused basic rights such as inheritance of their domestic residence on death or hospital visits to their partners.

We seek to retain civil partnerships for same-sex couples recognising their special and unique status.
We warmly welcome the Government’s view that should Scotland introduce same-sex marriage, then in future, there would be no need for transgender people in marriages to divorce before obtaining the full gender recognition certificate.

We believe that couples should be able to continue their existing marriages, while retaining all the rights conferred by their marriage, with as little inconvenience to the couple as possible.

As mentioned in the consultation, Stonewall Scotland supports the retention of civil partnerships in recognition of their special and unique status.

It is right that the Scottish Government should seek equal recognition for same-sex marriages around the world so that Scottish people can be sure of equal protection for themselves and their partners around the world.

Any rules applying to forced marriage should apply equally to same-sex marriages.

Any rules applying to sham marriages should apply equally to same-sex marriages.