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 support the continuation of civil partnership as an alternative to marriage for same-sex couples. It is likely that most couples who want a religious path to solemnize their partnership will opt for marriage, but we would like to see a religious civil partnership ceremony as a possible, less traditional alternative. As has been much discussed, particularly in LGBT circles over the years, some couples question the historic patriarchal character of marriage and prefer a modern alternative without this patriarchal baggage and traditional associations. We believe it would be progressive to respect such views and continue a non-traditional option.

In the event – unlikely, we hope – that legal marriage is not introduced for same-sex couples in Scotland, we certainly urge the introduction of religious civil partnership, which would then, by default, become a marriage ceremony for religious purposes.

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.

Comments

The proposals in England and Wales envisage civil registrars conducting purely civil ceremonies in religious premises, requiring an additional religious ceremony if such is desired. This is unnecessary. If – as we hope – religious as well as civil same-sex marriage is introduced in Scotland, it should also be possible for religious ministers and celebrants to solemnize civil partnerships without the attendance of civil registrars.

If religious marriage is not introduced it would certainly be necessary to have an integrated religious and legal civil partnership ceremony conducted by a religious minister.
Question 3 (Paragraphs 2.20 to 2.24)

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

Yes ☑
No ☐
Don’t know ☐

Please give reasons for your answer

Comments

See comments above. In the LGBT Jewish community, which we represent, there are diverse views about the nature of marriage, with some preferring modern alternatives with different, albeit still spiritual, symbolism. Religious civil partnership ceremonies would answer this need in a creative and progressive way.

Question 4 (Paragraphs 2.20 to 2.24)

Do you agree with allowing religious celebrant 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

Comments

It is a long-standing tradition in Judaism to hold weddings outside the synagogue. The same freedom should certainly apply to civil partnerships.
Question 5 (Paragraph 2.25)

Doyouagreethatreligiousbodiesshouldnotberequiredtoregistercivil partnerships?

Yes ✓
No □
Don’t know □

Please givereasonsforyouranswer

Comments
We do not seek to compel anyone to act against their beliefs and would respect the views of those religious bodies which could not in conscience register same-sex ceremonies.

Question 6 (Paragraphs 2.26 and 2.27)

Doyouconsider thatreligiouscelebrantsshouldnotbeallowedtoregister civil partnershipsiftheir religiousbody has decided against registering civil partnerships?

Yes □
No □
✓
Don’t know □

Please givereasonsforyouranswer

Comments
No. While we respect the right of religious bodies and individuals to refuse to conduct same-sex ceremonies, we would also support the freedom of conscience of those ministers who differ from the views of their church or religious body. If the religious body concerned then exerts sanctions against such ministers, that is their prerogative, but the legal validity of civil partnerships the minister has already carried out in full accordance with legal forms should be upheld.
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

Comments

Even within liberal religious organisations there may be individual ministers who conscientiously object to same-sex ceremonies, and we would not want such individuals to be forced to violate their conscience. We would call on such ministers to deal sensitively and respectfully with couples who approach them, and direct them to a colleague who is willing to help.

It should be noted that this is quite different from the position of civil registrars, who represent the secular state and should deal with all couples equally and without discrimination, in accordance with equality legislation.

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

This is a difficult question. It might well assist the process of introducing same-sex civil partnership and marriage to choose Option 2 and allow conservative religious bodies quietly to stand by as more liberal ones “opt in” to the new provisions. On the other hand, this might seriously compromise the conscience of many liberal-minded ministers within more conservative, or divided, religious bodies, who would find themselves deprived of the legal faculty to provide ceremonies for those for whom they wish to exercise pastoral oficiation in civil partnership or marriage.

We therefore advocate Option 1, whereby all ministers and celebrants currently enabled to conduct marriages should automatically be able to conduct civil partnership and marriage for same-sex couples. It would then become an internal disciplinary matter for each religious body how to deal with the differing views within their ranks, while the legality of all duly solemnised ceremonies is recognised.
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

Yes. We accept the logic of Paragraph 2.40 that such issues should be resolved through internal discussion and not special legislation.
Samesexmarriage

Question10 (Paragraphs 3.11 and 3.12)
DoyouagreethatthelawinScotlandshouldbechangedtoallowsamesex marriage?

Yes ✔
No ☐
Don’t know ☐

Please givereasonsforyouranswer

Comments
The meaning and symbolism of marriage have evolved continuously and dramatically throughout history, since biblical times when polygamy was normal and marriage meant the acquisition of a woman, usually at the age of puberty, by a man, by financial arrangement with the girl’s father, often regardless of her consent. Nowadays marriage is accepted by virtually all within Scottish society to be a personal commitment made by two consenting adults, usually out of love, to spend their lives together and create a home and family. Most accept that families come in many forms nowadays, some choosing to have children, others not, and such personal choices are respected. We see no difference whatsoever between such a commitment made by two people of opposite sexes, and two people of the same sex. Some same-sex couples go on to have children. A majority of people in Scotland accept that same-sex couples can and do make commitments to each other with the same qualities of love, commitment, faithfulness and seriousness, and that this should be recognised as marriage.

Judaism calls marriage Kiddushin, which means sanctification, and recognises a spiritual quality of holiness in the loving commitment of two people. The progressive movements within Judaism today recognise this same spiritual quality in the relationship of same-sex couples, and support the right of such couples to marry in civil law as well as in the eyes of religion.

The Jewish Gay and Lesbian Group has members throughout Britain who wish to have the right to marry, and some have been waiting for this to become possible for many years. We applaud the vision of the Scottish government in announcing its intention to introduce same-sex marriage and support this endeavour absolutely.

Question11 (Paragraph 3.13)
Doyouagreethatreligiousbodiesandcelebrantsshouldnotberequiredto solemnisesamesexmarriage?

Yes ✔
No ☐
Don’t know ☐

Please givereasonsforyouranswer

Comments
See comments on Question 5 above.
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

To introduce civil but not religious marriage for same-sex couples would be to perpetuate inequality, and would be contrary to the progressive spirit of the legislation contemplated by the Scottish government. For many Jewish couples, as for those of other faiths, marriage is simultaneously a civil and a religious institution, and to achieve its full significance should be effected in a single ceremony conducted by a minister (in the Jewish case, a rabbi) with the full sanction both of civil law and religious tradition.

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

Comments

See previous comment.
### Question 14 (Paragraphs 3.23 and 3.24)

Doyouagreethatreligiousbodiesshouldnotberequiredtosolemnisesamesexmarriage?

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Please givereasonsforyouranswer

**Comments**

See comments on Question 5 above.

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### Question 15 (Paragraphs 3.25 and 3.26)

Doyouconsiderthat religiouscelebrantsshouldnotbeallowedtosolemnisesamesexmarriagesiftheireligiousbodyhasdecidedagainstsolemnisingamesexmarriage?

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Please givereasonsforyouranswer

**Comments**

No. See comment on Question 6 above.
**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

**Comments**

See comments on Question 7 above.

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**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**

Option 1. See comments on Question 8 above.
**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?

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Please give reasons for your answer

**Comments**

Yes. We accept the argument of Paragraph 3.38 that such special legislation is unnecessary and undesirable.

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**Question 19 (Paragraph 3.41)**

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

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Please give reasons for your answer

**Comments**

See comments on Question 1 above.

Whilst our main concern is that marriage equality should be achieved by introducing both civil and religious marriage for same-sex couples, we strongly support the continued availability of a non-traditional alternative for those couples who question the appropriateness of the language and symbolism of marriage to their situation.
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).

Comments

(Paragraph 3.42) We strongly support the right of transgender people who are married to remain in the same marriage without needing to divorce their (now same-sex) partner and remarry, subject to the consent of the partner.

(Paragraphs 3.43 and 3.44); Couples who have had a civil partnership should be able, within a transitional period, to have their status converted to that of marriage without the need for a further ceremony.

(Paragraphs 3.45 to 3.50); Same-sex marriages registered in Scotland should be recognised as marriage throughout the UK (even if same-sex marriage has not yet been introduced in the rest of the UK) and in all other countries, whether or not those countries allow same-sex marriage in their own legal systems. In the same way, same-sex marriages conducted legally in other countries should have full recognition in Scotland and throughout the UK.

(Paragraphs 4.01 to 4.08); This is an issue of justice, equality and religious freedom, and government should bear any administrative costs involved in passing and implementing legislation.