

# THE REGISTRATION OF CIVIL PARTNERSHIPS SAME SEX MARRIAGE



## Annex E: RESPONDENT INFORMATION FORM

Please Note this form **must** be returned with your response to ensure that we handle your response appropriately

### 1. Name/Organisation

Organisation Name

The Church of Scotland

Title Mr  Ms  Mrs  Miss  Dr  *Please tick as appropriate*

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### 3. Permissions - I am responding as...

Individual

/

Group/Organisation

*Please tick as appropriate*

(a) Do you agree to your response being made available to the public (in Scottish Government library and/or on the Scottish Government web site)?

*Please tick as appropriate*  Yes  No

(b) Where confidentiality is not requested, we will make your responses available to the public on the following basis

*Please tick ONE of the following boxes*

Yes, make my response, name and address all available

or

Yes, make my response available, but not my name and address

or

Yes, make my response and name available, but not my address

(c) The name and address of your organisation **will be** made available to the public (in the Scottish Government library and/or on the Scottish Government web site).

Are you content for your **response** to be made available?

*Please tick as appropriate*  Yes  No

(d) We will share your response internally with other Scottish Government policy teams who may be addressing the issues you discuss. They may wish to contact you again in the future, but we require your permission to do so. Are you content for Scottish Government to contact you again in relation to this consultation exercise?

*Please tick as appropriate*  Yes  No

## 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

##### **Introductory Comments**

**1 December 2011**

1. This is the Response of the Church of Scotland to the Consultation document entitled 'The Registration of Civil Partnerships, Same Sex Marriage' produced by the Scottish Government.

2. The Church's Response honours and reflects the decisions made by its 2011 General Assembly.

The General Assembly declared that:

(1) It is contrary to God's will that Christians should be hostile in any way to a person because he or she is homosexual by orientation and in his or her practice. In other words we view homophobia as sinful. We do not include in the concept of homophobia both the bona fide belief that homosexual practice is contrary to God's will and the responsible statement of that belief in preaching or writing.

(2) It is the duty of the Church to welcome, minister, and reach out to people regardless of their sexual orientation and practice. The Church should strive to manifest God's love to all of his people.

(3) In particular, the Church should recognise the heavy burden which a homosexual orientation continues to place on some who find it difficult or impossible to reconcile their orientation with their understanding of God's purposes as revealed in the Bible. There is a particular need for the Church to reach out pastorally to them and to make them welcome.

(4) People who are homosexual by orientation are not barred by their orientation from membership of the Church or from taking up

leadership roles in the Church, including the ministry of Word and Sacrament, the diaconate and eldership.

The General Assembly maintained the unlawfulness of discrimination in the Church on the ground of sexual orientation (see Church's Act V, 2007 Anent Discrimination).

The General Assembly also commissioned a theological report, (which is discussed at Answer 1.A.7 below), which will be heard at its 2013 General Assembly. In the meantime, the Church will not accept for training, allow to transfer from another denomination, ordain or induct any person in a same-sex relationship. However, during this period, the Church will allow the induction into pastoral charges of ministers and deacons ordained before 31 May 2009 who are in a same-sex relationship.

2. The Consultation document focuses primarily on Scots, UK and European Human Rights law. Therefore, the Church's Legal Questions Committee has prepared the Church's response. The Legal Questions Committee is a group of ministers, elders and members who either are or were practising lawyers or who have an interest in legal matters. It is drawn from across the breadth of the Church. The Committee was also glad to receive advice from elsewhere in the Church.

3. Although this is a technical response to a technical consultation document, the Committee recognises that the legalities cannot and should not mask the fact there is intense and passionate debate within Scottish society about the underlying issues. These issues impact upon the lives of our fellow citizens, particularly among those Scots who are lesbian, gay, bisexual or transgender. There is much pain and sorrow, as well as frustration. The Church has undiminished concern and desire to care for all people in Scotland regardless of sexual orientation or theological opinion. Therefore, the Church believes that it has a responsibility to our nation to be part of that debate and to help to shape public opinion and government policy in accordance with what it understands to be the will of God. In responding to this consultation at this time, the Church has no desire to stifle the ongoing debate and hopes that this Response will be a helpful contribution.

4. There is also an ongoing debate within the Church itself. There is a wide spread of opinion among our own folk which has been evident at recent General Assemblies and elsewhere. The Committee recognises that this Response may be regarded as unsatisfactory by some of our members who would have wished the Church to embrace the Government's proposals. Equally, there may be others who are disappointed that the Response offers the possibility that the Church will move from its current position.

5. However, such reactions, whilst understandable, would miss the point of this Response. By issuing the Consultation document, the Scottish Government has required of the Church that it offer a response as at

December 2011. In fulfilling its remit, the Committee can do neither more nor less than articulate the Church's current position and offer the Government information about what decisions the Church would have to take and what processes it would need to follow if it were to agree to some or all of the proposals. Therefore, this Response is essentially a freeze-frame image captured from the Church's developing response to the real, live issues involved. It is not for the Committee to argue either for or against the Government's proposal. Even less so, does the Committee have the authority to commit the Church to either accepting those proposals or rejecting them for all time. These are decisions for the General Assembly alone. The General Assembly has not departed from the traditional Christian position on same-sex relationships although it has signalled that it may do so in relation to civil partnerships. The General Assembly has not been asked to consider a departure from the Church's historic understanding of marriage as being between one man and one woman.

6. The General Assembly is the supreme court of the Church which normally meets once a year. The Presbyterian system of church government vests authority in its church courts and not in individuals. This allows for a conciliar system of government, in which decisions are taken corporately. The Committee is in no doubt that Government's proposals impinge upon core areas of the Church's beliefs, worship and discipline. For such cases, the Church has a procedure (set out in the Church's Barrier Act) designed (i) to test the opinion of the whole Church, through its General Assembly and Presbyteries, and (ii) to give time for as full and considered a discussion as possible. This procedure provides that two successive General Assemblies must agree to any proposed change and, also, that a majority of Presbyteries (who are consulted in the intervening 12 months) must also agree.

7. In May 2011, the General Assembly appointed a Theological Commission because it had resolved to consider further the lifting of the Church's moratorium on the acceptance for training and ordination of persons in a same-sex relationship. The Theological Commission has been tasked with preparing a report for the General Assembly of 2013 containing:

- (i) a theological discussion of issues around same-sex relationships, civil partnerships and marriage;
- (ii) an examination of whether, if the Church were to allow its ministers and deacons freedom of conscience in deciding whether to bless same-sex relationships involving life-long commitments, the recognition of such life-long relationships should take the form of a blessing of a civil partnership or should involve a liturgy to recognise and celebrate commitments which the parties enter into in a Church service in addition to the civil partnership, and if so to recommend liturgy therefore;
- (iii) an examination of whether persons, who have entered into a civil partnership and have made life-long commitments in a Church

ceremony, should be eligible for admission for training, ordination and induction as ministers of Word and Sacrament or deacons in the context that no member of Presbytery will be required to take part in such ordination or induction against his or her conscience.

Therefore, the Theological Commission will consider the issues which are the basis for the Government proposals. The Committee has been careful neither to anticipate the Theological Commission's conclusions nor to cut across its work.

8. Nevertheless, the Committee hopes that, as well as informing the Government and contributing to the national debate, this Response will assist the Church itself. It has tried to preserve the space needed for the Church to make its own decisions in accordance with its Presbyterian polity and in God's time. For this reason, the Response cautions the Government against precipitate action. Furthermore, the Committee hopes that it has contributed to the dialogue within the Church by restating the Church's current position and explaining how that might be changed with sufficient clarity to assist all parties.

9. The Church's Answers should all be read in the light of these Introductory Comments.

### **Specific Comments on Question 1**

1. The Church has answered 'No' to this question because to choose one of the other options offered for Question 1 or not to answer at all, would misrepresent the Church's position. It would also prevent it from challenging meaningfully the proposed introduction of 'religious' civil partnerships. Furthermore, the Church feels constrained to answer 'No' at this stage because it has not yet seen draft legislation which would effectively protect the position of religious bodies who do not wish to register civil partnerships through religious ceremonies. As the Scottish Government concedes in paragraphs 2.34 and 2.35 of the Consultation document, there is still much work to be done in this area. Nevertheless, while the Church cannot agree to the proposal to permit civil partnerships to be registered through religious ceremonies, it recognises and respects the fact that other religious bodies may hold and wish to express different views.

2. In 2006/7, the Church of Scotland decided against declaring that a minister or deacon (who together are hereafter referred to as 'ministers') 'who conducts any service marking a civil partnership does not commit a disciplinary offence.' In the light of this decision, the Church cannot agree that legislation should be changed so that civil partnerships may be registered through religious ceremonies whether these are conducted by religious celebrants or not or take place on religious premises or not.

3. Without prejudice to the ongoing work of the Theological Commission, if the Church were to agree to register civil partnerships through religious ceremonies this would require it to depart from the traditional understanding of same-sex relationships. So far, it has not decided to do so.

4. Such a change would only be enacted into the law of the Church with the agreement of two successive General Assemblies and, in the intervening 12 months, a majority of presbyteries. (See the Church's Barrier Act 1697.)

5. If registration of civil partnerships through religious ceremonies or in religious premises were permitted, this would so fundamentally alter the nature of civil partnerships that they would cease to be such. Civil partnerships are a creation of statute (Civil Partnership Act 2004, s. 1). Ministers or other religious celebrants are not included in the definition of 'authorised registrars' who may carry out registration as civil partners (s. 87). Section 93(3) specifically excludes 'religious premises' as a 'place of registration.' Therefore, the Church believes that civil partnerships were intended to be a civil institution only. Registration through religious ceremonies or in religious premises is antithetical to the original purpose for which they were introduced.

6. Furthermore, the Church is concerned at the speed with which the Scottish Government is proceeding on this issue. It appears that the Government has, with only limited exceptions, failed to persuade the religious community in Scotland. Civil partnerships, as a civil institution, were only introduced on 5 December 2005 (The Civil Partnership Act 2004 (Commencement No. 2) (Scotland) Order 2005). There is no legal requirement for the Scottish Parliament to enact legislation permitting civil partnerships to be registered through religious ceremonies (Courten v United Kingdom ((4479/06) ECtHR November 4, 2008). Civil partners are not legally or fiscally disadvantaged in comparison with married couples.

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

1. The Church cannot agree that the proposals in England and Wales on registration of civil partnerships would be appropriate for Scotland. Reference is made to the Church's answer to Question 1.
2. The Church agrees that the 'approved premises' system of regulation used in England would be a major and unhelpful innovation if applied to Scotland.
3. In any event, the Church does not agree that registrars should be permitted to carry out their statutory duties in its churches and church buildings. At present the law of the Church does not make provision for its churches or church buildings to be used for civil ceremonies. (See the Church's Declaratory Act I, 1977 Anent Recognition of Marriage Services; Consolidating Act II, 2000 Anent Ministry, s. 26.)

Question 3 (Paragraphs 2.20 to 2.24)

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

Comments

1. The Church cannot agree that religious celebrants be allowed to register civil partnerships in religious premises even if the act of registration were not part of a religious ceremony. This would be inconsistent with the Church's Declaratory Act I, 1977 Anent Recognition of Marriage Services.
2. Furthermore, the Church believes that the boundary between civil registration of a civil partnership and any precedent or subsequent religious ceremony would quickly be blurred and that registration would become a religious ceremony in practice.
3. Reference is made to the Church's answer to Question 1.

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

#### Comments

1. The Church cannot agree that religious celebrants be allowed to register civil partnerships even if the act of registration were not part of a religious ceremony or did not take place on religious premises.
2. Reference is made to the Church's answers to Questions 1 and 3.

#### 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

#### Comments

1. The Church notes and welcomes the view expressed by the Scottish Government that neither the Church nor any other religious body should be obliged to register civil partnerships against its will. Nevertheless, the Church wishes to make its position on this issue clear. If religious bodies were legally required to register civil partnerships this would be an unwarranted and illegal intrusion into the lives of the Church of Scotland and other religious bodies.
2. The Church notes that that the Scottish Government makes no reference to the Church of Scotland Act 1921 which regulates the relationship between the Church and the state. The Schedule to the 1921 Act contains the Articles Declaratory of the Constitution of the Church of Scotland in Matters Spiritual. Article 4 recognises and enacts the Church's 'right and power subject to no civil authority to legislate, and to adjudicate finally, in all matters of doctrine, worship, government and discipline in the Church.' This right and power specifically includes the right 'to define the boundaries of the spheres of labour of its ministers and other office bearers.' It is further defined as 'the separate and independent government

and jurisdiction of [the] Church in matters spiritual' and specifically denies 'the civil authority any right of interference with the proceedings or judgements of the church within the sphere of its spiritual government and jurisdiction.' This independent spiritual jurisdiction is reflected or restated in all of the Articles. It has been consistently recognised and respected by the courts (see e.g. Percy v. Church of Scotland 2006 SC (HL) 1 at p. 34 per Lord Hope).

3. If religious bodies were legally required to register civil partnerships this would be a radical departure from the protection offered to religious bodies and ministers by the Equality Act 2010, s. 193 and Sch. 23. In any event, such protection cannot be removed by the Scottish Parliament since it impinges upon the reserved matter of equal opportunities (Scotland Act 1998, Sch. 5, Pt II, s. L2).

4. Furthermore, this would amount to a denial of the right to freedom of religion which includes freedom 'either alone or in community with others and in public or private, to manifest [...] religion or belief, in worship, teaching, practice and observance' (European Convention on Human Rights, Art. 9; Leela Forderkreis eV v Germany (2009) 49 E.H.R.R. 5; ). It is not competent for the Scottish Parliament to enact laws which are incompatible with Convention rights (Scotland Act 1998 s.29(2)(d); Cadder v HM Advocate 2011 S.C. (U.K.S.C.) 13).

#### 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

1. The Church is concerned that that the Scottish Government appears to be contemplating the possibility that religious celebrants be allowed to register civil partnerships even if their religious body has decided against registering civil partnerships. To do so would be an unwarranted and illegal intrusion into the lives of the Church of Scotland and other religious bodies.

2. Without prejudice to its position on civil partnerships outlined in Answer 1, the Church reserves the sole right and power to instruct its ministers on this matter. If the Government were to seek to deprive the

Church of the right and power to do so, this would be an unwarranted and illegal intrusion into the life of the Church of Scotland.

3. Reference is made to the Church's answer to Question 5.

#### 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

1. The Church notes and welcomes the view expressed by the Scottish government that individual religious celebrants should not be required by the state to register civil partnerships. Reference is made to the Church's answers to Questions 5 and 6.

2. Without prejudice to its position on civil partnerships outlined in Answer 1, the Church reserves the sole right and power to instruct its ministers on this matter

#### 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

1. The Church does not support either of these options since it does not agree that civil partnerships should be registered by religious bodies or celebrants or on religious premises.

2. However, if the Government insists on introducing such legislation, the Church would prefer Option 2. The Church expects that a substantial majority of religious bodies, both in number and number of adherents, will disagree with the proposals to allow religious bodies or celebrants to register civil partnerships. Therefore, an 'opt-in' provision such as Option 2 would more accurately reflect the widespread opposition within the Scottish faith community.

3. The Church also believes that Option 2 offers greater protection to it and its ministers against legal action.

4. The Church does not doubt the good faith of the Scottish Government. However, it has yet to see draft legislation which would effectively protect the position of religious bodies who do not wish to 'opt-in'. Therefore, it reserves its position as to whether this can be done effectively.

#### 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

Without prejudice to its position that civil partnerships should not be registered by religious bodies or celebrants or on religious premises, the Church believes that it and other religious bodies should be afforded statutory protection against being forced to allow their premises to be used against their wishes.

## 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

1. The Church cannot agree that the law in Scotland should be changed to allow same-sex marriage.
2. The Government's proposal to allow same-sex marriage fundamentally changes marriage as it is understood in our country. The nature of marriage in Scottish culture is that it is a relationship between one man and one woman. This is the position in law and fact.
3. If the Church were to agree that marriage be redefined to include same-sex marriage this would involve a fundamental change in its understanding of marriage. In common with the historic position of the Christian Church, the Church of Scotland has always viewed marriage as being between one man and one woman. Despite recent discussions on the status of same-sex and other relationships, and of civil partnerships, the General Assembly has at no point been invited to consider any such redefinition of marriage. Indeed, a recent consultation among elders and ministers indicated only limited support for same-sex marriage (Report to General Assembly 2011 of Special Commission on Same Sex Relationships and the Ministry).
4. The Church has only ever taught that marriage is the union of a man and a woman. Scriptural references to marriage, whether literal or metaphorical, all operate under this understanding. Furthermore the point is established within the Reformed tradition of the Church, not least in its subordinate standards. The Church sees itself as part of the catholic or universal Church within which there is agreement, across confessional divides, that marriage is between one man and one woman. Most recent work under the auspices of the General Assembly, in particular the work conducted by the Joint Commission on Doctrine (with the Roman Catholic Church) through the 1980s and 1990s, and the specific report on marriage from the Panel on Doctrine in 1994, have likewise upheld what can only be called the conventional or regular understanding of marriage.
5. If the Church were to change its position on marriage to include same-sex marriage, such a change would only be enacted into the law of

the Church with the agreement of two successive General Assemblies and, in the intervening 12 months, a majority of presbyteries. (See the Church's Barrier Act 1697.)

6. However, the Church is concerned at the speed with which the Scottish Government is proceeding on this issue. It appears that the Government has, with only limited exceptions, failed to persuade the religious community in Scotland. The Church does not believe that there has been sufficient debate. Indeed, it believes that what debate there has been has been patchy, undeveloped and exclusive of both ordinary people and the religious community. It is not clear what compelling reasons there might be for introducing same-sex marriage without allowing for further debate. The Government states that the purpose of this proposal to re-define marriage is to accommodate the wishes of some same-sex couples. The Church believes that much more measured consideration is required before the understanding of marriage which is entrenched and valued within the culture of Scotland, both secular and religious, is surrendered to accommodate this wish. To redefine marriage to include same-sex marriage may have significant and, as yet, inadequately considered repercussions for our country and, in particular, for the well-being of families and communities and of individuals.

7. There is no legal requirement for the Scottish Parliament to enact legislation introducing same-sex marriage (Shalk and Kopf v. Austria (2011) 53 E.H.R.R. 20). If they choose to be registered as civil partners, same-sex couples are not disadvantaged either legally or fiscally by not being 'married'.

#### 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

1. The Church notes and welcomes the view expressed by the Scottish government that neither religious bodies nor celebrants should be required to solemnise same sex marriage.

2. Reference is made to the Church's answer to Questions 5 and 6.

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

1. The Church cannot agree to the introduction of same-sex civil marriage only. It does not believe that marriage can or should be compartmentalised into civil and religious marriage. This is a false dichotomy which does not reflect the place of marriage in the culture of our country, either past or present.
2. Reference is made to the Church's answer to Question 10.

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

Reference is made to the Church's answer to Question 10.

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

1. The Church notes and welcomes the view expressed by the Scottish government that religious bodies should not be required to solemnise same-sex marriage.
2. Reference is made to the Church's answer to Question 5.

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

1. The Church is concerned that that the Scottish Government appears to be contemplating the possibility that religious celebrants be allowed to solemnise same-sex marriages even if their religious body has decided against solemnising same-sex marriage. To do so would be an unwarranted and illegal intrusion into the lives of the Church of Scotland and other religious bodies.
2. Without prejudice to its position on same-sex marriage outlined in Answer 10, the Church reserves the sole right and power to instruct its ministers on this matter. If the Government were to seek to deprive the

Church of the right and power to do so, this would be an unwarranted and illegal intrusion into the lives of the Church of Scotland.

3. Reference is made to the Church's answer to Questions 5 and 6.

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

1. The Church notes and welcomes the view expressed by the Scottish government that individual religious celebrants should not be required by the state to solemnise same-sex marriage.

2. Without prejudice to its position on same-sex marriage outlined in Answer 10, the Church reserves the sole right and power to instruct its ministers on this matter.

3 Reference is made to the Church's answers to Questions 5 and 7.

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

1. The Church does not support either of these options since it does not agree that same-sex marriages should be solemnised by religious bodies or celebrants or on religious premises.
2. However, if the Government insists on introducing such legislation, the Church would favour Option 2. The Church expects that a substantial majority of religious bodies, both in number and number of adherents, will disagree with the proposals to allow religious bodies or celebrants to solemnise same-sex marriages. Therefore, an 'opt-in' provision such as Option 2 would more accurately reflect the widespread opposition within the Scottish faith community.
3. The Church also believes that Option 2 offers greater protection to it and its ministers against legal action.
4. The Church does not doubt the good faith of the Scottish Government. However, it has yet to see draft legislation which would effectively protect the position of religious bodies who do not wish to 'opt-in'. Therefore, it reserves its position as to whether this can be done effectively.

#### 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

Without prejudice to its position that that same-sex marriage should not be solemnised by religious bodies or celebrants or on religious premises, the Church believes that it and other religious bodies should be afforded statutory protection against being forced to allow their premises to be used against its wishes.

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

Without prejudice to its positions on civil partnerships and same-sex marriage, the Church believes that it would be wrong to force same-sex couples to 'marry' as the only means of gaining state-recognised rights and responsibilities.

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

1. As indicated above, the Church does not believe that the Scottish Government has adequately considered whether its proposals are necessary or desirable to achieve equality for lesbian, gay, bi-sexual and transgender people. Neither has it properly assessed the impact of its

proposals on the rights of the religious community in Scotland.

2. The Church appreciates that the Scottish Government is anxious to maximise opportunities for attracting tourists to Scotland. It is uneasy however at the suggestion (paragraph 4.08 of the Consultation document) that offering same-sex marriages may attract foreign visitors. It does not believe that speculation on the potential for increased tourist revenue should form any part of the decision making on such a major social change.