

## **Civil partnerships on religious premises**

### **Consultation response of The Christian Institute (summary)**

#### **Introduction**

The Government's consultation on allowing civil partnerships to be registered on religious premises closes on 23 June 2011. Ever since the Civil Partnership Act was passed in 2004 it has not been lawful to register a civil partnership on religious premises (paralleling the law on civil marriage). However, the Government now wants to implement Section 202 of the Equality Act 2010 which allows for the removal of the ban. The consultation proposes an 'opt in' scheme allowing those places of worship which want to host civil partnership registrations to do so. However, there are serious doubts over whether the scheme is workable and can prevent legal action against those who disagree.

#### **Religious liberty**

Christians in Britain are extremely concerned at the erosion of their religious liberty that has taken place in recent years. A recent poll found that 77% of churchgoers believe the marginalisation of Christians in public is increasing.<sup>1</sup> While we acknowledge the Government's sincere intention that the proposed scheme should be entirely voluntary, it is understandable that Christians fear this will not turn out to be the case. For example, when Stonewall's Chief Executive, Ben Summerskill, announced its campaign for this legal change, he said: "Right now, faiths shouldn't be forced to hold civil partnerships, although in ten or 20 years, that may change."<sup>2</sup>

#### **Litigation**

In light of such remarks, Christians are apprehensive that the new proposals will allow litigation against churches with orthodox beliefs on sexual ethics. The consultation document is not able to provide reassurance, admitting that the proposals bring "a risk of additional legal challenges" in the future, and saying: "Given the controversies surrounding sexual orientation and religion and belief, such challenges cannot be excluded."<sup>3</sup> It talks elsewhere of: "Pressure on... faith groups and individual places of worship".<sup>4</sup> If a church was successfully sued in the future it is possible a precedent could be set compelling many other churches to participate in the scheme. Even if legal actions against churches were to fail, the expense and pressure involved would cause great harm to those involved.

#### **Repercussions for civil marriage**

During the passage of the Civil Partnership Act in 2004, the then Government gave repeated reassurances that civil partnerships would reflect civil marriage and said they would be "entirely secular".<sup>5</sup> The proposals under Section 202 of the Equality Act depart from that clear undertaking.

Section 202 came as a result of a backbench amendment. Initially the then Government strongly resisted the idea, saying it was "not a workable solution to this issue. Amending the Civil Partnership Act in this way could lead to inconsistencies with civil marriage, have an unexplored impact on devolved Administrations, and lead to confusion on what is permitted and what is required."<sup>6</sup>

Clearly the Government was very concerned that a permissive amendment could be interpreted as a requirement. It also objected because of the uncertainty the change would leave over the position of civil marriage, which must be entirely secular. In fact the amendment was passed in great haste without proper parliamentary scrutiny.

#### **Unworkable**

It should be recognised that the Government is under no obligation to implement Section 202 of the Equality Act 2010; for example Ministers have said very publicly that Section 1 of the same Act will not be brought into force (the "public sector duty regarding socio-economic inequalities").

The proposals seek to establish a scheme which allows civil partnerships to be registered on certain religious premises while protecting religious groups or individual religious leaders who do not want to participate. It is very doubtful whether any scheme can combine the flexibility and legal certainty necessary. For example, there are a huge number of religious bodies in Britain with a complex array of organisational arrangements. The consultation paper recognises that there are around 30,000 registered

places of worship belonging to 40 different 'faith groups', *not* including the Church of England or the Church in Wales.<sup>7</sup>

A major issue, which the consultation fails to address, is that many independent churches actually operate in buildings they do not own, or have Trustees from a separate church grouping (having perhaps left a denomination decades or even a century ago). Similarly, it can be almost impossible to determine 'ownership' of Church of England premises – e.g. the 'owners' could be said to be clergy with freehold, the Diocese, or the Patrons. There are also evangelical ministers in denominations which have to some extent endorsed homosexual conduct and which own the church property. Officials for such a denomination may seek to register all its premises, leaving evangelicals in an impossible position: effectively the Government's proposals would open up deep internal divisions in the denomination. The secular courts could end up adjudicating on the theological issues involved.

### Local authorities

Christians are alarmed that local authorities have been chosen to administer the scheme. The consultation paper addresses the issue of 'consent' for the use of religious premises to perform civil partnership registrations, including identifying which religious body or person has the capacity to give consent. Yet local authority registrars cannot be expected to be sufficiently familiar with the administrative/religious structure of the multiple religious groups in Britain to properly determine this. The administrative approach under which local authorities assess the suitability of a hotel for a wedding cannot be applied to an issue of such complexity and controversy as that proposed. Moreover, there are many cases of local authorities showing hostility to Christians, for example:<sup>8</sup>

- Christian registrar Lillian Ladele was forced out of her job by Islington Council after she refused to carry out civil partnership registrations. This was despite the fact that the Council had been able to provide civil partnerships to those requesting them without her needing to be involved.
- A Christian foster carer was struck off by Gateshead Council in 2008 after a Muslim girl in her care decided to convert to Christianity. The Council's decision was later quashed by a court.
- Norfolk County Council warned a Christian-run shelter for the homeless in May 2005 that it would lose £150,000 of funding unless it stopped saying grace at mealtimes and putting out Bibles for use by guests.
- In January 2011 Sedgemoor District Council refused a grant for Newtown King's Church to run a children's holiday club because of the group's overarching aim to 'glorify God' in all its activities.
- Many local councils, including Oxford City Council, Rochdale Borough Council and Tower Hamlets Council, have banned, modified or restricted their Christmas celebrations.

### Conclusion

Until now the state has not sanctioned any legal recognition of homosexual relationships in a church. If Section 202 is implemented as proposed it is likely there will be legal action against churches who disagree. By creating this situation the Government will effectively have taken sides on a highly controversial issue. The consultation paper also seems to imply the plans are the "first step" towards redefining marriage<sup>9</sup>, a move which would be deeply unpopular with the public.

It is not necessary to implement the plans outlined by the consultation document. Homosexual couples can obtain a civil partnership at any register office in the UK and of course liberal religious groups can hold 'services of blessing' if they choose. The consultation paper says "the number of civil partnerships in a religious setting is likely to be small".<sup>10</sup> The plans are not workable and fail to provide adequate safeguards. Is it possible to justify risking the religious freedom of many thousands of people by introducing a scheme for which there is so little demand?

<sup>1</sup> Premier Radio CPanel poll December 2010, ComRes, Table 7, see: <http://www.comres.co.uk/page165715812.aspx> as at 14 June 2011

<sup>2</sup> Pink News, 18 November 2009, see <http://www.pinknews.co.uk/2009/11/18/exclusive-stonewall-to-fight-for-civil-partnerships-to-be-held-in-churches/> as at 14 June 2011

<sup>3</sup> *Civil Partnerships on Religious Premises: A Consultation*, Government Equalities Office, March 2011, page 78

<sup>4</sup> *Civil Partnerships on Religious Premises: A Consultation*, Government Equalities Office, March 2011, page 62

<sup>5</sup> House of Lords, Hansard, 12 May 2004, col. 139GC; House of Commons, Hansard, Public Bill Committee, 21 October 2004, col. 101

<sup>6</sup> House of Lords, Hansard, 25 January 2010, col. 1208

<sup>7</sup> *Civil Partnerships on Religious Premises: A Consultation*, Government Equalities Office, March 2011, page 47

<sup>8</sup> *The Times*, 11 July 2008; *Mail Online*, 10 July 2010, see <http://www.dailymail.co.uk/news/article-1293635/Reinstated-foster-parent-struck-allowing-Muslim-girl-convert-Christianity.html> as at 14 June 2011; *Daily Mail*, 3 May 2005; *Western Daily Press*, 27 January 2011; *Daily Mail*, 3 November 2008; *Oxford Mail*, 1 November 2008; *The Oxford Times*, 3 November 2008; *BBC News Online*, 21 August 2009, see <http://news.bbc.co.uk/1/hi/england/manchester/8214040.stm> as at 14 June 2011; *The Sun*, 21 August 2009; *The Daily Telegraph*, 29 August 2008

<sup>9</sup> *Civil Partnerships on Religious Premises: A Consultation*, Government Equalities Office, March 2011, page 16

<sup>10</sup> *Civil Partnerships on Religious Premises: A Consultation*, Government Equalities Office, March 2011, page 49