

Summary of The Christian Institute's letter of 14 November 2019 to the Rt Hon Julian Smith, Secretary of State for Northern Ireland

The same-sex marriage legislation in Great Britain (GB) includes extensive protections for religious freedom and free speech, to protect those who disagree. These ought to apply in Northern Ireland as well.

1. Freedom for teachers and other public sector workers to disagree with same-sex marriage

They shouldn't be punished for their views. Clear guarantees are needed. UK Government ministers promised when same-sex marriage was introduced on the mainland that no teacher would have to promote or endorse same-sex marriage. Such assurances were later included in guidance from the Department for Education and the GB Equality and Human Rights Commission. Such guidance is needed in NI. The Ashers case shows that no person should be compelled to endorse same-sex marriage.

2. Homosexual marriage should not be promoted in schools

Guidance applying to the rest of the UK from the Equality and Human Rights Commission states: "No school, or individual teacher, is under a duty to support, promote or endorse marriage of same-sex couples". This guidance is also needed in Northern Ireland. It is essential to protect pupils and teachers who hold to the biblical view that marriage is between a man and a woman.

3. Upholding free speech in public order law

There must be an explicit free speech clause added to Northern Ireland public order legislation. In England and Wales, the law explicitly protects people who speak against same-sex marriage. There is a free speech clause in the incitement to homophobic hatred offence. The equivalent law in NI has no free speech clause and a very low threshold, which can be triggered even by what is deemed to be an insult. People who disagree with same-sex marriage shouldn't be threatened with prosecution just because of their beliefs. Belief in traditional marriage is protected by Article 10 of the European Convention on Human Rights (ECHR) and is worthy of respect. Not long ago Pastor McConnell was prosecuted over a sermon mentioning Islam. There is a danger that this could happen over same-sex marriage unless robust safeguards are put in the law. The Ashers case showed that some want to punish those who disagree with same-sex marriage – and that was before it was legal in NI.

4. No compulsion on churches, church ministers or chaplains to endorse homosexual weddings

A Government minister promised that faith-based groups in NI “will not be compelled to act against their faith, their religion or even their opinion”. To back this up there must be legal guarantees to stop church ministers or chaplains in the NHS or prison service being forced to endorse same-sex marriage or be involved in a same-sex wedding. In GB, churches can only conduct same-sex marriages if both the governing body of the church and the individual ministers opt in. They cannot be compelled to do so “by any means” and cannot be sued – on any ground of discrimination – for not doing so. In GB it is impossible to use discrimination law to sue a church for refusing to conduct a same-sex marriage. This must become the case in NI too. It is not enough to give an exception covering sexual orientation discrimination only, because claims could be brought on grounds of sex or religion or belief. (Clever lawyers from the Equality Commission for NI, for example, could exploit any such loophole). Changes will need to be made to at least four different pieces of NI equality legislation.

5. Protecting the ethos of religious organisations

Churches and religious organisations that disagree with same-sex marriage should not lose their charitable status. Neither should they be forced to employ pastors or youth workers in a same-sex marriage. That is already the law in the rest of the UK. The Equality Act 2010 permits churches in GB to require employees not to be in a same-sex marriage. The law in GB also respects charities formed to promote traditional marriage. They don't have to promote same-sex marriage as well. These laws must be carried over to NI.

All these safeguards are needed to take proper account of the rights under Articles 9, 10, 11 and 17 of the ECHR. Without them, Northern Ireland will go from having the best protection for religious liberty in the UK to the worst. If this happens, the regulations introducing same-sex marriage could be challenged in the courts.

This summary is available online at: [the.ci/niosummary](https://www.the.ci/niosummary)

The full letter can be read at: [the.ci/nioletter](https://www.the.ci/nioletter)