How would you characterise your views on the Bill in general?

In support

I wholeheartedly support the bill and I only recommend that it is finalised appropriately to ensure the full equality which it sets out to achieve without being discriminatory to the opposition.

How would you characterise your views on the introduction of same sex marriage, so that same sex couples can marry each other?

In support

There is absolutely no reason why same sex couples should have to have their legal relationship represented in a way which is different to that of a heterosexual couple. It is the principle which is important. It is extremely important that the bill achieves same sex marriage without creating a separate form of marriage from the current definition of marriage which would of course continue the current issue of discrimination. As it is absolutely possible to recognise adultery in a same-sex relationship as is the case with heterosexual relationships, I welcome this inclusion and I also welcome the fact that consummation is not a requirement in same-sex marriages as is the case with all marriages because it is, quite frankly, ridiculous that such a thing even exists. Some people who marry are celibate.

How would you characterise your views on putting belief celebrants on the same footing as religious celebrants?

Neither

I support the fact that belief celebrants and religious celebrants are treated the same in terms of their rights and responsibilities under the act however, I also feel it is important to recognise that they are different within that. It would also be interesting to see whether a philosophical objection (or philosophically motivated semi-discriminatory language) would be treated differently from a religious objection.

How would you characterise your views on the arrangements for authorising celebrants to solemnise opposite sex and same sex marriage (including the opt-in procedures)?

In support

I believe that religious freedom should apply to both supporters and opposers of same-sex marriage and the opt-in process which the bill proposes gets that balance right. I believe that the amendments to the Equality Act 2010 adequately protect the religious freedom of both supports and crucially, opposers of same-sex marriage. And argument which suggests that those in opposition to same-sex marriage are being persecuted is simply untrue. I agree with the Equality Network who think that
a small amendment is needed to section 11(2) of the bill, in order to give those religious and belief bodies that want to, the option of using the gender-free form of the marriage ceremony, in section 11(2)(g), for mixed-sex couples who would prefer that form. This is particularly important for mixed-sex couples where one or both is transgender or intersex. Religious bodies that wish to always use the “husband and wife” gendered form of the marriage ceremony should be free to continue to do so.

How would you characterise your views on civil partnerships changing to marriages?

In support

I support civil partnerships being transferrable into marriages - this is essential - particularly in the sense that a small administrative process can take place rather than a full ceremony if preferred. However, as the Equality Network highlights, in the bill, couples who are already in a civil partnership can only marry in Scotland if their civil partnership was registered in Scotland. Clearly the lightweight administrative procedure for changing to a marriage can only work with civil partnerships registered here in Scotland, but we see no reason why couples in a civil partnership registered elsewhere should not be allowed to marry in Scotland in the usual way. Not allowing this would cause real problems for couples who registered a civil partnership abroad and then moved to Scotland. They will be unable to change to a marriage unless they first dissolve their civil partnership. But that requires proving that the civil partnership has irretrievably broken down, by living apart for a year. It is very unfair to ask civil partners to do that in order to marry. Even if they return to the country where they registered their civil partnership, if that country does not allow same-sex marriage, they would need to dissolve their civil partnership there in a similar way before coming back to Scotland to marry. The practical result will be that the couple will effectively be barred from marrying. In contrast, same-sex couples from any part of the world who are not in a civil partnership will be allowed come to Scotland to marry, whether or not that marriage would be recognised in their home country. We see no reason why this should not also apply to couples who are already in a civil partnership, and we believe that the bill should be amended to allow this.

How would you characterise your views on allowing civil marriage ceremonies to take place anywhere, other than religious premises, agreed between the couple and registrar?

In support

This is absolutely essential, often marriages do not take place on religious premises and this should be no different for same-sex marriages.

How would you characterise your views on allowing the religious and belief registration of civil partnerships?

In support
I support the Equality Network's opinion which is "We believe that most same-sex couples will prefer a civil marriage, a religious or belief marriage, or a civil partnership conducted by a registrar. However, allowing the registration of civil partnerships in a ceremony conducted by a religious or belief body that chooses to do so, adds a useful extra option. There may be some religious bodies that would not wish to conduct same-sex marriages, but would want to offer religious civil partnership ceremonies to same-sex couples who are their members. There may also be some couples with religious beliefs who would prefer a civil partnership to a marriage."

How would you characterise your views on allowing transgender persons to stay married when obtaining a full Gender Recognition Certificate, which provides legal recognition in the acquired gender?

In support

I strongly support the entirety of the below quoted stance of the Equality Network which is: "We strongly support the principle of allowing transgender people who are married to obtain gender recognition without being required by the state to divorce. In our view, however, a number of amendments are needed to the parts of the bill that deal with gender recognition. As the bill stands, a married person will require the consent of their spouse to obtain gender recognition. This enables the spouse to effectively veto the trans person's gender recognition, or at least to delay it while the trans person applies for a divorce. If the relationship between the spouses is difficult, the divorce proceedings could take a long time, during which the trans person is unable to access their human right to legal recognition in their true gender. When a trans person applies for gender recognition, they have already been living in their acquired gender for at least two years. Obtaining gender recognition does not therefore change the practical nature of their marriage, which has been same-sex for at least two years. But it does free the trans person from discrimination by bringing their legal status into line with reality. That should be available with or without the spouse's consent, because it is a matter personal to the trans person, and has no direct effect on their spouse. It is the re-registration of the marriage after gender recognition where both spouses have a direct interest, and where a requirement for the consent of the trans person's spouse would be appropriate. We therefore believe that spousal consent should not be required for the granting of gender recognition, but should instead be required for the subsequent re-registration of the marriage and the issue of a new marriage certificate. As at present, the non-trans spouse would continue to be able to obtain a divorce in such circumstances, if they wished to end the marriage. The bill is also currently missing a provision that was added to the corresponding English legislation, allowing a person to obtain gender recognition with simpler evidence requirements if they have been transitioned for at least six years. When a person has been transitioned for a long time, it can be very difficult indeed to obtain all the medical evidence that is required from people who have only been transitioned two years. The doctors involved may have retired or even died. We therefore believe that a provision for simpler medical evidence for long-term transitioned people should be added to the bill this would assist the Gender Recognition Panel as well as applicants. We would also like to see the minimum age for applying for gender recognition brought into line with the minimum age for marrying in Scotland, that is, 16."
Would you like to comment on the wider issue of protections for those in society who may have concerns about same sex marriage?

I strongly support the entirety of the below quoted stance of the Equality Network which is: "We think that the bill strikes the right balance, and provides good protections for people with concerns about same-sex marriage. No religious organisation will be required to conduct same-sex marriages unless the organisation agrees to. Even where an organisation does agree, individual marriage celebrants within that organisation will be free to opt-out of same-sex marriages, as will any person who plays a part in the religious marriage ceremonies of that organisation (e.g. the church organist). These are strong protections. It has been proposed by some people that the bill should give civil registrars a statutory right to opt out of conducting same-sex marriages. We would strongly oppose that. Unlike religious celebrants, civil registrars are carrying out a civil function on behalf of the state, and therefore an opt-out on grounds of their personal religious belief is not appropriate. It would set a dangerous precedent that public service providers (in local government, NHS, etc) should have a legal right to pick and choose who they serve. This is no more acceptable on grounds of sexual orientation and gender identity than it would be on other grounds such as race. The registrars’ organisation, the Association of Registrars of Scotland, is not calling for an opt-out. The registering of civil partnerships in Scotland by civil registrars has worked well without any such legal opt-out, and we expect the registering of same-sex marriages to work equally well in a similar way. It has also been proposed by some people that teachers should have the right to opt out of mentioning same-sex marriage if a pupil asks about it or it comes up in class, and that parents should be able to remove their children from any class where same-sex marriage might be mentioned. We would strongly oppose this. Teachers are there to teach the facts, not their personal views, and should answer questions factually. No teacher will be required to say that they personally agree with same-sex marriage, but all teachers must treat all pupils with respect, whatever their family arrangements, including pupils with same-sex married parents. It would be unworkable to allow opt-outs from lessons where same-sex marriage is mentioned. Opt-outs are not available from lessons where divorce is mentioned, which is equally controversial for some people."

Would you like to comment on the wider issue of freedom of speech?

The bill does not affect freedom of speech; those who wish to publicly express their disagreement of same-sex marriage should be able to do so and not be discriminated against as a result in terms of the services they receive from the government. This is obviously different when somebody clearly uses hate speech against LGBT* people which would be wrong and should be dealt with - the offending party should not be able to hide behind the notion that they were expressing their opposition to same-sex marriage as this is different to using offensive language surrounding LGBT* people e.g. homophobic slurs.

Would you like to comment on any other wider issues in relation to the Bill that are not mentioned above?

The Bill does not yet provide full equality in the sense that it does not offer the opportunity for mixed-sex civil partnerships which results in continued discrimination. It still highlights that fact that everyone is entitled to marriage but, there’s still that
other thing for those people. That is wrong. I fully support the Equality Network’s comments which are: "The bill is a huge step forward for equality, but it does not introduce full equal marriage. Apart from the issues mentioned under questions 7, 8 and 11 above, the main thing missing from the bill is the introduction of mixed-sex civil partnerships. That has always been a part of the wider Equal Marriage campaign in Scotland. We believe that the same choices – marriage or civil partnership – should be open to all couples regardless of their gender. We therefore welcome the Scottish Government’s public commitment on 27th June 2013 to conduct a review of civil partnership law, driven by the need to consider the position on opposite sex civil partnership. We believe that review should start without delay, and, once it is complete, there should be prompt legislation to open up civil partnership in Scotland to couples regardless of their gender. This will also make it possible for a person in a civil partnership to get gender recognition without the need to change their civil partnership to a marriage. Finally, we note that the regulation of private sector pension schemes is reserved to Westminster, and that under the current rules, private sector pension schemes will be allowed to pay much smaller survivor’s pensions to people in same-sex marriages than to those in mixed-sex marriages. This is clear discrimination, and the UK Government has agreed to set up a review of the situation, to report by July 2014. The UK Government have the power to change the rules on this by statutory instrument, and we strongly believe that they should do that once the review is complete."

Are you responding as...

a private individual

Connor SP Finlayson
14 August 2013