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

In opposition

There is no great demand for the same-sex marriage and the other measures contained in the Bill. A Poll conducted by ComRes in 2012 showed that the majority (55 per cent) of people in Scotland agree that marriage should continue to be defined as a life-long exclusive commitment between a man and a woman. Only 38 per cent disagreed. Once you have redefined something that has never before been redefined, an important precedent is set, opening the door for further redefinition. In Canada and in some US states, where same-sex marriage has been legalised, attempts are now being made to legalise polygamy. In the Netherlands, three-way relationships have been recognised in law and there may well be demands for marriage to be redefined in this way in the future.

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

In opposition

The laws regulating marriage may have evolved and changed over the years but the fundamental terms of marriage—that marriage is the voluntary union of one man and one woman for life to the exclusion of all others—have never been altered. Marriage promotes a unique relationship within which children are conceived, born and reared. Further more, it recognises the objective complementarity of male and female. Such an institution benefits children. However, under the new proposals procreation and the rearing of children is no longer a fundamental purpose of marriage and male-female complementarity becomes irrelevant.

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

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)?

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

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

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?

Would you like to comment on the wider issue of protections for those in society who may have concerns about same sex marriage?

There is a significant danger that churches and ministers who refuse to marry same-sex couples will be subject to litigation. Although Scottish law may seek to defend those who do not wish to conduct same sex marriages, ultimately such matters would be decided by the European Court of Human Rights. Interestingly, in England, a homosexual couple are planning to go to Court to force churches to host gay weddings. Certain cases in the European Court of Human Rights show that the right to freedom of thought, conscience and religion does not provide protection when there is conflict between it and other rights. Lillian Ladele, a registrar from Islington, was forced out of her job because she felt unable, for faith reasons, to officiate at civil partnership ceremonies. She requested that other colleagues without a faith objection manage such cases. However, her employer was not willing to accommodate her. In January 2013 the European Court said it could not help Miss Ladele. Aidan O’Neill QC has provided detailed legal advice as to how people working in the public sector could be affected should same-sex marriage be legalised. He advises that civil registrars’ as in the case of Miss Ladele—may be required by their employers to marry same-sex couples, and teachers may be forced to promote same sex marriage, even if this goes against their conscience or their strongly held religious views. The Abortion Act 1967 allows doctors and other health professionals to have an opt-out if they have a conscientious objection to participating in abortions. The same principle should apply to registrars who do not wish to conduct same sex marriage. In the Netherlands, for example, courts have ruled that registrars should not be compelled to solemnise same sex marriages against their consciences, if they were employed as registrars before the new law was introduced. Similarly, there should be a conscientious opt-out for all public sector employees for duties that can be interpreted as promoting same sex marriage. The principle of reasonable accommodation should be required of all public bodies in Scotland in their provision of public services. The Scottish Parliament’s Equal Opportunities Committee should ask the Westminster Government to amend the Equality Act 2010 in order to incorporate the principle that an employer must make reasonable accommodation of the manifestation of religious belief by employees. The Scottish Parliament should not pass the Marriage
and Civil Partnerships (Scotland) Bill until such an amendment has been obtained. The Public Sector Equality Duty requires public authorities, such as local authorities, to have "due regard" to the need to remove or minimise disadvantages suffered by persons who share a relevant protected characteristic (e.g. sexual orientation) that are connected to that characteristic. According to Aidan O’Neil QC those religious groups that oppose the new definition of marriage are likely to be treated less favourably by public authorities and may be refused contracts, grants or facilities. The Scottish Government claims that churches should be protected under human rights law from losing their charitable status for refusing to marry same-sex couples. But the Government cannot guarantee this, as the Office of the Scottish Charity Regulator has the ultimate say. Virtually all of Britain’s faith-based adoption agencies have been shut down, or have dropped their religious ethos, because of equality laws. Recently a Scottish adoption agency was told to end its pro-marriage policy by officials who say it discriminates against gay couples. This is despite the fact that numerous assurances were made by the Scottish Government that such groups would not be deprived of their charitable status.

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

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

Parents should have a right (protected in law) to remove their children from lessons where same-sex marriage is being taught. They should also have a legal right to be informed in advance of when such lessons are going to occur.

Are you responding as...

a private individual

Donald Fleming
23 August 2013