Legislation for Same-sex Marriage.

The Scottish Parliament is now well experienced in legislating for a range of matters under its devolved powers. However, in proposing to legislate for same-sex unions - and, in the process to re-define Marriage - it is engaging with an issue not simply of law and regulation but of fundamental personal relations and what it is to be human. It will deal with deeply-rooted human realities which will demand the greatest respect and sensitivity. The passions aroused in our society on both sides of the debate are evidence of that. Therefore, I respectfully ask this Committee and the Parliament it serves to consider most carefully the attached statement and its accompanying proposal since they attempt to address one core issue in this matter, namely, the need to respect and safeguard the human rights of all concerned.

May I add one further consideration. The Committee will be aware that legislation on this matter is pending in a number of national Parliaments around the world where it is proving to be as controversial as in Scotland. If it were to legislate along the lines I propose, this Parliament could give a lead in satisfying the human rights of both heterosexual and LGBT couples.
Concerning: Proposed legislation for Same-Sex Marriage.

A belief in the intrinsic worth of every human being is widely shared in Scotland. Each individual, female and male, has the right to be respected and accepted as she/he is. “Acceptance” is a crucially important concept. It goes far beyond “tolerance”. A person who feels accepted enjoys an experience immeasurably richer than one who is simply tolerated - they know themselves to be valued as human beings. Acceptance and valuing are the bedrock of human rights.

Human beings are sexed beings. Their Sexuality, which distinguishes them as female and male, is a key defining feature of their identity. Sociability - the deeply-rooted urge to form relationships with other human beings - is another key defining feature of their identity.

Human beings know that, individually, they are incomplete. Alone, they cannot experience the fullness of what it is to be human; nor can they assure, by natural means, their survival as a species. Heterosexual attraction - the impulse to form relationships across the gender divide - is a powerful expression of their sexuality and sociability.

All human relationships are, therefore, by their nature sexual. They cannot be otherwise. A person’s sexuality impacts inevitably on every aspect of their character, personality and behaviour. It is fundamental to who they are.

Current understandings of Sexuality in our society are, unfortunately, limited, partial and reductionist. Sexuality is seen as synonymous with Genitality - the urge for coital union - which is only one part of our greater sexual reality. That attitude ignores completely the deeper richness and complexity of female-ness and male-ness which remain disregarded and unexplored. When a woman and a man enter into a committed, life-long, self-giving love relationship they go far beyond their genital appetite and reproductive ambition and into the deeper mystery of the other person as a person. They cross the gender divide seeking to experience with each other that human completeness which is denied to them as individuals. For the rest of their lives they engage with the challenge of gender difference and accept the responsibility of parenthood if/when it happens.

Heterosexual relationships long pre-date civilised societies and organised religion. However, for millennia, major religions have recognised in
them an image of the Creator and have valued them as sacred. Civil societies, incorporating people of all faiths and of none have recognised them as building blocks of society, sources of social stability and have accorded them a distinctive legal status with attendant rights and a title: Marriage.

Same-sex relationships also have a long history. Two people of the same gender, drawn to each other by a strong inner impulse rooted in their distinctive sexual reality, commit themselves to a life-long love relationship. Society in the past has not given to such relationships the respect and value they deserve nor the appropriate rights and title. For many years, people of the LGBT orientations have struggled to win social and legal acceptance for their distinctive identity and life-style. They have demanded to be recognised as GAY - Good as You - not Same as you. Their Gay Pride celebrations proclaim their wish to be accepted as equal but different in our society.

There are, therefore, two compelling reasons not to call same-sex unions "Marriage":

* Firstly, insofar as they do not bridge the gender gap and do not have the capacity to produce offspring, same-sex unions are fundamentally different from Marriage. To underline that difference is not to make a value judgement between them, nor to disparage one in relation to the other. It is simply to assert the obvious.

* Secondly, to conflate same-sex relationships with those of heterosexual couples i.e., to give them the title "Marriage", would be to deny same-sex couples the distinctive identity for which they have struggled. It would deprive them of the transparent legal and public acceptance which has been their cherished goal. Society owes it to them to respect their human rights by according their relationship a fitting, distinctive and dignified legal title with its attendant civil and legal rights.

The effect of that would be two-fold:

* to affirm the traditional dignity, status and title of Marriage;

* to confer a new and honourable legal status and title on same-sex unions.
Proposal

That the status of heterosexual Marriage be formally recognised and affirmed, together with its existing social, civil and fiscal rights.

That legislation be brought forward, as planned, providing for LGBT couples a legal relationship enjoying equivalent rights to those of heterosexual married couples. That that relationship and legal status should bear the title of .............................................*

5 September 2013

* See Appendix.
Proposed legislation for Same-sex Marriage - Appendix.

The choice of a legal title - other than Marriage - for same-sex unions will require some care. The word chosen will need to be appropriate and acceptable to the LGBT community whose opinions should be ascertained by means of a consultation.

A small-scale, random canvass of people, including couples who might be affected, yielded these suggestions:

- Wed(ded)
- Gayed
- Partnered
- Gaietied
- (Be)trothed

Some affected couples did not want "Marriage". Others wanted "Marriage". Others were intrigued by the proposal but relaxed about the title chosen.

If the proposal for a new title were accepted, its choice would be a matter of urgency during the legislative process.