MARRIAGE AND CIVIL PARTNERSHIP (SCOTLAND) BILL

SUBMISSION FROM THE SALVATION ARMY

1. Introduction

1.1 The Salvation Army appreciates the opportunity to respond to the Government’s Marriage and Civil Partnership (Scotland) Bill.

1.2 The Salvation Army is a Christian Church and one of the largest charities in the UK, helping thousands of vulnerable people each day. Our mission statement says that we will 'meet human needs...without discrimination'. Our services are freely on offer to all, regardless of gender, race or sexual orientation. We have an Equality and Diversity Policy which covers all protected characteristics under equality law and which applies to every aspect of our service provision.

2. General Response

2.1 To offer some background to the Salvation Army’s comments we would point out that in our response to Civil Partnerships A framework for the legal recognition of same-sex couples¹ we stated “The Salvation Army recognises that same-sex couples face unacceptable injustices in certain aspects of their lives and there is much in the Executive’s specific proposals that The Salvation Army would support. For instance, individuals should have the right to nominate whomever they wish to act as their 'next of kin' in various situations and provision should be made for that to be done easily and speedily. Disposal of personal assets should also be a responsibility for individuals to decide”.

2.2 However, we have also stated “We agree with the Executive when they state 'Marriage is the basic institution on which family law is based. It brings with it a comprehensive set of rights and responsibilities that has evolved over many years and have equity between parties at the core'. We hold to the principles regarding the importance of marriage and family life and their unique place in society. This opinion is supported by the data contained in Research Findings No 43/2004”.

2.3 Because of this we were persuaded – and it remains the case - that marriage, as traditionally understood, is vital to society's wellbeing and that it should be both protected and promoted and that attempts to equate other relationships with marriage are unhelpful.

2.4 The Salvation Army believes that human sexuality² is part of God’s creation and as such it is good and to be celebrated. Like the rest of creation and human life, the use of our sexuality can fall short of God's intentions and be misused. We would accept that human sexuality includes a mix of identity, feelings and behaviours that are not always fully understood by the individual

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¹ Civil Partnerships A framework for the legal recognition of same-sex couples response December 2003
² The Salvation Army United Kingdom Territory with the Republic of Ireland Positional Statement on Human Sexuality, revised November 2010
concerned or by society as a whole. Sexual identity is widely accepted to be unchosen by the individual. The Salvation Army believes that it is wrong to discriminate against anyone in the provision of goods and services, and social and pastoral care because of their presumed or declared identity.

2.5 In framing our response to the proposed Bill, we propose making substantive general comments noting that the Bill includes a number of different sections dealing with marriage law, same-sex marriage, civil partnerships and transgender people, as well as comments covering protection for religious and belief bodies and celebrants.

3. General changes to marriage law

3.1 We note that the proposed Bill makes a number of changes to existing Marriage and Civil Partnerships Law, some of them technical in nature, whilst others signposting a significant shift in some peoples understanding of marriage. We note the key points in the Bill are:

- It allows same sex couples to get married, with protections for religious bodies and celebrants who do not wish to take part.
- It puts belief celebrants on the same footing as religious celebrants.
- It introduces the religious and belief registration of civil partnerships.
- It makes provision so that persons in a civil partnership registered in Scotland can change the civil partnership into a marriage.
- It makes provision so that persons who are married can stay married and obtain a full Gender Recognition Certificate, providing legal recognition in their acquired gender.
- It gives the Scottish Ministers power to prescribe in regulations qualifying requirements which religious and belief bodies must meet before their celebrants are authorised to solemnise marriage or register civil partnerships.
- It makes provision so that deacons of the Church of Scotland are authorised on the face of the Marriage (Scotland) Act 1977 (“the 1977 Act”) to solemnise opposite sex marriage.

3.2 We note that the proposed legislation directs that re-registration to perform religious marriages (both opposite sex and same-sex) will be required. We welcome this provision noting the requirement for governing bodies of the relevant religious organisations to opt-in (Explanatory Notes, section 68) and the assurances of protection from legal challenges where such bodies do not wish to marry same sex couples (The Bill, section 10 (1D)).

3.3 We further note the Scottish Government will continue to consult with religious bodies over the qualifying requirements to be allowed to conduct religious marriages and will liaise with denominations to determine their wish to be prescribed to conduct marriage ceremonies.

3.4 We recognise that the Bill will “make separate provision in relation to the solemnisation of, on the one hand, opposite sex marriages and, on the other
hand, same sex marriage”. (Explanatory Notes, page 6, section 25). We welcome this course of action.

4. Same Sex Marriage ceremony

4.1 The positional statement of the Salvation Army\textsuperscript{3} clearly states “The Salvation Army believes that God ordained marriage to be an exclusive and lifelong relationship between one man and one woman which is characterised by mutual submission, respect, self-giving love, faithfulness and openness to each other. It is a holy relationship, sanctioned and blessed by Christ”

4.2 We note the intention of The Government to introduce same sex marriage whilst, at the same time, ensuring safeguards exist in key areas such as: protecting ‘religious bodies and belief celebrants who do not wish to solemnise same sex marriage’. We welcome this, and given our previous comments on what constitutes marriage we would not be able to recognise any other relationship, outside of ‘an exclusive and lifelong relationship between one man and one woman’ as marriage.

4.3 We recognise the Government proposal in respect of arrangements for authorising religious and belief celebrants of same sex marriage. We welcome the assurance that ‘temporary authorisation to solemnise same sex marriage may only be granted by the Registrar General when the religious or belief body of which the person is a member is prescribed’ (Policy memorandum, section 92). We welcome the Government ensuring that this is vigorously enshrined in legislation.

5. Civil Marriages

5.1 We note the commitment of the Scottish Government not to undertake having civil marriage ceremonies performed in religious premises (The Bill, section 19) and are content with the assurances given that there will be no obligation for religious communities to make such provision.

6. Transgender people

6.1 No substantive comment

\textsuperscript{3}The Salvation Army United Kingdom Territory with the Republic of Ireland Positional Statement Marriage Positional Statement, June 2011
7. Protection for Religious and Belief Bodies and Celebrants

7.1 We welcome the assurance that ‘For the avoidance of doubt, nothing in subsection (1B)(a) or (1C)(a) (b) imposes a duty on any such body to nominate under section 9 any of its members to be registered as empowered to solemnise marriages between persons of the same sex’ (The Bill, section 10 (2) (1D)) and note the requirement that religious bodies will have to opt-in to either conduct opposite sex marriages and same sex marriages and civil partnerships. We are content with this process believing that this, and the proposed changes to the Equality ACT 2010, will ensure that no celebrant or religious body will be forced to act against their will or doctrine with respect of opposite sex and same sex marriages.

7.2 We welcome the requirement that religious bodies will have to opt-in to undertake marriage ceremonies and that no single celebrant will be allowed by the Registrar General to perform a marriage ceremony where their religious body has not opted-in. We are pleased to see it clearly expressed that ‘a same sex marriage can only be solemnised by a civil registrar or a person who is: a minister clergyman, pastor, priest or other celebrant of a religious or belief body prescribed by regulation’ (Policy memorandum, section 91).

8. Freedom of Speech

8.1 We welcome the assurance that freedom of speech will not be affected by this legislation (The Bill, chapter 4, section 14) and that the ‘European Convention of Human Rights to freedom of thought, conscience, religion and expression’ will be upheld.

9. Conclusion

9.1 The Salvation Army is pleased to see that the Scottish Government recognises the rights of religious bodies to bring their deep, religious and philosophical reasons for their beliefs about what the law should be, into public deliberation. The recognition, that in a pluralist society, with a democratic political order, political debate on occasions necessarily requires very difficult conversation. The assurances that the civil liberties of those who have a conscientious objection to same-sex marriage will be respected, is to be welcomed. We would however point out what we feel is an inconsistency, whereby civil liberties for religious bodies are upheld but not so individuals who carry out a civil function whose lives are guided by their religious beliefs.

9.2 The Salvation Army would welcome the opportunity to continue discussing this and related matters with the Scottish Government and look forward to that engagement.

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The Salvation Army  
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