

## How the Civil Partnership Bill will affect freedom of conscience and religion

### A briefing note

#### Main Points

- Discrimination on the basis of 'civil status' will be outlawed by Civil Partnership Bill
- Those who believe in traditional marriage could therefore find themselves on the wrong side of the law
- A conscientiously objecting civil registrar could be fined and/or face up to six months in prison
- Successful law suits have been taken against believers in traditional marriage in other jurisdictions
- State must decide whether it wants to leave supporters of traditional marriage vulnerable to similar law suits in Ireland or to offer them legal protection

#### Those who belief in traditional marriage are being fined and successfully sued overseas

This was the subject of an earlier briefing note that can be made available upon request. However, in the US and elsewhere, photographers have been fined and church halls have lost their charitable status for asserting their right to abide by their religious beliefs with regard to marriage. Religious employers have had to alter their pension schemes in order to recognise same-sex partnerships.

#### Civil Partnership Bill will outlaw 'discrimination' on the basis of 'civil status'

The Civil Partnership Bill will amend existing equality legislation. (See Sections 100 and 101). The Employment Equality Act and the Equal Status Act will be amended so that the words 'marital status' are replaced with 'civil status' in recognition of the creation of the new category of civil partnership. 'Discrimination' on the basis of civil status will then be outlawed. (See section on principle of equal treatment below for an accurate definition of discrimination).

This means that any organisation or individual who 'discriminates' in the provision of employment rights, such as pensions, or who 'discriminates' in the provision of goods and services against individuals in a civil partnership are very likely to find themselves on the wrong side of the law.

#### Civil registrars: punishment for conscientious objection far worse than in Britain

Under the Bill a civil registrar who does not wish to facilitate a same-sex civil partnership for conscientious reasons can be found guilty of an offence (see Section 22) and subjected to a fine of up to €2000 and/or six months in prison.

Our penalty is much more severe than the equivalent in Britain. In Britain a civil registrar can be internally disciplined for conscientiously objecting but cannot be found guilty of an offence. However, the right of an employer to internally discipline a civil registrar in the UK for conscientiously objecting is currently under review

following the case of Lillian Ladele, a Christian who was suspended from work for declining to facilitate a same-sex civil partnership.

Therefore Britain may soon be giving even more latitude to civil registrars than our own Civil Partnership Bill is currently proposing.

### **Supporters of traditional marriage should not be placed on the wrong side of the law**

Supporters of the Civil Partnership Bill say it will only affect those who enter into such partnerships. But if 'discrimination' on the basis of civil status is outlawed and if acting on the belief that marriage/civil partnerships should be limited to two people of the opposite sex is deemed to be a type of prejudice, then the consequences for freedom of conscience and religion will be very far-reaching.

### **The choice facing policy-makers: To treat belief in traditional marriage as a form of prejudice, or to protect that belief as legitimate?**

Policy-makers will have to decide whether they feel that those believe in traditional marriage are guilty of a form of prejudice and should be dealt with accordingly under certain circumstances, or whether they believe that freedom of conscience and religion should be protected.

### **Protect both individuals and organisations**

A comprehensive freedom of conscience and religion clause should protect both religious believers and organisations against legal action.

### **Several states in the US have inserted religious freedom protections into same-sex marriage laws**

Several states in the US have legalised same-sex marriage or civil partnerships. However, states such as Vermont, which has a liberal legislature, inserted a provision into its same-sex marriage law that protects religious organisations from legal action under certain circumstances.

### **A word on the principle of equal treatment and discrimination**

Everyone accepts that similar situations should be treated in similar ways and that to do otherwise is unjust discrimination. However, most people also believe that different situations should be treated in different ways and that to do this is not discrimination.

The key question in the debate over same-sex marriage and civil partnerships is whether a heterosexual couple and a homosexual couple are in directly comparable situations that demand similar treatment.

The argument that they are not in directly comparable situations and therefore that it is justifiable to treat them in different ways stems from the fact that only a heterosexual couple can conceive a child together and provide that child with a mother and a father. Society, says this view, therefore has a special interest in protecting and promoting this form of the family.

However, at the very least, the belief that heterosexual and homosexual couples are in different situations that justify different treatment should not be placed on the wrong side of the law.