



Government Equalities Office

PSED Assessment for Extension of Civil Partnerships to Opposite-sex Couples

Introduction

This document records the analysis undertaken by the Department to enable Ministers to fulfil the requirements placed on them by the Public Sector Equality Duty (PSED) as set out in section 149 of the Equality Act 2010. The PSED requires the Minister to pay due regard to the need to:

- eliminate unlawful discrimination, harassment and victimisation and other conduct prohibited by the Act;
- advance equality of opportunity between people who share a protected characteristic and those who do not; and
- foster good relations between people who share a protected characteristic and those who do not.

Brief outline of policy or service

At present, opposite-sex couples can formalise their relationship in law through marriage only. In June 2018, in a case brought by an opposite-sex couple, Rebecca Steinfeld and Charles Keidan, the Supreme Court ruled that the difference in access to civil partnerships between same-sex and opposite-sex couples was in contravention of the European Convention of Human Rights.

The government is committed to addressing this inequality as soon as possible, and has therefore supported legislation to extend eligibility by 31 December 2019. We want to ensure that couples and their families benefit from the legal protections afforded by civil partnerships, but that they are able to access these benefits via a scheme that best meets their beliefs and circumstances.

The Civil Partnership Act 2004 currently limits the eligibility to form civil partnerships to same-sex couples who are not otherwise precluded from doing so (e.g. siblings etc.). Civil partnerships were introduced in order for same-sex couples to formalise their relationships at a time when they could not marry. The new civil partnerships scheme will extend eligibility to opposite-sex couples in England and Wales, and provide for recognition of opposite-sex civil partnerships formed outside of the UK.

The aim of this policy is to introduce a comprehensive regime for opposite-sex civil partnerships that sets out the rights, responsibilities and protections afforded to opposite-sex couples in England and Wales, and is clear on how couples can go

about seeking to form a civil partnership, and the grounds and process for voiding or dissolving a civil partnership. The policy will also be clear about whether and how opposite-sex couples could convert into or out of a civil partnership from marriage, and vice versa.

The existing legal framework for civil partnerships was designed only with same-sex couples in mind. Civil partnerships enjoy many similar benefits to a marriage, but there are a number of areas where civil partnerships do not mirror the kinds of rights and protections afforded to married couples. Many of those differences result from circumstances for same-sex couples that are necessarily different to opposite-sex couples: for example, the fact that same-sex couples generally cannot both be biological parents of a child¹. Some of these differences in treatment also exist for same-sex marriage.

The government aims to ensure a fully-functioning regime is in place for opposite-sex couples at the same time as eligibility is extended, to ensure couples have certainty about their legal rights and obligations. This will require amendments to the Civil Partnership Act 2004, and consequential changes to a number of other Acts of Parliament and secondary legislation to provide equivalent rights and benefits to those enjoyed by same-sex couples. The principal areas of change are set out in the paper Implementing Civil Partnerships: Next Steps.

The regulations extending eligibility to form a civil partnership to opposite-sex couples must be in force by 31 December 2019, and any regulations relating to conversion rights are subject to a statutory consultation requirement. Our proposals on conversion between marriage and civil partnership (and vice versa) are set out in the consultation Civil Partnerships: The Future of Conversion Rights.

What evidence are you using to assess the equality impact of your proposed policy?

To assess the equality impact of our policy we are drawing on data on civil partnership formation and conversion from the Office for National Statistics, and survey data on opposite-sex couples' likelihood to form a civil partnership carried out by YouGov on behalf of the Government Equalities Office. We are also using evidence gathered through engagement with stakeholder groups and we will use the responses to the consultation on conversion to assess any further impacts that may come to light through that exercise.

We will gather further information on potential impacts of our policy on conversion through this consultation. We will use this evidence to continue to comply with the Public Sector Equality Duty. In particular, we will ask questions on marital or civil partnership status, ethnicity, gender, sexual orientation and age that will help identify any further impacts of our policy on people with those protected characteristics.

¹ Unless one of the parents is transgender and has a Gender Recognition Certificate.

Assessment of impact on protected characteristics

Age

More than half (51%) of those entering a civil partnership in 2017 were aged 50 years and over; this compares with 19% in 2013, prior to the introduction of marriages of same-sex couples².

We have not identified any impact on the need to eliminate discrimination on the grounds of age.

We believe that our proposals on conversion between marriage and civil partnership for opposite-sex couples will advance equality of opportunity between older and younger people. Introducing conversion from marriage to civil partnership would ensure that older couples, who may have married a long time ago, can have access to a civil partnership without divorcing.

The consultation seeks views on whether, if conversion from marriage to civil partnership is introduced, a civil partnership arising on conversion should be treated as a civil partnership from the date on which the marriage was solemnised, or from a later date. This decision could particularly impact older people who may have married a long time ago, and the consultation responses should help us to identify what the impact might be.

We have not identified any impact on the need to foster good relations between older and younger people.

Disability

We have identified no impact on the need to eliminate discrimination, advance equality of opportunity or foster good relations between people with disabilities and those without, or between people with different disabilities.

Sex

We have not identified any impact on the need to eliminate discrimination on the grounds of sex.

Policy changes related to parental rights and responsibility will advance equality of opportunity between people of different sex. These changes will extend automatic parental rights to more men by virtue of being in a civil partnership with the mother of

² ONS, 2018.

<https://www.ons.gov.uk/peoplepopulationandcommunity/birthsdeathsandmarriages/marriagecohabitationandcivilpartnerships/bulletins/civilpartnershipsinenglandandwales/2017> Accessed on 27/03/2019.

their child. These men will also be automatically able to register their birth of their child, which could benefit their role in family life.

The most recent data on civil partnerships shows that almost two-thirds (66%) of all civil partnerships formed in 2017 were between men³. It is therefore possible that more men in opposite-sex couples might prefer to formalise their relationship if they can enter into a civil partnership rather than a marriage. We believe that this policy will therefore foster good relations between people of different sex by providing another opportunity to formalise relationships between people of the opposite sex.

There may be some circumstances where opposite-sex civil partnerships or conversion into and out of marriage may have an impact on pension rights or survivor benefits. In particular, there may be some instances in which conversion from opposite-sex marriage to an opposite-sex civil partnership will result in less favourable inheritable state pension rights where a subsequent bereavement takes place. We will work with the relevant departments to identify these impacts where possible, and we will use information from the consultation to identify what impact this might have on the need to pay due regard to eliminate discrimination, advance equality of opportunity or foster good relations on the basis of sex.

Pregnancy and maternity

We have identified no impact on the need to eliminate discrimination, advance equality of opportunity or foster good relations between people who are pregnant or on maternity leave and those who are not.

Gender reassignment

We have not identified any impact on the need to eliminate discrimination on the grounds of gender reassignment.

This policy will advance equality of opportunity for people with the protected characteristic of gender reassignment. Establishing opposite-sex civil partnerships will benefit transgender people who wish to change their legal gender, but do not wish to bring their relationship to an end or convert their civil partnership to a marriage to do so.

We recognise there will be some who are unsatisfied with the proposal that, until the Gender Recognition Act 2004 is amended, those wishing to change their gender while in a civil partnership will have to gain their partner's consent to remain in the relationship before a full gender recognition certificate can be issued. We believe that aligning the provisions applicable to civil partners with those applicable to

³ ONS, 2018.

<https://www.ons.gov.uk/peoplepopulationandcommunity/birthsdeathsandmarriages/marriagecohabitationandcivilpartnerships/bulletins/civilpartnershipsinenglandandwales/2017>. Accessed 27/03/2019.

married couples is the right approach while government is considering the wider implications of the consultation on the Gender Recognition Act.

We have not identified any impact on the need to foster good relations between people who have undergone gender reassignment and those who have not.

Race

Census data of household types by ethnic group from 2011 shows Asian couples are most likely to be in a formal legal union- either marriage or same-sex civil partnership⁴. Households of mixed ethnic groups are least likely to be in these relationships and marginally more likely to cohabit⁵.

We have not identified any impact on the need to eliminate unlawful discrimination on the grounds of race.

We have not identified any impact on the need to advance equality of opportunity or foster good relations between people of different race.

Religion or belief

We have not identified any impact on the need to eliminate unlawful discrimination on the grounds of religion or belief.

This policy will advance equality of opportunity between people of different religion or belief by ensuring that religious organisations and ministers are not compelled to host civil partnerships between either same-sex or opposite-sex couples if that would be contrary to their beliefs.

We know there are a small number of religious ministers who are also designated as civil partnership registrars. The religious protections will not apply to them when acting in that secular role, in order to balance the rights of couples seeking registration as civil partners.

This policy will also advance equality of opportunity between people of different religions or beliefs by providing a route for divorced couples to have a legal union that may be more in line with their beliefs. We have heard from people who have previously been married, and wish to have a civil partnership rather than remarry, or because they can't remarry under their religion/ belief. Our policy could benefit those who would like to form a legal union with their partner, but have a religious objection to re-marriage.

This policy will also foster good relations between people of the same religion or belief and those who are not by giving religion or belief organisations the opportunity

⁴ <https://www.ethnicity-facts-figures.service.gov.uk/uk-population-by-ethnicity/demographics/families-and-households/latest>. Accessed 03/05/2019.

⁵ Ibid.

to approve their premises for civil partnership ceremonies. This would give those faith organisations the opportunity to welcome people to their premises who do not share their beliefs.

Sexual orientation

This policy will benefit opposite-sex couples, and eliminate an incident of discrimination on the basis of sexual orientation.

There are around three million opposite-sex couples that cohabit but are not married. These couples have over one million dependent children⁶, but do not have the security or legal protections that married couples or same-sex civil partners enjoy.

Just over sixteen thousand (16,106) civil partnerships were formed in 2006, which was the first full year in which civil partnerships were available to same-sex couples⁷. Since 2014 when same-sex marriage was introduced, the number of civil partnerships has dropped significantly, but has remained stable since 2015 at around 900 per year. In total, over 65,000 same-sex civil partnerships have been formed up to 2017⁸.

Following the introduction of marriage for same-sex couples, and conversion from civil partnerships to marriage, some same-sex couples do prefer to enter into, or remain in, a civil partnership. We know from survey data that approximately 15% of unmarried adults in an opposite-sex serious relationship would be very interested in a civil partnership⁹.

Unmarried opposite-sex couples will benefit from access to a series of rights and protections, including financial entitlements, currently only enjoyed by same-sex couples and married couples. Extension of conversion rights to opposite-sex couples would benefit married couples who feel civil partnership is their preferred option, but married before they were able to form a civil partnership.

⁶ ONS, 2017.

<https://www.ons.gov.uk/peoplepopulationandcommunity/birthsdeathsandmarriages/families/bulletins/familiesandhouseholds/2017#number-of-families-in-the-uk-continues-to-grow-with-cohabiting-couple-families-growing-the-fastest>. Accessed 26/03/2019.

⁷ ONS, 2013.

<https://www.ons.gov.uk/peoplepopulationandcommunity/birthsdeathsandmarriages/marriagecohabitationandcivilpartnerships/bulletins/civilpartnershipsinenglandandwales/2013-10-08>. Accessed 27/03/2019.

⁸ ONS, 2017.

<https://www.ons.gov.uk/peoplepopulationandcommunity/birthsdeathsandmarriages/marriagecohabitationandcivilpartnerships/bulletins/civilpartnershipsinenglandandwales/2017>. Accessed 31/05/2019.

⁹ survey conducted for GEO by YouGov between 10th and 18th September 2018

The introduction of a regime for opposite-sex married couples wishing to convert to civil partnership would advance equality of opportunity between people in same-sex and opposite-sex couples. During 2015, the first full year in which conversion to marriage was available to same-sex couples, there were 9,156 couples who converted their existing civil partnership into a marriage¹⁰. We have received requests from opposite-sex couples who would like to convert their existing marriage to a civil partnership for the reason that they would have opted for a civil partnership had it been available to them. Under this policy, opposite-sex couples will also have the opportunity to convert into the form of relationship that was not previously available to them.

This policy will foster good relations between people of different sexual orientation by ensuring that there are comparable rights for same-sex and opposite-sex couples, bringing to an end any suggestion of segregation of rights on the basis of sexual orientation. Equality of rights will bring to an end any misapprehension that civil partnerships are in any way a lesser form of relationship. Extending the policy to opposite-sex couples could also provide protection to same-sex couples in that you will no longer be “outed” on the basis of being in a civil partnership.

There are a number of impacts of this policy that differ on the basis of sexual orientation.

Depending on the decisions taken following the consultation on conversions rights, there may be a difference in the direction that same-sex and opposite-sex couples can convert an existing relationship. However, we believe this would honour the original intention of conversion rights to offer couples their preferred relationship, to which they previously did not have access. We have had no call to offer conversion out of marriage for same-sex couples, as both options would have been available to them when they formalised their union. Similarly, we can see little need for opposite-sex couples to have a right to convert a civil partnership to marriage. Therefore, we do not believe this will have any detrimental impact on couples on the basis of their sexual orientation but we will consider this again in light of the consultation responses.

There may be some unforeseen impacts of bringing conversion to an end for same-sex or opposite-sex couples. At present, we do not have evidence about the continued value of conversion rights for same-sex couples now that they can marry, and presumably after those who want to convert have done so, and now that couples will be able to stay in their relationship if they choose to do so after a partner changes gender. The consultation will seek evidence to determine whether bringing conversion rights to an end has impacts for couples on the basis of their sexual orientation, and we will assess any new evidence to ensure we continue to comply with the PSED.

¹⁰ ONS, 2018.

<https://www.ons.gov.uk/peoplepopulationandcommunity/birthsdeathsandmarriages/marriagecohabitationandcivilpartnerships/bulletins/marriagesinenglandandwalesprovisional/2015#slightly-more-females-than-males-converted-their-civil-partnership-into-a-marriage>.

Accessed 27/03/2019.

We are inviting views on a number of options relating to the date from which conversions out of marriage are to be treated as civil partnerships. We will assess the impact of these various options in light of the consultation responses.

There will be a difference in financial benefits on the basis of sexual orientation. Unlike state pensions, where rights for opposite-sex civil partnerships will align with same-sex civil partnerships and same-sex married couples, the occupational pension entitlements for women in opposite-sex civil partnerships will match those for women in opposite-sex marriage. We will work with the relevant departments to identify what effects that will have on couples and review our equality assessment in light of that information.

There will be potential differences in the places couples can form a civil partnership, on the basis of sexual orientation. The draft regulations will enable religion or belief organisations to decide whether they will host same-sex civil partnerships, opposite-sex civil partnerships or both on their premises. In practice, that might mean that some couples will not be able to have a civil partnership ceremony on a specific religious premises and others may, but those rights are balanced against the rights of religion or belief organisations not to be compelled to act in such a way that would go against their beliefs.

Our preferred approach preserves the rights of same-sex couples while providing an option to convert their relationship to a civil partnership for married couples who wish to do so.

Marriage and civil partnership

We have not identified any impact on the need to eliminate unlawful discrimination on the grounds of marriage and civil partnership in relation to the workplace, as is the requirement under the Public Sector Equality Duty.

What further measures will you take to make this new policy accessible?

The consultation [Civil Partnerships: The Future of Conversion Rights](#) is available in a Welsh language version to ensure maximum engagement, and an easy read version is available on request.

We will work with relevant government departments to ensure that guidance on the effect of changes on rights like financial entitlements will be clearly signposted and clear where they relate to both civil partnership and marriage.

We will also work with relevant departments to signpost to information on the rights and protections couples will have access to when they convert an existing relationship. This will include differences arising depending on whether the couple is same-sex or opposite-sex.

Decision making

We have not identified any negative equality impacts of this policy. The proposed policy will eliminate discrimination on the basis of sexual orientation, advance equality of opportunity on the basis of sex, sexual orientation, gender reassignment and religion or belief. The policy will also foster good relations on the basis of sex, sexual orientation, and religion or belief.

We have identified some policy choices that result in difference in treatment on the basis of sexual orientation and sex and we will draw on information from the consultation responses to determine what impact those policies might have under the PSED.

Our recommendation is therefore to **proceed as planned** with our proposed policy.

Monitoring and evaluation

We will update this PSED review following consultation. We will review what further equality monitoring might be required as indicated by the consultation.

GEO will monitor the number of opposite-sex couples who choose a civil partnership based on data collected by ONS. We will also monitor the number of same-sex and opposite-sex couples who convert their relationships via both ONS and GRO figures.

From responses to our consultation on conversion policy we will determine in our updated PSED review what further monitoring of conversion might be required to comply with the duty, and what monitoring we can request from GRO to identify any unexpected or unintended consequences of this policy.