



Same-sex religious marriage in Northern Ireland

UK Government consultation response

16 July 2020

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Foreword by the Minister of State for Northern Ireland

The Government has been a strong supporter of same-sex marriage in England and Wales from its introduction in 2014 and I am pleased that couples in Northern Ireland have now been able to enter into same-sex civil marriages, following legislation earlier this year.

This follows requirements in the Northern Ireland (Executive Formation etc) Act 2019 (NI EF Act), which received Royal Assent on 24 July 2019. Section 8 of the NI EF Act placed a duty on the UK Government to change the law on same-sex marriage and opposite-sex civil partnerships, if the Northern Ireland Executive was not restored by 21 October 2019. As this date passed without an Executive being established, the Government was required to fulfil its obligations under section 8 of the NI EF Act.

On 13 January 2020, the Marriage (Same-sex Couples) and Civil Partnership (Opposite-sex Couples) (Northern Ireland) Regulations 2019 came into force in Northern Ireland, extending eligibility to same-sex couples to form civil marriages and allowing opposite-sex couples to enter into a civil partnership.

Following the restoration of the Executive and Assembly in Northern Ireland, the Government has been clear that we had remaining duties on two related issues that we wished to first consult on - same-sex religious marriage and conversion entitlements – before making regulations on these two issues, consistent with the section 8 NIEF Act statutory duty, before the end of 2020.

On 20 January 2020, we launched a public consultation on same-sex religious marriage and associated protections that ran for five weeks until 23 February 2020. The consultation document set out our proposals for religious organisations, officiants, and others who wish to participate in same-sex religious marriage in Northern Ireland to do so, and the appropriate protections for those who do not wish to participate in same-sex religious marriages.

The proposals were intended to match, as far as possible, the law and related protections in place in the rest of the United Kingdom, and consulting on these proposals has helped us to better understand the particular needs and concerns of the people of Northern Ireland.

This Government response to the consultation sets out the consultation feedback on each of the questions relating to our proposed policy, and the Government's position, which we will implement in The Marriage and Civil Partnership (Northern Ireland) Regulations 2020 (the Regulations), which have been laid in Parliament and come into force on 1 September 2020. Those Regulations will allow the first same-sex religious marriages to take place in Northern Ireland from 29 September 2020 after couples give notice, and will provide protections for those religious bodies and officiants who choose not to opt in.

The Government appreciates the range of views expressed in the consultation responses received and we are extremely thankful to all individuals and organisations who took the time to respond. These Regulations represent a further part of important reforms that have been delivered for Northern Ireland and I am pleased that the Regulations provide protections and rights in a way which respects the concerns of religious groups and communities raised through the consultation process.

I am committed to ensuring that the obligations under the NIEF Act are fully discharged, and this is another step towards that objective. We will be responding shortly to the public consultation on conversion entitlements and making regulations in due course.

Robin Walker MP
Minister of State for Northern Ireland

SECTION ONE: BACKGROUND

1.1 Introduction

On 20 January 2020, the then Secretary of State for Northern Ireland, the Rt Hon Julian Smith MP, launched a public consultation on measures to provide an opt-in system for religious bodies and for officiants to perform same-sex marriages in Northern Ireland. The consultation also proposed protections for religious bodies and for officiants that do not wish to offer same-sex marriages, and protections for others acting on behalf of, or under the auspices of religious bodies who do not wish to participate in same-sex marriages. This was with a view to the Secretary of State legislating on this issue, having earlier exercised his powers, under section 8 of the Northern Ireland (Executive Formation etc) Act 2019, to enable same-sex civil marriage and opposite-sex civil partnerships from 13 January 2020.

The consultation provided an opportunity for anyone with an interest to comment on a proposed scheme for implementing this legislation. The consultation ran for five weeks and closed on 23 February 2020. The Regulations that have resulted from this consultation will provide certainty for those that wish to participate in a same-sex religious marriage ceremony as soon as possible, while providing reassurances that those religious bodies and officiants that do not wish to participate, do not unlawfully discriminate by refusing to conduct same-sex marriages.

We received a total of **4,322** consultation responses: **4,159** from individuals and **163** from organisations. The consultation team made itself available to meet a range of interested groups and parties to discuss the proposals and the issues arising from them.

1.2 Structure of the response

- **Section 1** provides background to the consultation.
- **Section 2** sets out a summary of responses received, question by question, and the Government's intended next steps.

SECTION TWO: CONSULTATION FEEDBACK AND NEXT STEPS

2.1 Overview of consultation feedback

The Government has been clear that we will regulate on this matter, to give certainty to same-sex couples who wish to marry in a religious ceremony and religious bodies that wish to perform same-sex marriages, but equally to protect the rights of those religious bodies that do not wish to solemnise marriages between couples of the same sex in Northern Ireland. Religious organisations in England and Wales, and Scotland, can solemnise same-sex marriages, and these Regulations will bring Northern Ireland in line with the rest of the UK in practice.

It has been our aim to replicate in Northern Ireland, as far as possible, the effect of same-sex marriage law and the religious protections that exist in Great Britain. However, given the different legal regimes that exist in Northern Ireland compared to England and Wales and Scotland, there are some necessary differences to make the law work properly in practice, which means it was not a task of simple replication of the provisions that apply in England and Wales or Scotland.

We have set out where we have made changes to the measures set out in our consultation document, to take account of information received through the consultation process. Otherwise, where respondents agreed with the proposals we consulted on, we intend to proceed as originally described.

There were a number of consultation responses that included comments that, while relevant to the topics of same-sex marriage or consent mechanisms, did not provide relevant answers to the questions posed. These topics are addressed below, rather than as part of the detailed feedback for the numbered consultation questions.

A number of respondents gave feedback throughout the consultation to express their opposition to marriage between two people of the same sex. However, civil marriages between couples of the same sex can already take place in Northern Ireland, as the result of the Marriage (Same-sex Couples) and Civil Partnership (Opposite-sex Couples) (Northern Ireland) Regulations 2019 (“the 2019 Regulations”), which came into force on 13 January 2020. The intention of this consultation was not to amend or repeal those regulations, but to inform regulations for marriages between two people of the same sex solemnised by a religious officiant, and to put in place appropriate protections for religious bodies who do not wish to participate, as set out in Section One.

There were also a number of occasions where respondents referred to the proposed role of governing authorities in giving consent to the solemnisation of same-sex marriages, as government or state interference. The governing authorities to which we referred are not mechanisms of the state, indeed there is no established church

in Northern Ireland. We proposed the definition “*the person or persons recognised by the members of the religious body as competent for the purpose of giving consent.*” This definition relates to the body, person, or group of persons that hold authority over decisions of this nature within a religious body. By using this definition, the government or state does not interfere with the doctrine or actions of that religious body; the definition ensures that only the religious body itself has determination over the solemnisation of same-sex marriages under its rites and practices.

Finally, there were also many respondents who commented that the proposals as set out in the consultation were, or would be, discriminatory towards same-sex couples under current discrimination law. In particular, comments suggested any difference in treatment from officiants between same-sex and opposite-sex couples would amount to discrimination. The purpose of these proposals was to amend certain equality legislation, as set out in the consultation, and below, in order to build on existing exceptions for religious bodies so that refusal to solemnise same-sex marriages *would not* amount to unlawful discrimination -i.e. that the law would not apply to religious bodies in those circumstances if the reason for the refusal was that the marrying couple was of the same sex. These exceptions are based on the religious protections that exist in England and Wales, and Scotland, that protect religious organisations from having to act in ways that undermine their religious belief or contradict their religious teachings.

The exceptions do not apply to service providers that are not religious organisations (or persons acting on their behalf) as these are bound by non-discrimination provisions in the usual way. Equally, these exceptions do not apply to civil registrars and persons appointed to solemnise civil marriages (including Humanist celebrants), as they perform a secular function. As in the rest of the UK, Local Registration Authorities must provide for same-sex civil marriages without discrimination as they would for opposite-sex couples, just as they must also provide for civil partnerships for both same-sex and opposite-sex couples.

Consultation questions and Government response

3.1 Appointing and removing religious officiants

Consultation proposal

Questions 1 and 2 of the consultation focused on whether officiants should act in accordance with a consenting authority in their religious body. We proposed that an application for registration or temporary authorisation of an officiant to conduct marriages of same-sex couples could be made only with the written consent to same-sex marriage of the “governing authority” of the religious body of which the officiant is a member, meaning an officiant could not solemnise same-sex marriages on behalf of that religious body if the body did not consent. We also proposed that an officiant could not be compelled to solemnise same-sex marriages, and would not unlawfully discriminate by refusing to do so, even where the religious body they belong to does consent to same-sex marriage.

Question 1: Do you agree that consent of the governing authority should be required before officiants can be appointed to solemnise same-sex religious marriage?

Consultation feedback

4072 individuals and 157 organisations responded to this question. Of those, **90% of individuals and 99% of organisations agreed with our proposal**. Of those who disagreed, the most frequent reason cited was that officiants should be free to choose for themselves whether to solemnise same-sex marriages rather than require consent. Second was that the requirement for a governing authority to consent to same-sex marriage would discriminate against same-sex couples who wished to marry in their faith. The next most frequent response was opposition on grounds of religious belief that marriage can only be between a man and a woman. Other reasons cited included those who thought governing authorities should not intervene in this matter, that the state should not be involved in this decision-making, that governing authorities would block same-sex marriages, that officiants should be compelled to perform same-sex marriages, or that governing authorities might have a split opinion that would alter their consent.

Government response

We have specified in the Regulations that an officiant can only be registered, or temporarily authorised, to solemnise same-sex marriages if the Registrar General

has received written notice of the consent of the governing authority of the religious body to which that officiant belongs, and has not received written notice of the withdrawal of that consent. This proposal received overwhelming support in the consultation feedback, and is similar to requirements for governing authority consent in England and Wales (although in England and Wales it is religious premises, rather than officiants, that are registered for the solemnisation of marriages).

Question 2: Do you agree that officiants should be free to choose whether to solemnise same-sex marriages, even where their religious body chooses to consent to such marriages?

Consultation feedback

3982 individuals and 157 organisations responded to this question. Of those, **92% of individuals** (including 76% of the respondents who identified as LGB) **and 94% of organisations agreed with our proposal**. Of those who disagreed, the most frequent reason cited was that officiants should be aligned with their religious body and comply with their position, meaning that those who belong to a religious body that consents to same-sex marriage, should solemnise same-sex marriages. Second was respondents' opposition to officiants participating in same-sex marriage in any form, on grounds of religious belief that marriage is between a man and a woman. The next most frequent response was that the refusal by an officiant amounted to discrimination against same-sex couples who wished to marry in their faith. Some respondents also felt that marrying same-sex couples would constitute part of the employment requirements of an officiant, and therefore refusing to do so would be a refusal to do their job. Other reasons respondents gave included that this was not a matter on which the state should legislate, that it would be confusing or send mixed messages for an officiant not to be aligned with their religious body, or that officiants should always be expected to perform same-sex marriages.

Government response

The Regulations provide that individual officiants acting on behalf of a religious body that consents to same-sex marriage are free to choose whether to solemnise such marriages and do not unlawfully discriminate on sexual orientation grounds if they refuse to marry a couple of the same sex. This proposal received the support of the vast majority of respondents in the consultation, and adopts the same approach as the law in England and Wales.

3.2 Governing authority of a religious body

Consultation proposal

Questions 3 and 4 focused on defining a competent authority in a religious body to give consent on behalf of officiants to solemnise same-sex marriages. The idea of a “governing authority” already exists in England and Wales in relation to both marriage and civil partnership. We proposed the following general definition of “governing authority” in Northern Ireland: *“the person or persons recognised by the members of the religious body as competent for the purpose of giving consent.”* We also asked whether we should name, in regulations, an identified person or body who *could* provide consent for a particular religious body; naming this person or body would be intended to provide clarity and would not in itself amount to consent to solemnise same-sex marriages for that religious body. Where no governing authority is listed in the regulations for a particular religious body, it could rely on the general definition. This might be appropriate for smaller bodies, or those without a hierarchical or centralised governing structure.

Question 3: Do you agree with the proposed general definition of “governing authority”, whose consent is required for religious bodies to solemnise same-sex religious marriages?

Consultation feedback

3844 individuals and 155 organisations responded to this question. Of those, **94% of individuals and 97% of organisations agreed with our proposal** (of which at least 63% were religious bodies or religious groups). Of those who disagreed, the most frequently cited response was opposition to same-sex marriage, and that this was not a matter for anyone to legislate on. The second most frequent response was that no consent should be required for a same-sex marriage to take place and that this should be an individual choice for officiants. The third most frequent response stated that these authorities would be biased against same-sex couples.

Government response

The Regulations set out the general definition of governing authority in regulations as described above. The majority of respondents agreed with our proposal on this issue, which follows the same approach as exists in England and Wales.

Question 4: Do you agree that the definition of governing authority should also include a person or body (such as a recognised decision-making body) that, on request, is specified in regulations?

Consultation feedback

3764 individuals and 153 organisations responded to this question. Of those, **93% of individuals and 97% of organisations agreed with our proposal**. Some religious bodies also contacted us separately and asked for their governing authorities to be listed in the regulations. Of those who disagreed, the most frequent response was that consenting to offer same-sex marriage was not a matter for a governing authority. The second most frequent reason cited was opposition to same-sex marriage (which is not within the scope of the consultation). Other responses included that this should not be legislated on, that this discriminated against same-sex couples, that this was not a decision for the state, and that this solution was too inflexible or would require frequent changes, or that it was only useful for the larger religious bodies.

Government response

We have included in the Regulations the names of relevant decision-making bodies that four religious bodies asked to have listed as their governing authority. There will be opportunities to add to this list. Where no governing authority is listed for a particular religious body, that body can rely on the general definition of a governing authority in the Regulations. That definition is: *the person recognised by the members of the religious body as competent for the purpose of giving consent*.

This approach was supported by the vast majority of respondents, no religious bodies raised specific concerns about this approach, and it is consistent with how this aspect of the law in relation to same-sex religious marriage operates in England and Wales.

3.3 Religious bodies' and individuals' participation in same-sex marriage

Consultation proposal

England and Wales and Scotland take different approaches to protecting religious bodies and officiants from being obliged to carry out same-sex marriages. Questions 5 and 6 focused on the approach we propose in Northern Ireland.

In England and Wales, a person cannot be compelled by any means (including by the enforcement of a contract or a statutory or other legal requirement) to undertake

specified activities in relation to same-sex marriage. In Scotland, the legislation provides that nothing in the *provisions enabling* religious or belief celebrants to be authorised to solemnise same-sex marriage imposes a duty on any religious or belief body or person to do so, but a religious or belief body in Scotland that has ‘opted in’ can compel its own celebrants to solemnise same-sex religious marriage.

For Northern Ireland, we proposed to follow the England and Wales approach and include a specific provision in legislation to ensure that religious bodies and persons acting on behalf or under the auspices of a religious body could not be compelled by any means (including by the enforcement of a contract or a statutory or other legal requirement) to undertake specified activities relating to same-sex marriage.

Question 5: Do you agree that no religious bodies or persons acting on behalf or under the auspices of such bodies should be compelled to undertake specified activities relating to same-sex marriage?

Consultation feedback

3770 individuals and 156 organisations responded to this question. Of those, **96% of individuals** (including 73% of respondents who identified as LGB) **and 99% of organisations agreed with our proposal**. Of those who did not agree with our proposal, the vast majority felt that this was discriminatory towards LGBT people, or that couples should be treated equally regardless of their sexual orientation. The next most frequent reason cited was that it is a matter of conscience whether a religious officiant should solemnise same-sex marriages, and they should not be compelled by their religious body. Other reasons included that officiants should be aligned with their religious body on consent for same-sex marriage, that there should be no religious protections for religious bodies, and finally opposition to same-sex marriage.

Government response

The Regulations provide that no religious bodies, or persons acting on behalf or under the auspices of such bodies (including officiants) can be compelled to undertake specified activities relating to same-sex marriage, including by the enforcement of a contract or a statutory or other legal requirement. The vast majority of respondents agreed with the policy proposal on this matter, and it adopts the same approach as the law in England and Wales.

Question 6. Do you agree that religious bodies (including persons acting on their behalf and under their auspices) and officiants should not be compelled to undertake the core functions specified in paragraph 49?

The core functions that might be undertaken by religious bodies (including persons acting on their behalf and under their auspices) and officiants are as follows:

- It will not be possible to compel **religious bodies** (or persons acting on their behalf or under their auspices) to:
 - apply to the Registrar General for a member to be registered as empowered to solemnise same-sex marriages in Northern Ireland;
 - give consent to same-sex marriage; or
 - provide, arrange, facilitate or participate in, or be present at the solemnisation of a same-sex marriage, or a ceremony or event to mark the formation of a marriage where the reason for the body or person not doing that thing is because the marriage is a marriage of a same-sex couple.
- It will not be possible to compel **any person** to:
 - be registered by the Registrar General as empowered to solemnise same-sex religious marriages;
 - apply for a temporary authorisation to solemnise one or more same-sex religious marriages.
- It will not be possible to compel **an officiant** to solemnise marriages of same-sex couples, where the reason for the officiant not wishing to solemnise the marriage is because it is a marriage of a same-sex couple.

Consultation feedback

3737 individuals and 154 organisations responded to this question. Of those, **97% of individuals and 98% of organisations agreed with our proposal**. Of those who did not agree with our proposal, the vast majority were concerned that this would lead to discrimination against same-sex couples, or believed that officiants should be expected to marry any couple, regardless of their sexual orientation. Other reasons people cited were that officiants should be expected to comply with their religious body, that the protection is too narrow and other roles and businesses should also be exempt, that the description is too wide, or that they were opposed to same-sex marriage.

Government response

The Regulations specify a number of core functions that religious bodies (including persons acting on their behalf and under their auspices such as officiants) cannot be compelled to undertake. These include all of the core functions set out in the consultation document and repeated above.

We explained in the consultation document that the ‘non-compulsion’ provision would not apply to service providers that are not religious bodies, such as hoteliers, wedding photographers and florists, and this remains the case.

Following feedback from religious bodies during the consultation period, we have extended the proposals to add protections relating to the use of religious premises. We have made clear in the Regulations that a religious body cannot be compelled to allow religious premises (which includes non-commercial premises like church halls and other buildings owned by (or on behalf of) a religious body) to be used for the solemnisation of same-sex marriages or for ceremonies or events to mark the solemnisation of a same-sex marriage or formation of a civil partnership (whether the civil partnership is between a same-sex or opposite-sex couple).

3.4 Equality law protections

Consultation proposal

Question 7 was about existing equality law in Northern Ireland. We set out which areas of law would not change and why, and proposed amendments to other parts of equality law to protect those who solemnise religious marriages from unlawfully discriminating if they do not solemnise same-sex marriages.

In Northern Ireland, the Fair Employment and Treatment (Northern Ireland) Order 1998 prohibits discrimination in the provision of public services on grounds of religion or belief or political opinion. We did not propose to add new exceptions to this Order because we do not consider that refusing to perform a same-sex marriage, even if motivated by the religious belief of the person refusing, would amount to discrimination on grounds of religion or belief. In this situation, the refusal to perform the marriage is not because of the marrying couple’s religion or belief, but because of their sexual orientation.

We proposed to add new exceptions to the Equality Act (Sexual Orientation) Regulations (Northern Ireland) 2006 and the Sex Discrimination (Northern Ireland) Order 1976, which prohibit discrimination on grounds of sexual orientation and sex respectively, in the provision of services to the public in Northern Ireland. The proposed effect of the new exceptions would be that, when providing a service to the public:

- an officiant does not unlawfully discriminate by refusing to solemnise a same-sex marriage.
- a religious body does not unlawfully discriminate by allowing one of its officiants to refuse to solemnise a same-sex marriage.
- a religious body does not unlawfully discriminate by refusing to allow premises owned or controlled by that body to be used to solemnise a same-sex marriage.
- a person (or a group of persons) does not unlawfully discriminate by refusing to allow premises owned or controlled by the person (or the group) on behalf of a religious body to be used to solemnise a same-sex marriage.

In all these cases, the exceptions would only apply where the reason for the refusal is that the marriage is between two persons of the same sex.

Question 7: Do you agree that the existing protections plus the exceptions we are proposing to the Equality Act (Sexual Orientation) Regulations (Northern Ireland) 2006 and the Sex Discrimination (Northern Ireland) Order 1976 cover the services a religious body or person acting on its behalf might provide to the public in connection with same-sex marriage?

Consultation feedback

3647 individuals and 153 organisations responded to this question. Of those, **92% of individuals and 95% of organisations agreed with our proposal**. Of those who disagreed with our proposals, the most frequent response was that this amounted to discrimination against same-sex couples or that there shouldn't be protections for religious bodies. The second most frequent response was that protections should be widened to include business and service providers. The third most cited reason was general opposition to same-sex marriage. Other reasons included concerns that non-religious organisations would try to use the exemption inappropriately, and that the religious protections should be stronger. The latter included a desire to see exceptions applicable to discrimination on grounds of all protected characteristics, because the similar exceptions in the Equality Act 2010 (which applies in Great Britain) are not all expressly limited to particular protected characteristics.

Government response

In Great Britain, the Equality Act 2010 applies to all nine protected characteristics. This means that the exceptions added to the Equality Act 2010 for same-sex marriage did not need to spell out which of the protected characteristics were at issue. As the exceptions only apply where the refusal to solemnise the marriage is because it is a same-sex marriage, it is clear that the exceptions will only in fact apply to discrimination on grounds of sexual orientation. In Northern Ireland there is

no single piece of equality legislation but instead a number of different enactments prohibit discrimination on grounds of different protected characteristics. This means that in Northern Ireland, it is necessary to spell out which protected characteristic is at issue.

As part of the consultation exercise, we have reviewed the proposed exceptions and have concluded that it is not necessary to provide exceptions in the Sex Discrimination (Northern Ireland) Order 1976. This is because refusing to provide a marriage because it is between two people of the same sex (whilst providing marriages between opposite-sex couples) will be sex discrimination only if the religious body treats female same-sex couples and male same-sex couples differently, not if the religious body does not want to offer same-sex marriage at all¹.

If we did provide same-sex marriage exceptions in the Sex Discrimination Order, it could have two unwanted consequences:

- it could allow religious bodies to treat male same-sex couples differently to female same-sex couples, which is not the intention; and
- it could (wrongly) suggest that refusing to marry same-sex couples is to be treated as sex discrimination.

For the same reasons, we are also revoking the exceptions added to the Sex Discrimination Order by the 2019 Regulations, as they are no longer needed.²

Although we do not intend to provide exceptions applicable to sex discrimination or discrimination on grounds of religion or belief, it is worth noting that the non-compulsion protections detailed above provide an additional level of protection. The non-compulsion protections mean that religious bodies and those acting on their behalf or under their auspices cannot be compelled (including by a discrimination claim) to perform same-sex marriages or any of the other activities protected from compulsion.

However, we still consider that we need to provide the proposed exceptions applicable to potential sexual orientation discrimination. Accordingly, the Regulations amend an existing exception in the Equality Act (Sexual Orientation) Regulations (Northern Ireland) 2006 so that a non-commercial religious organisation or minister (which includes an officiant) can impose sexual orientation restrictions in connection with the solemnisation of a marriage.

¹ *Advocate General for Scotland v MacDonald; Pearce v Mayfield Secondary School Governing Body* [2003] UKHL 34.

² See regulation 133 of the Marriage (Same-sex Couples) and Civil Partnership (Opposite-sex Couples) (Northern Ireland) Regulations 2019, which amended the Sex Discrimination (Northern Ireland) Order 1976.

As we stated in the consultation document, these exceptions will only apply to officiants, religious bodies and persons acting on their behalf or under their auspices. This means that the exceptions will not apply to other service providers, including hoteliers, florists and wedding photographers. This is consistent with existing equality law in Northern Ireland, which already provides specific sexual orientation exceptions for religious organisations, but not other service providers. We consider that applying the equality protections to religious bodies by building on the existing exceptions applicable to religious organisations in the Sexual Orientation (Northern Ireland) Regulations is the correct approach.

3.5 Ministers and chaplains in secular organisations

The last section of the consultation asked whether the proposals were also appropriate for ministers or chaplains working in secular organisations. Finally, it asked those responding on behalf of an organisation if they intended to give consent to solemnise same-sex marriages. We have separated the responses in this section into two parts for clarity.

Consultation proposal

Question 8 focused on the liability of secular employers who employ ministers or chaplains that refuse to solemnise same-sex marriages. Equality legislation in Northern Ireland includes provision that deems an employer or principal to be liable for discrimination caused by its employee or agent. This would mean that a secular employer (such as a university or hospital), could potentially be deemed liable for discrimination if an employee (such as a chaplain) refuses to solemnise same-sex marriages. The chaplain would not be acting unlawfully because he or she could rely on the equality exceptions set out in question 6, but the secular employer would not be able to rely on those exceptions because it is not a religious body, or a person acting on behalf of such a body (including an officiant).

We proposed that the employer would not be deemed to have acted unlawfully solely because of the employee's conduct. But where the employer has itself acted in a discriminatory way, the employer would still be liable. This might be the case, for example, where a hospital refused to allow an alternative officiant, willing and authorised to conduct same-sex marriages, to do so.

Question 8: Do you agree that the proposed protections (set out in sections 1.6, 1.7, 1.8 and 1.9) relating to consent, non-compulsion and equality law exceptions are appropriate for ministers/chaplains working in secular organisations?

Consultation feedback

3627 individuals and 149 organisations responded to this question. Of those, **95% of individuals and 99% of organisations agreed with our proposals**. Of those who disagreed with our proposal, the majority were concerned with potential for discrimination against same-sex couples, or that couples would have fewer options to marry in their faith. Other concerns included general opposition to same-sex marriage, that the protections did not go far enough, and others were concerned that a secular organisation would not have access to another officiant to marry a same-sex couple in the event an officiant employed by them refuses.

Government response

As with all the other proposals in this consultation, the vast majority of respondents agreed with our proposals. Therefore, we have set out the protections for chaplains in the Regulations as detailed above, and protections for their employer, only if the employer has not acted unlawfully.

Consultation proposal

We asked those respondents who were completing the consultation on behalf of a religious body in Northern Ireland, if they would choose to give consent to solemnise same-sex marriages. We asked this question to estimate how many religious bodies would be likely to opt in to conduct same-sex marriages.

Question 9: If you represent a religious body in Northern Ireland, would you choose to give consent to solemnise same-sex marriages

Consultation feedback

Of the 125 organisations that responded to this question, **12** indicated that they were responding on behalf of a religious body and **would** give consent to solemnise same-sex marriages. However, we also received a number of responses to this question from individuals who did not appear to be official representatives of a religious organisation. Therefore, the information gathered through this question is not reliable in estimating *overall* interest.

Government response

The General Register Office for Northern Ireland (GRONI) will provide further information on how religious officiants can be nominated to solemnise same-sex

marriages. It will be responsible for contacting religious bodies with officiants registered under Article 11, to confirm their position.

On the date the Regulations are laid the Registrar General will write to all Governing Authorities or individual religious bodies and provide a form to be completed. The form will give three options:

- 1 - My religious body is opting in for opposite-sex marriage only; or
- 2 - My religious body is opting in for same-sex marriage only; or
- 3 - My religious body is opting in for both opposite and same-sex marriage.

If option three is chosen, a further question will be asked if all or only some of the officiants will carry out same-sex marriage. Details of officiants that will not carry out same-sex marriage ceremonies but will continue to carry out opposite-sex marriage ceremonies will be required to ensure that the officiants list held by the Registrar General is correct. If the GRONI receives no reply, the officiants already registered will continue to be registered for opposite-sex marriage only.

3.6 Practical next steps and arrangements

In parallel to publishing this response, the Government has laid Regulations, The Marriage and Civil Partnership (Northern Ireland) Regulations 2020, before Parliament that enable religious bodies to nominate their officiants to solemnise same-sex marriage, and set out the protections for those religious bodies and officiants who do not wish to do so. These Regulations will come into force on 1 September 2020. From this date, officiants can be registered to solemnise same-sex marriages by consenting religious bodies, couples can give their 28 days' notice of their intent to marry in a religious ceremony conducted by an officiant who is nominated to solemnise same-sex marriages, and religious bodies (and those acting under their auspices) and officiants are protected if they refuse to conduct same-sex marriages.

For further information on getting married in Northern Ireland, see:

<https://www.nidirect.gov.uk/information-and-services/births-deaths-marriages-and-civil-partnerships/marriage-and-registration>