



Government  
**Equalities** Office

Putting equality at the heart of government

# **Equal civil marriage: a consultation**

March 2012

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# Ministerial Foreword

During a listening exercise conducted in 2010 on allowing civil partnerships to take place on religious premises, we heard representations from many who sought equal access to marriage for same-sex couples. It was argued by some that having two separate provisions for same-sex and opposite-sex couples perpetuates misconceptions and discrimination. Same-sex couples now receive access to equivalent legal rights, bar the ability to be able to be married and to say that they are married. We do not believe this is acceptable.

The introduction of civil partnerships in 2005 was a significant and important step forward for same-sex couples in ensuring that their commitment to one another was recognised in law on the same basis as for opposite-sex couples; for the first time, couples were able to gain important rights, protections and responsibilities that they had been denied in the past.

We recognise that the personal commitment made by same-sex couples when they enter into a civil partnership is no different to the commitment made by opposite-sex couples when they enter into a marriage. We do not think that the ban on same-sex couples getting married should continue. Put simply, it's not right that a couple who love each other and want to formalise a commitment to each other should be denied the right to marry.

That is why we are, today, launching this consultation to seek your views on how we can remove the ban on same-sex couples having a civil marriage in a way that works for everyone. We are clear that no changes will be made to how religious organisations define and solemnize religious marriages and we are clear that we will retain civil partnerships for same-sex couples.

This is not about Government interfering in people's lives, this is about providing choice for our modern society. Quite simply, if commitment and marriage is a good thing we should not restrict civil marriage only to opposite-sex couples.



A handwritten signature in black ink, appearing to read 'Theresa May'.

Rt Hon Theresa May MP Home Secretary  
and Minister for Women and Equalities



A handwritten signature in black ink, appearing to read 'Lynne Featherstone'.

Lynne Featherstone MP  
Minister for Equality

# About this consultation

<b>Topic</b>	<p>This consultation seeks your views on how to provide equal access to civil marriage for same-sex couples.</p> <p>The Government is focused on looking at this specific issue and is not considering wider reforms to marriage. It is therefore not considering any reforms to religious marriage. Neither does this consultation look at opposite-sex civil partnerships.</p>
<b>Geographical scope</b>	England and Wales only
<b>Impact assessment</b>	An impact assessment on the proposals contained within this consultation is available separately on the Home Office website
<b>Audience</b>	<p>This is aimed at:</p> <ul style="list-style-type: none"> <li>• members of the public – particularly those currently in a marriage or civil partnership or those wishing to legally register their relationship in future;</li> <li>• lesbian, gay, bisexual and transgender organisations;</li> <li>• religious organisations;</li> <li>• local authorities, including registrars who are responsible for conducting civil marriage ceremonies;</li> <li>• organisations with an interest in families and relationships</li> </ul> <p>• comments from all other interested parties are also welcome.</p>
<b>Duration</b>	12 weeks. The consultation will close on 14 June 2012
<b>Contact details</b>	<p>Please complete the online <b><u><a href="#">response form</a></u></b></p> <p>Alternatively you can email your response to the questions in this consultation to: <b><u><a href="mailto:equalcivilmarriage@geo.gsi.gov.uk">equalcivilmarriage@geo.gsi.gov.uk</a></u></b></p> <p>Or write to us at:</p> <p>Equal civil marriage consultation responses          Government Equalities Office          3rd Floor Fry          2 Marsham Street          SW1P 4DF</p> <p>If you have any queries or require this consultation in an alternative format please email <b><u><a href="mailto:equalcivilmarriage@geo.gsi.gov.uk">equalcivilmarriage@geo.gsi.gov.uk</a></u></b> or write to us at the above address.</p>
<b>Next steps</b>	<p>A summary of responses and a Government response on the way forward will be published in due course following the closure of the consultation.</p> <p>The Government's response will take all responses submitted to this consultation into account, and will be based on a careful consideration of the points made in consultation responses, not the number of responses received. However, points raised in responses that are out of scope of the consultation and the consultation questions will not necessarily be considered.</p>

# Executive Summary

- 1.1 This consultation is about how the ban can be lifted on same-sex couples having a marriage through a civil ceremony. Whilst many of the issues and questions outlined in this document relate to those individuals and organisations that will be directly affected by this, we recognise that this is of wider interest to everyone. We are therefore seeking a wide range of views in response to this consultation on how best this ban can be lifted.
- 1.2 Under current legislation a marriage can only be between a couple of the opposite-sex i.e. a man and a woman. A marriage can be conducted on either, religious premises through a religious ceremony, or on secular (non-religious) premises through a civil ceremony.
- 1.3 A civil partnership can only be between a same-sex couple i.e. either a man and a man or a woman and a woman and can only be conducted through a civil ceremony. A civil partnership can take place on secular premises but can also be held on religious premises, if the religious organisation in question has allowed this to happen (but the ceremony has to remain a civil one). In all cases a civil partnership registration must be secular (non-religious).
- 1.4 During a listening exercise held in autumn 2010 on the next steps for civil partnerships the Government identified a desire to look at equalising access to civil marriage for same-sex couples. As a result a commitment was made to work with all those with an interest in the issue on how legislation could develop. This consultation seeks your views on how this could best be achieved.
- 1.5 From these discussions it became clear that the immediate issue that needed consideration was enabling same-sex couples to have a civil marriage. The Government is committed to taking forward equal civil marriage and wants to consult widely on how best this can be done. The consultation therefore, does not look at reforms to civil partnerships, for example opening up civil partnerships to opposite-sex couples.
- 1.6 In the development of this consultation paper, Ministers and officials have met with a range of organisations including lesbian, gay, bisexual and transgender groups, and religious and non-religious organisations to hear their views and understand the implications of any proposals on this issue.
- 1.7 We have listened to those religious organisations that raised concerns about the redefinition of religious marriage. We are aware that some religious organisations that solemnize marriages through a religious ceremony believe that marriage can only be between a man and a woman. That is why this consultation is limited to consideration of civil marriage and makes no proposals to change the way that religious marriages are solemnized. It will not be legally possible under these proposals for religious organisations to solemnize religious marriages for same-sex couples. There will therefore be no obligation or requirement for religious organisations or ministers of religion to do this. It will also not be possible for a same-sex couple to have a civil marriage ceremony on religious premises. Marriages of any sort on religious premises would still only be legally possible between a man and a woman.

1.8 Civil marriage for same-sex couples is not a new idea and an increasing number of other countries are introducing legal recognition of same-sex relationships on the same basis as for opposite-sex relationships. Annex A includes a list of provisions available overseas.

### Principles for change:

1.9 The Government aims to address the following issues as part of this work:

- i. **To remove the ban on same-sex couples being able to have a marriage through a civil ceremony.** The Government recognises that the commitment made between a man and a man, or a woman and a woman in a civil partnership is as significant as the commitment between a man and a woman in a civil marriage. If we recognise the commitment being made is as significant, it is only right that the Government provides couples with the same opportunity to recognise that commitment in the valued institution of marriage. There are a number of differences between civil marriages and civil partnerships as set out below (para 1.10). This consultation is not only about those differences, but also about the principle of no longer distinguishing in civil marriage ceremonies between same-sex and opposite-sex couples.
- ii. **To make no changes to how religious organisations solemnize marriages** i.e. marriages solemnized through a religious ceremony and on religious premises would still only be legally possible between a man and a woman. The Government is not seeking to change how religious organisations define religious marriage and any subsequent legislation would be clear that no religious organisation could conduct a religious marriage ceremony on religious premises for same-sex couples.
- iii. **To allow transsexual people to change their legal gender without having to legally end their existing marriage or civil partnership.** Removing the bar on same-sex couples being married will enable for the first time, one partner to change their legal gender without having to formally end their marriage. This can be distressing for those couples who want to stay married but cannot currently do so because it is not legally possible for same-sex couples to be married. Equally, couples who are currently in a civil partnership would be able to convert their partnership into a marriage, rather than formally dissolving their civil partnership.

## Current position:

1.10 Whilst civil partnerships were designed to provide equivalent rights and responsibilities to marriage there are some differences, for example:

- Civil partnership and marriage are two entirely separate legal regimes with different pieces of legislation covering each of them. Civil partners cannot call themselves married for legal purposes and married couples cannot call themselves civil partners for legal purposes. This means that when making a declaration of marital status to an employer, public authority or other organisation, an individual who is either married or in a civil partnership will often be effectively declaring their sexual orientation at the same time;
- Civil marriages are solemnized by saying a prescribed form of words whereas civil partnerships are formed simply by signing the register – no words are required to be spoken;
- Married couples and civil partners are entitled to similar rights and responsibilities but there are some differences around eligibility for some pension rights and laws around adultery and non-consummation and courtesy titles;
- Marriage can currently be conducted either through a religious ceremony or through a civil ceremony. Civil partnerships can only be conducted through a civil ceremony, although from December 2011 it has been possible for couples to have their civil partnership registration take place on religious premises, (although the registration itself must remain secular). This is an entirely voluntary provision for faith groups who want to host civil partnership registrations and does not lift the ban on any religious elements forming part of the civil partnership registration itself. The Government is committed to retaining this provision to enable same-sex couples to continue having a civil partnership registration on religious premises if that religious organisation has agreed.

## Summary of the proposals:

1.11 In order to achieve these aims, the Government intends to:

- enable same-sex couples to get married through civil ceremonies.
- retain civil partnerships for same-sex couples, including the ability to have a civil partnership registration on religious premises (on a voluntary basis and retaining the ban on any religious elements forming part of the registration).
- allow transsexual people to change their legal gender without having to legally end their existing marriage or civil partnership.
- make no changes to how religious marriages are solemnized.

1.12 Under these proposals, we intend to allow couples in a civil partnership the option of ‘converting’ their existing civil partnership into a civil marriage.

## What do these options mean in reality?

Who will be affected	Current position	What the proposals would mean
Opposite-sex couples	<ul style="list-style-type: none"> <li>• Opposite-sex couples are eligible for either:               <ul style="list-style-type: none"> <li>a) a marriage through a civil ceremony or</li> <li>b) a marriage through a religious ceremony.</li> </ul> </li> </ul>	<ul style="list-style-type: none"> <li>• .No change is proposed.</li> </ul>
Same-sex couples	<ul style="list-style-type: none"> <li>• Same-sex couples are currently eligible for:               <ul style="list-style-type: none"> <li>a) civil partnership on secular premises</li> <li>b) civil partnership registration on religious premises (on a voluntary basis for religious organisations)</li> </ul> </li> </ul>	<ul style="list-style-type: none"> <li>• Same-sex couples would be able to choose:               <ul style="list-style-type: none"> <li>a) a civil marriage ceremony on secular premises</li> <li>b) a civil partnership registration on secular premises or on religious premises</li> </ul> </li> <li>• Couples in existing civil partnerships would be able to convert their civil partnership to a marriage.</li> <li>• Couples would not be eligible for a religious marriage ceremony on religious premises and through religious means.</li> </ul>
Transsexual individuals and their spouses or civil partners	<ul style="list-style-type: none"> <li>• Individuals seeking a full Gender Recognition Certificate in order to legally change their gender, have to end their existing marriage or civil partnership in order to do this.</li> </ul>	<ul style="list-style-type: none"> <li>• Individuals who are married could remain married and obtain a full Gender Recognition Certificate;</li> <li>• Individuals who are in a civil partnership could apply to convert their civil partnership to a marriage and then obtain a full Gender Recognition Certificate – individuals could not remain in their civil partnership as this would create an opposite-sex civil partnership which is not under consideration.</li> </ul>

# Consultation proposals

## Consultation:

- 2.1 This consultation focuses on how we can remove the ban on same-sex couples entering into a civil marriage. This consultation will look first at what equal civil marriage means and the implications of this. The consultation then considers the implications for civil partnerships and the implications for gender recognition.
- 2.2 This consultation is not considering changes to how religious marriages are solemnized, or changes on who can have a civil partnership registration, for example civil partnerships for opposite-sex couples, or siblings.

## Marriage:

### Current position:

- 2.3 Currently, marriage law states that a marriage can only take place between a man and a woman. Couples in a same-sex relationship cannot therefore, currently, get married.
- 2.4 There is, however, no legal definition of religious and civil marriage. Marriage is defined according to where it can take place, rather than being either specifically religious or civil. Marriage, as set out under the Marriage Act 1949 can currently be conducted in the following ways:
  1. A marriage according to the rites of the Church of England or Church in Wales (no changes proposed in this consultation).
  2. A marriage according to the usages of the Society of Friends (the Quakers) (no changes proposed in this consultation).
  3. A marriage according to the usages of the Jewish religion (no changes proposed in this consultation).
  4. All other religions are covered by a marriage being in a registered building in the presence of an authorised person (this is a marriage conducted through a religious ceremony and on registered religious premises. This is generally conducted by a minister of faith and overseen and registered by an authorised person that has been appointed by the Registrar General as being able to oversee the solemnization of marriage) (no changes proposed in this consultation).
  5. A marriage in a register office conducted by a superintendent registrar and registered by a registrar. This ceremony cannot contain any religious elements e.g. hymns (it is proposed that this is open to same-sex couples as well as opposite-sex couples).
  6. A marriage on approved premises (e.g. a hotel) conducted by a superintendent registrar and registered by a registrar. This ceremony also cannot contain any religious elements e.g. hymns (it is proposed that this is open to same-sex couples as well as opposite-sex couples).

7. A marriage for the housebound or detained. There is also the facility for marriage by Registrar General's licence for "death bed" marriages (it is proposed that this is open to same-sex couples as well as opposite-sex couples).

### **The proposals:**

- 2.5 We are not proposing any changes to marriages conducted under 1 – 4 above. This means that in law, marriages conducted by the Church of England, Quakers, Jews and all other religious organisations (who have registered their religious premises to host marriages) would only be legally recognised if they are between a man and a woman.
- 2.6 The changes proposed in this consultation document only relate to marriages conducted under 5 – 7 above i.e. it is proposed that both same-sex and opposite-sex couples will be able to marry in the same way through a civil ceremony in either a register office or on approved premises like a hotel.
- 2.7 Once a couple have got married either through religious or civil means, they will then be treated for legal purposes as being married. We are not proposing to create two separate legal regimes for civil and religious marriages. We are proposing that the law is clear that marriages conducted through a civil ceremony would be open to all couples and marriages conducted through a religious ceremony and on religious premises can only be between a man and a woman.
- 2.8 As already made clear, this consultation is about how we best remove the ban on same-sex couples having a civil marriage, not on whether this should or should not happen. However, we are aware that there are a number of disparate views on this subject and would like to understand the views of all of those with an interest in this issue.

**Question 1:** Do you agree or disagree with enabling all couples, regardless of their gender to have a civil marriage ceremony?

**Question 2:** Please explain the reasons for your answer. Please respond within 1,225 characters (approx. 200 words).

**Question 3:** If you identify as being lesbian, gay, bisexual or transsexual would you wish to have a civil marriage ceremony?

**Question 4:** If you represent a group of individuals who identify as being lesbian, gay, bisexual or transsexual would those you represent wish to have a civil marriage ceremony?

## **What the proposals mean:**

### **Religious marriage:**

- 2.9 There is currently no legal definition of religious or civil marriage though the Marriage Act 1949 is clear where a marriage is solemnized and whether the ceremony is conducted according to certain religious rites.
- 2.10 The Government is committed to building a fairer society and ensuring fair treatment and equal opportunities for all, including people of all religions. As we are only seeking to lift the ban on same-sex couples getting married through a civil ceremony, we would ensure that any subsequent legislation on equal civil marriage is clear that marriages conducted according to religious rites and on religious premises could not be between a same-sex couple. This would mean that no religious organisation, premises, or leader would face a successful legal challenge for failing to perform a marriage for a same-sex couple, whether or not the religious organisation, premises or leader involved performs marriages for opposite-sex couples. Any changes to the legislation as a result of this consultation will not, legally, enable same-sex couples to have a marriage through a religious ceremony and on religious premises.
- 2.11 For the Church of England, provided that the couple is eligible to get married, they have the right to get married in their local parish church (or in a parish church with which they have a connection). Currently of course this only applies to marriage between a man and a woman. That would not change as we do not intend on lifting the bar on same-sex religious marriages being solemnized on religious premises i.e. through a religious ceremony. It would not legally be possible for a Church of England minister to marry a same-sex couple on religious premises and through a religious ceremony. There would therefore be no duty on Church of England ministers to marry same-sex couples. Their duty would remain unchanged and relate only to opposite-sex couples within the relevant parish. As a result, no Church of England minister should face a successful legal challenge for refusing to conduct a same-sex religious marriage.
- 2.12 We are also aware that the doctrines of many faiths hold the view that marriage can only be between a man and a woman, and this belief is contained within the teachings of their faith. We are clear that no one should face successful legal action for hate speech or discrimination if they preach their belief that marriage should only be between a man and a woman.

**Question 5:** The Government does not propose to open up religious marriage to same-sex couples. Do you agree or disagree with this proposal?

2.13 For same-sex couples who wish to register their relationship in front of their congregation, the Government intends to continue with the current regime for civil partnership registrations on religious premises. Please see paragraph 2.24 for further details on this issue.

**Dissolution, divorce and annulment:**

2.14 There are some differences in the reasons for being able to end a marriage and civil partnership, for example married couples are able to cite adultery as evidence that the marriage has broken down irretrievably whereas civil partners do not have this option when dissolving their civil partnership.

2.15 In removing the ban on same-sex couples having a civil marriage, our intention is to enable all aspects of current marriage and divorce law to apply to same-sex couples (except provisions on religious marriage ceremonies). This therefore means that the reasons for ending a marriage will be the same for all couples, regardless of gender and regardless of how they had entered into the marriage – whether through a religious or civil ceremony.

2.16 Specifically, non-consummation and adultery are currently concepts that are defined in case law and apply only to marriage law, not civil partnership law. However, with the removal of the ban on same-sex couples having a civil marriage, these concepts will apply equally to same-sex and opposite-sex couples and case law may need to develop, over time, a definition as to what constitutes same-sex consummation and same-sex adultery.

## Civil partnerships:

### Current position:

2.17 Civil partnerships were an important step forward when they were introduced under the Civil Partnership Act 2004. They were designed to provide equivalent rights and responsibilities to marriage and since their introduction in 2005, there have been over 46,000 civil partnerships. We recognise that that many people value civil partnerships. That's why the Government is intending to retain civil partnerships for same-sex couples in the future.

### The proposals:

2.18 While the Government is moving forward on allowing same-sex couples to enter into civil marriage, we are also seeking to retain the existing regime of civil partnerships for same-sex couples only.

### What the proposals mean:

#### Retaining the provision for civil partnerships:

2.19 Civil partnerships are an established mechanism to recognise same-sex relationships and the Government is therefore intending to retain them once the bar is removed on same-sex couples having a civil marriage.

**Question 6:** Do you agree or disagree with keeping the option of civil partnerships once civil marriage is available to same-sex couples?

**Question 7:** If you identify as being lesbian, gay or bisexual and were considering making a legal commitment to your partner would you prefer to have a civil partnership or a civil marriage?

2.20 The Government is not considering opening up civil partnerships to opposite-sex couples because we have been unable to identify a need for this. However, we appreciate that there are a number of views on this issue.

**Question 8:** The Government is not considering opening up civil partnerships to opposite-sex couples. Do you agree or disagree with this proposal?

#### Conversion of civil partnerships to marriage:

2.21 Civil partnerships allowed many same-sex couples to formally register their relationship, getting equivalent rights, responsibilities and protections to those available to opposite sex couples through marriage. However, we are aware that had the option of a marriage been available, some same-sex couples may have chosen to enter into a marriage, rather than a civil partnership.

2.22 We are therefore proposing that couples will be able to convert their civil partnership into a civil marriage should they wish to. Those who do not wish to convert their civil partnership will be able to remain in their civil partnership and suffer no legal detriment.

2.23 It is envisaged that the conversion process would work as follows:

- In order to obtain a conversion and a new marriage certificate, the couple would have to apply to the relevant authority, and pay a small fee, on a cost recovery basis;
- If the couple wish to have a new civil ceremony to mark the creation of their marriage, then this would be allowed and a fee may be charged on a cost recovery basis;
- We would not expect there to be a time limit on the ability to convert a civil partnership into a marriage; and
- Conversion would not be seen as the legal ending of one relationship and the starting of another. Any rights, responsibilities and benefits already accrued during a civil partnership would be kept and would continue from the date of the original civil partnership (not the date of conversion). This would be where existing rights for civil partners matched rights, responsibilities and benefits within marriage. More information on the current position regarding benefits can be found in the consequential issues section.

**Question 9:** If you are in a civil partnership would you wish to take advantage of this policy and convert your civil partnership into a marriage?

**Question 10:** Do you agree or disagree that there should be a time limit on the ability to convert a civil partnership into a marriage?

**Question 11:** Do you agree or disagree that there should be the choice to have a civil ceremony on conversion of a civil partnership into a marriage?

### **Civil partnerships on religious premises:**

2.24 From 5 December 2011 it has been possible for same-sex couples to hold their civil partnership registration on the religious premises of those organisations that want to allow this to happen. This is an entirely voluntary provision and it is up to each religious organisation to decide whether or not they wish to apply for their premises to be able to host civil partnership registrations. The ban remains on any religious elements being a part of the civil partnership registration itself, for example, no hymns or religious readings can form part of the registration.

2.25 The implementation of this provision was an important step forward for both lesbian, gay and bisexual rights and also religious freedom. As a result, the Government is committed to retaining this provision and continuing to enable civil partnership registrations to take place on religious premises.

2.26 This would mean that a same-sex couple of faith could choose to either:

- a. have a civil marriage ceremony (in a registry office or hotel for example) and then, if they wish, seek a separate blessing from their religious organisation on their religious premises if that religious organisation agreed to do this or,
- b. seek to have a civil partnership registration on religious premises if that religious organisation agreed to host the registration on their premises.

## Gender recognition:

### Current position:

- 2.27 Currently, a person can legally change their gender by obtaining a full Gender Recognition Certificate. A full certificate cannot currently be given to someone who is already in a marriage or civil partnership. In order to obtain a full Gender Recognition Certificate, the couple have to end their marriage or civil partnership. This is because the UK does not currently allow marriage for same-sex couples or civil partnerships for opposite sex couples, so the action of one person legally acquiring a different gender, would effectively convert their marriage into an unlawful same-sex marriage or opposite-sex civil partnership.
- 2.28 Whilst this will affect a small number of people, for both transsexual people and their spouses who wish to remain in their legal relationship, this situation understandably can cause a great deal of distress particularly for those who wish to remain in their existing marriage or civil partnership. In addition, a consequence of a couple having to end their marriage or civil partnership is that they may interrupt their contribution records for pensions and benefits.

### The proposals:

- 2.29 As part of the consultation on introducing equal civil marriage, we are working to ensure that transsexual people do not have to formally end their marriage in order to legally change their gender. This means:
- Removing the ban on same-sex couples having a civil marriage, would enable those in a marriage, where an individual legally changes their gender, to remain married. For example, if a couple, at the time of marriage were legally a man and a woman and the woman sought to legally change her gender the couple would currently have to end their marriage even if they wanted to stay together. Under these proposals however, the woman could legally change gender and the couple could stay married if they wanted to.
  - Those in a civil partnership would be able to apply to convert their civil partnership into a marriage if the couple wanted to stay together when one of the couple applies to legally change their gender;

### What the proposals mean:

- 2.30 We are aware that in some existing circumstances a married couple will have ended their marriage and formed a civil partnership in order for one partner to obtain a full Gender Recognition Certificate. This may have had a negative impact on their benefits if there was a break in the relationship. Should this couple then convert their civil partnership into a marriage under these proposals (in effect, regaining their status as a married couple), we would not be in a position to reinstate their benefit contributions or entitlements from their original marriage. This policy would not have retrospective effect in these circumstances.

2.31 For those seeking a full Gender Recognition Certificate, we propose that the Gender Recognition Panel should not take into account whether the marriage ceremony was a civil or religious ceremony as it would be inappropriate for the Gender Recognition Panel to distinguish between individuals on the basis of the ceremony at the time of the marriage. We therefore envisage that anyone who has had a marriage through a religious ceremony would be treated in the same way as a couple who had a marriage through a civil ceremony.

**Question 12:** If you are a married transsexual person would you want to take advantage of this policy and remain in your marriage while obtaining a full Gender Recognition Certificate?

**Question 13:** If you are the spouse of a transsexual person, would you want to take advantage of this policy and remain in your marriage whilst your spouse obtained a full Gender Recognition Certificate?

### Consequential issues:

- 2.32 Depending on the outcome of this consultation, there are a number of more technical consequential issues which will require further consideration. These issues are listed below alongside a list of rights and responsibilities which will not be affected by these proposals.

### Areas that will require further consideration:

#### 2.33 State pensions:

Current position – state pension rules apply differently to married men and women. When civil partnerships were introduced, it was decided to consider civil partners the same as ‘married men’ for state pension purposes.

Consideration – the Department for Work and Pensions is currently considering on what basis these provisions should be extended to equal civil marriages.

#### 2.34 Survivor benefits in occupation pension schemes:

Current position – because civil partnerships only became available in 2005, where an occupational pension scheme provides discretionary survivor benefits, the Equality Act 2010 allows schemes to only take into account rights accrued from the date the Civil Partnership Act 2004 came into force.

Consideration – retrospective rights may remain an issue when equal civil marriage is introduced, but the Department for Work and Pensions is currently considering whether this provision in the Equality Act 2010 should be retained, and the impacts of its removal or modification.

#### 2.35 Administrative processes for marriage and civil partnership:

Current position – there are some differences in the processes operated by local authorities for civil partnerships and marriages. For example, marriage records only contain details of the couples’ fathers, whereas civil partnership records contain information on both the mother and the father; and access to marriage records can be obtained in full by anyone, whereas civil partnership records are partly restricted (the address of the couple is removed).

Consideration – consideration would be needed as to whether the information on marriage records should be changed.

#### 2.36 International recognition:

Current position – overseas countries will not automatically recognise same-sex marriages just as they do not automatically recognise civil partnerships. The Government would continue working to increase international recognition of same-sex relationships whether that was civil partnerships or civil marriages for same-sex couples.

Consideration – consideration will be required as to whether the UK Government would recognise overseas same-sex relationships as either a marriage or civil partnership. Consideration may also be needed as to the best method to continue to record those relationships that are recognised by the UK as a marriage or civil partnership.

The Foreign and Commonwealth Office will also consider the implications of this consultation on the solemnization of marriages and registration of civil partnerships in UK Embassies and Consulates.

### 2.37 **Devolution:**

Current position – marriage is a devolved issue and therefore the policy proposals included in this consultation will cover England and Wales only.

Consideration – we are aware of the work that the Scottish Government is doing on considering reforms to marriage in Scotland. We will be considering the implications of any changes to the legislation of England and Wales and of Scotland for the recognition of marriage and/or civil partnerships. This also applies to the position in Northern Ireland.

### 2.38 **Other legislation:**

Current position – we are aware that there are a number of pieces of legislation, and Government literature which make reference to marriage being between a man and a woman.

Consideration – these would all be amended in line with the changes that Government would make.

### **Issues that will not be affected:**

#### 2.39 No changes to, for example:

- tax and benefits rights
- parenting rights
- immigration rules for those coming to the UK
- ability of religious organisations to preach and teach their beliefs on the definition of marriage

**Question 14.** Do you have any comments on the assumptions or issues outlined in this chapter on consequential impacts? Please respond within 1,225 characters (approx 200 words).

**Costs:**

- 2.40 The costs associated with introducing equal civil marriage have been estimated and are included in the attached Impact Assessment. The Government has sought costs savings measures wherever possible.
- 2.41 There will be costs to same-sex couples seeking a civil marriage, in the same way as there are now for opposite sex couples. We would also envisage a small cost to convert a civil partnership into a civil marriage.

**Question 15:** Are you aware of any costs or benefits that exist to either the public or private sector, or individuals that we have not accounted for in the impact assessment? Please respond within 1,225 characters (approx 200 words).

**Question 16:** Do you have any other comments on the proposals within this consultation? Please respond within 1,225 characters (approx 200 words).

# Annex A

(This list is the understanding of the UK Government as of 15 March 2012)

## List of jurisdictions which have introduced marriage for same-sex couples:

Argentina	Norway
Belgium	Portugal
Canada	South Africa
Iceland	Spain
Mexico (Mexico City only but recognised throughout Mexico)	Sweden
Netherlands	United States of America (some states only)

## List of jurisdictions which have introduced same-sex unions:

Andorra	Iceland
Argentina (some parts of the country only)	Liechtenstein
Australia (precise laws vary from state to state)	Mexico (some parts of the country only)
Austria	Netherlands
Brazil	New Zealand
Canada (Nova Scotia, Quebec)	Northern Ireland
Colombia (sharing of goods)	Republic of Ireland
Czech Republic	Scotland
Denmark	Slovenia
Ecuador	South Africa
England and Wales	Switzerland
Finland	United States of America (some states only)
France	Uruguay
Germany	Some jurisdictions recognise civil unions or same sex marriage from other countries, even if they have not established their own arrangements for civil unions and same sex marriage.
Hungary	

# Annex B

## List of consultation questions:

**Question 1:** Do you agree or disagree with enabling all couples, regardless of their gender to have a civil marriage ceremony?

Agree  
Disagree  
Don't know

**Question 2:** Please explain the reasons for your answer. Please respond within 1,225 characters (approx 200 words).

**Question 3:** If you identify as being lesbian, gay, bisexual or transsexual would you wish to have a civil marriage ceremony?

Yes  
No  
Don't know  
This question doesn't apply to me

**Question 4:** If you represent a group of individuals who identify as being lesbian, gay, bisexual or transsexual would those you represent wish to have a civil marriage ceremony?

Yes  
No  
Don't know  
This question doesn't apply to me

**Question 5:** The Government does not propose to open up religious marriage to same-sex couples. Do you agree or disagree?

Agree  
Disagree  
Don't know

**Question 6:** Do you agree or disagree with keeping the option of civil partnerships once civil marriage is available to same-sex couples?

Agree  
Disagree  
Don't know

**Question 7:** If you identify as being lesbian, gay, bisexual and were considering making a legal commitment to your partner would you prefer to have a civil partnership or a civil marriage?

Civil partnership

Civil marriage

No preference

Don't know

This question doesn't apply to me

**Question 8:** The Government is not considering opening up civil partnerships to opposite-sex couples. Do you agree or disagree with this proposal?

Agree

Disagree

Don't know

**Question 9:** If you are in a civil partnership would you wish to take advantage of this policy and convert your civil partnership into a marriage?

Yes

No

Don't know

This question doesn't apply to me

**Question 10:** Do you agree or disagree that there should be a time limit on the ability to convert a civil partnership into a marriage?

Agree – there shouldn't be a time limit

Disagree – there should be a time limit

Don't know

**Question 11:** Do you agree or disagree that there should be the choice to have a civil ceremony on conversion of a civil partnership into a marriage?

Yes, there should be an option

No, there shouldn't be an option

Don't know

**Question 12:** If you are a married transsexual person would you want to take advantage of this policy and remain in your marriage while obtaining a full Gender Recognition Certificate?

Yes

No

Don't know

This question doesn't apply to me

**Question 13:** If you are the spouse of a transsexual person, would you want to take advantage of this policy and remain in your marriage whilst your spouse obtained a full Gender Recognition Certificate?

Yes

No

Don't know

This question doesn't apply to me

**Question 14:** Do you have any comments on the assumptions or issues outlined in this chapter on consequential impacts? Please respond within 1,225 characters (approx 200 words).

**Question 15:** Are you aware of any costs or benefits? that exist to either the public or private sector, or individuals that we have not accounted for? Please respond within 1,225 characters (approx 200 words).

**Question 16:** Do you have any other comments on the proposals within this consultation? Please respond within 1,225 characters (approx 200 words).



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