



Law Society  
of Scotland

# Consultation Response

## The Future of Civil Partnership in Scotland

December 2018



## Introduction

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The Law Society of Scotland is the professional body for over 11,000 Scottish solicitors. With our overarching objective of leading legal excellence, we strive to excel and to be a world-class professional body, understanding and serving the needs of our members and the public. We set and uphold standards to ensure the provision of excellent legal services and ensure the public can have confidence in Scotland's solicitor profession.

We have a statutory duty to work in the public interest, a duty which we are strongly committed to achieving through our work to promote a strong, varied and effective solicitor profession working in the interests of the public and protecting and promoting the rule of law. We seek to influence the creation of a fairer and more just society through our active engagement with the Scottish and United Kingdom Governments, Parliaments, wider stakeholders and our membership.

Our Equalities Law and Family Law sub-committees welcome the opportunity to consider and respond to the Scottish Government consultation: the future of civil partnership in Scotland. The sub-committees have the following comments to put forward for consideration.

## General comments

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It is clear that from the perspective of equality law in the UK, the current position of civil partnership being open only to same sex couples now that marriage is available to both same and different sex couples, cannot be maintained. Civil partnerships must either be closed off or opened to all.

Many of the issues surrounding which of these options should be chosen are social and historical matters and may be deeply emotive for many. We have not commented on these elements of the argument and have restricted our comments to the practical and legal implications of the different options.

## Consultation questions

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### **Question 1. Are you aware of any other arguments for recognising civil partnerships from elsewhere in the UK and overseas as civil partnerships after the cut-off date?**

Please refer to question 2, below.

**Question 2. Are you aware of any other arguments for recognising civil partnerships from elsewhere in the UK and overseas as marriages after the cut-off date?**

In relation to questions 1 and 2, we would add the additional option of allowing those from elsewhere in the UK and overseas to choose whether to have their relationship recognised as either a civil partnership or a marriage. This would allow a more accurate reflection of the relationship, though would be subject to the disadvantages noted in the consultation paper relating to recognition as civil partnerships.

**Question 3. Are you aware of any other arguments for ending the registration of civil partnership?**

No.

We note that one of the arguments given in the consultation paper is that ending the registration of civil partnership could remove an unhelpful contrast to marriage, which is seen by some as old fashioned or patriarchal, and help to recast marriage as modern and inclusive. The consultation paper does not, however, explain how this would be achieved.

**Question 4. Are you aware of any other arguments against ending the registration of civil partnership?**

Following the publication of this consultation, the UK Government announced its intention to extend civil partnership to all couples in England and Wales. Ending registration of civil partnerships in Scotland would result in a category of relationship available in England and Wales that was not available in Scotland. Couples in Scotland wishing to enter into a civil partnership would be able (subject to residency and notice requirements) be able to cross the border to enter into a civil partnership.

**Question 5. We have explained what opposite sex civil partnership would look like. Do you have any comments on this?**

No.

**Question 6. Are you aware of any other arguments for extending civil partnership to opposite sex couples?**

We refer to our answer to question 4, above.



**Question 7. Are you aware of any other arguments against extending civil partnership to opposite sex couples?**

No.

**Question 8. Do you have any comments on the draft Impact Assessments?**

No.

**Question 9. Do you have any other comments?**

No.

**For further information, please contact:**

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