



Government
Equalities Office

Putting equality at the heart of government

Civil partnerships on religious premises: A consultation

March 2011

Contents

| | |
|---|----|
| Ministerial foreword | 3 |
| Executive summary | 5 |
| Chapter 1: About this consultation | 9 |
| Chapter 2: The context and our approach | 15 |
| Chapter 3: Our proposals | 19 |
| Chapter 4: Impact assessments | 39 |
| | |
| Annexes | |
| Annex 1: Section 202 of the Equality Act 2010 | 41 |
| Annex 2: Impact Assessment | 43 |
| Annex 3: Equality Impact Assessment | 80 |
| Annex 4: Consultation questions | 87 |

Ministerial foreword

Last year we set out the Coalition's commitment to promoting and protecting the rights of lesbian, gay, bisexual and transgender (LGB&T) people in the first ever cross-government work programme on LGB&T rights. This set out our plans for action across all areas of society, from education and workplaces to sport and politics. We have already taken action on some of these policies including ending the deportation of LGB&T asylum seekers who have had to leave particular countries because their sexual orientation or gender identification puts them at proven risk of imprisonment, torture or execution, and legislating in the Protection of Freedoms Bill to allow for historical convictions for consensual gay sex to be treated as spent and no longer show up on Criminal Records Bureau (CRB) checks.

This consultation document sets out the next steps to deliver another commitment made as part of our LGB&T work programme – to make the changes necessary to allow civil partnerships to be registered on religious premises, where faith groups¹ wish to host them. It asks key questions about a series of practical issues that we need to take into account in order to make this a reality.

Over the past ten months we have listened to all those with a key interest in this area and we are immensely grateful to all those who took the time to work with us on this subject. There was clear support for these changes amongst LGB people and faith groups that wish to host civil partnerships. Those faith groups which themselves did not wish to take advantage of these changes were also clear that they did not want to stand in the way of others who wanted to host civil partnerships. That is why these proposals are entirely voluntary. It will be for each faith group to decide whether they wish to host civil partnership registrations; none can be forced to do so against their will. We believe the proposals set out in this document are a positive step forward for both LGB rights and for religious freedom.

¹ The term faith group is used to cover religions, denominations and independent religious congregations.

During our engagement with stakeholders on these proposals it was also made clear by many that there is a desire to move further towards equal marriage and partnerships. This document does not cover these further steps, but our commitment remains to consult on how legislation can develop, working with all those who have an interest in this area.



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
Parliamentary Under
Secretary of State
Minister for Equalities

Executive summary

The Government is committed to advancing equality for lesbian, gay and bisexual (LGB) people and to ensuring freedom of religion and belief for people of all faiths. To further both of these aims, the Government is removing the legal barrier to civil partnerships being registered on the religious premises of those faith groups that choose to allow this to happen. The measure is entirely voluntary. It will be for each faith group to decide whether they wish to host civil partnership registrations; none can be forced to do so against their will. It will give same-sex couples, for the first time, the chance to register their civil partnership in a religious setting.

The changes to the rules governing where civil partnerships can be registered will come about by bringing into force section 202 of the Equality Act 2010. This removes the ban in the Civil Partnership Act 2004 on civil partnership registrations being held on religious premises. This will affect England and Wales. In Scotland and Northern Ireland, marriage and civil partnerships are matters for the devolved administrations. There will also need to be changes to the Marriage and Civil Partnerships (Approved Premises) Regulations 2005, which set out the conditions for approval of premises by local authorities for civil partnership registrations.

This consultation document sets out our proposals for enabling civil partnerships to be registered on religious premises where the faith group concerned is happy for this to happen and the premises have been approved by the local authority for this purpose. Our proposals are designed to put in place a regime that enables faith groups to opt in, respects the different decision-making structures of different faith groups, protects those groups and individual ministers from the risk of successful legal challenge if they do not wish to host civil partnership registrations, and is straightforward for local authorities to operate.

Chapter 1 describes the consultation process and timetable.


Chapter 2 describes our approach in developing the proposals. It sets out our aims and objectives to protect and promote LGB rights, give faith groups the freedom to act as they wish in relation to holding civil partnership registrations on their premises and enable religious same-sex couples to formalise their

relationship in a place of worship. It explains that the consultation deals only with the buildings where civil partnership registrations may take place – it does not address the government’s commitment to consult on further developments in legislation, including progress towards equal marriage and partnerships. It describes the current legislation which regulates the registration of civil partnerships.

Chapter 3 sets out our detailed proposals. These have two main elements: first, faith groups must agree to permit civil partnership registrations on their premises in order to enable individual places of religious worship to apply to be able to host the registration of civil partnerships; and second, the premises must obtain an approval to host the registration of civil partnerships from the local authority in whose area it is situated.

Paragraphs 3.5 and 3.8 to 3.9 outline the ways in which faith groups may consent to civil partnerships being registered on their premises and how they may reverse that decision at some time in the future if they wish. We propose to operate an ‘opt-in’ system for those faith groups that wish to host civil partnership registrations on their premises. This may follow a decision made by the governing body of the particular faith group. Other faith groups may leave the decision to individual ministers or places of worship, and some congregations will take their own decision because they are independent of any wider faith group. It will be possible also for faith groups to specify which body is authorised to take any future decision on the matter for that faith group. Paragraph 3.6 discusses how to record whether or not the faith group had consented in the process of applying to the local authority for approval of the premises as a place where civil partnerships may be registered.

Paragraphs 3.11 to 3.23 discuss how to define ‘religious premises’, what the availability for the registration of civil partnerships and public access to the premises should be, requirements on how the premises are laid out and used before the registration, and allowing the premises to retain religious decoration, symbols and objects during the registration.



Paragraphs 3.24 to 3.25 cover allowing a religious ceremony to take place after the registration. Paragraphs 3.26 to 3.33 address how the process of applying to the local authority for approval would operate and how records would be kept and information made available. We propose that the process for premises to obtain approval from the local authority to host civil partnership registrations on religious premises will be similar to the ‘approved premises’ process for civil marriages and civil partnerships currently. This includes publishing the application, allowing 21 days for any objections to be made to the local authority.

Chapter 4 introduces the Impact Assessment and Equality Impact Assessment for the proposals.

We ask a number of questions about our proposals to which we would welcome your answers to help us refine the arrangements for implementation.

Chapter 1: About this consultation

Purpose of the consultation

- 1.1 This consultation seeks your views on our proposals to enable faith groups to host civil partnership registrations, by implementing section 202 of the Equality Act 2010 (the Act) which removes the prohibition on registering civil partnerships on religious premises. The consultation document is concerned only with this specific measure and does not set out proposals for any other changes to civil partnerships or any changes to marriage.

Intended audience

- 1.2 This consultation will be of particular interest to:
- faith groups – including religions, denominations and individual independent religious congregations – who will want to consider whether or not they would want to allow civil partnerships to be registered on their premises;
 - LGB organisations, LGB individuals and their families and friends who have a close interest in where civil partnerships may be registered and may want this to be on religious premises;
 - local authorities, including registrars and other local authority employees, who are responsible for approving premises for civil partnership registrations and supply civil partnership registrars to administer the registration process;
 - owners and managers of buildings approved for civil marriages and civil partnerships.

Comments from other interested parties are also welcomed.

Territorial scope

- 1.3 These proposals apply to England and Wales. Responsibility for civil partnership policy is devolved in the case of Scotland and Northern Ireland. It is for the Scottish Government and the Northern Ireland Executive to decide whether they wish to make similar changes, which would require primary legislation.

Duration of this consultation

- 1.4 This consultation begins on 31 March 2011 and ends on 23 June 2011. Any views received after the closing date may not be considered or reflected in our analysis.

How to respond

- 1.5 A list of the consultation questions is at Annex 4. We would be grateful if you would use the response form available on the Government Equalities Office website at **www.equalities.gov.uk**

- 1.6 Responses should be sent by email to:

civilpartnerships@geo.gsi.gov.uk

or by post to:

**Civil Partnerships Consultation Responses
Government Equalities Office
Zone 9/K10
Eland House
Bressenden Place
London
SW1E 5DU**

- 1.7 Please ensure your response reaches us by 23 June 2011.
- 1.8 Please tell us whether you are responding as an individual or whether you are representing the views of an organisation. If you are responding on behalf of an organisation please tell us whom the organisation represents and, where possible, how the views of members have been sought.

Queries about this document

- 1.9 Any queries about this document should be directed to Holly Riley on 0303 444 3045 or to **civilpartnerships@geo.gsi.gov.uk**

After the consultation

- 1.10 We will publish a summary of the results of this consultation on the Government Equalities Office website within three months of the end of the consultation period.
- 1.11 Subject to the outcome of the consultation, we will commence section 202 of the Act and make the necessary amendments to the Marriages and Civil Partnerships (Approved Premises) Regulations 2005 ('the 2005 Regulations'). It is intended that a religious premises could apply to be approved as a place where civil partnerships may be registered by the end of this year.

Freedom of information

- 1.12 We may need to share any information you send us with colleagues in the Government Equalities Office, or to pass it on to other Government Departments, and we may also need to publish your response.

I.13 All information you provide in your response, including personal information, may be subject to publication or disclosure if someone requests it under the Freedom of Information Act 2000 (FOI Act) or the Data Protection Act 1998. If you want the information you provide to be treated as confidential, please be aware that the FOI Act has a Statutory Code of Practice that we have to comply with which sets out our obligations on confidentiality. Because of this it would be helpful if you tell us why you want the information to be treated as confidential. If someone does then ask us to disclose the information we will be able to take into account your reasons for confidentiality, but we cannot guarantee that confidentiality can be maintained in all circumstances. Automatic confidentiality disclaimers generated by your IT system on emails will not of themselves be regarded as binding on the Government Equalities Office.

Code of Practice on Consultation

I.14 This consultation complies with the Code of Practice on Consultation² produced by the Department for Business, Innovation and Skills (BIS).

Impact assessments

I.15 An associated Impact Assessment and Equality Impact Assessment for this policy have been published with this consultation. In addition to responses on the policy itself, we would welcome any further data or evidence and views you have on the assumptions and approach we have suggested and on the estimates shown.

² Code of Practice on Consultation – <http://www.bis.gov.uk/policies/better-regulation/consultation-guidance>

Alternative formats

I.16 We will consider any requests for **alternative accessible formats** of this document. Please send your request to

Email: **civilpartnerships@geo.gsi.gov.uk**
(Please state 'accessible format request' in the subject line)

Post: Civil Partnerships Consultation – Accessible Formats
Government Equalities Office
Zone 9/K10
Eland House
Bressenden Place
London
SW1E 5DU

Telephone: 0303 444 3045

Chapter 2: The context and our approach

Aims and objectives of the proposals

- 2.1 Society has made great progress over recent decades. Since the introduction of civil partnerships in 2005, LGB people have been able to enter into a formal, legally binding relationship as a same-sex couple. And in so doing, they gain legal recognition of their relationship and vital rights, responsibilities and benefits. There are many LGB people whose faith is very important to them. And there are faith groups and places of worship where LGB people are central members of the congregation.
- 2.2 For many of these LGB people, their faith draws them to want also to be able to celebrate the cementing of their life-long legal relationships in a religious setting, as opposite-sex couples are able to do through religious marriage. Although couples may be able to have a blessing at their place of worship after their civil partnership has been registered at a register office or approved premises, some would like to be able to register their civil partnership and have a religious service or blessing in the same venue in the presence of their families and friends.
- 2.3 A number of faith groups have also expressed their wish to be able to host civil partnership registrations on their premises. For a number of faith groups, providing the premises to register civil partnerships will enable them to celebrate the unions of same-sex couples according to the religious principles of their faith.
- 2.4 We announced on 17 February that we would remove the legal barrier to civil partnerships being registered on religious premises and put in place arrangements for premises of faith groups that wish this to happen to be approved for this purpose.

- 2.5 These measures are entirely voluntary, giving faith groups the freedom to decide for themselves whether or not they wish to allow civil partnerships to be registered on their premises. Those faith groups that do not want to use their premises for the registration of civil partnerships will not be compelled to do so.
- 2.6 Our aim is to implement our commitment to enabling those faith groups that do want to take this step in a way that respects the rights of other faith groups that do not. In so doing, we recognise the many varied governance structures and decision-making processes of different faith groups. Our proposals are designed to minimise, so far as possible, the risk of internal and external pressures on faith groups whilst taking forward the measure. They are also intended to minimise the impact on local authorities, who have responsibility for approving premises and the designation of civil partnership registrars.

Scope of the consultation

- 2.7 This consultation concerns the implementation of section 202 of the Act, removing the legal barrier in the Civil Partnership Act 2004 which prevents civil partnerships from being registered on religious premises. Having spoken to stakeholders in the development of this consultation, it was clear that there is a range of views on the further steps that could be taken with respect to civil partnerships, including moving towards equal marriage and partnerships. The Government has committed to looking at these issues and consulting further with everyone with an interest about how legislation can develop in this area. However, the focus of this consultation document is limited to implementing section 202 of the Act. This consultation does not cover any other changes to civil partnerships and is not seeking views on these possible changes. Implementing the proposals in this document and enabling civil partnership registrations to take place on religious premises is our first step in making a practical difference to LGB couples and participating faith groups.

- 2.8 The consultation does not involve any changes to civil marriages. Nor do the proposals in it have any bearing on the legal status, rights and responsibilities of couples who have a civil partnership. The proposals have no impact on, for example, taxation and pensions, nor on international recognition of civil partnerships.

Overview of the current legal framework

- 2.9 Civil partnership is the formal, legally binding relationship between two people of the same sex. The legal framework for civil partnerships is set out in the Civil Partnership Act 2004 which provides, amongst other things, for the registration and dissolution of civil partnerships. The legal requirements for the formation of civil partnerships are modelled on those for civil marriage in that they must be entirely secular in both where and how they are formed.
- 2.10 A civil partnership is formed when it is registered by the parties, the two witnesses and the civil partnership registrar designated by the registration authority signing the civil partnership document. (The terms ‘formed’ and ‘registered’ are synonymous.) The civil partnership registrar is a person designated by the local authority to register civil partnerships in that particular area.
- 2.11 Before they sign the register, the couple may choose to recite to each other certain words indicating that there is no reason why they should not register as each other’s civil partner, but this is not a necessary part of the process. This differs from marriage, civil or religious, where both parties must repeat a legal form of words for the marriage to be solemnized. The couple may choose to have a ceremony after the registration of their civil partnership. The civil partnership registrar will not be acting as a civil partnership registrar during any such ceremony. The legal formation of the civil partnership will have already occurred.

- 2.12 A couple may register their civil partnership in any register office or at any venue that has been approved by the local authority for the registration of civil partnerships (and civil marriages). The process for applying for approval and the conditions on which it may be granted are set out in the 2005 Regulations. The 2005 Regulations cover the procedure for applying for, granting or refusing and revoking an approval, and related fees. They specify that the premises must be regularly available for the public to use for civil partnerships and civil marriages, that the proceedings themselves must take place in an identifiable and distinct part of those premises, must not be religious in nature (see paragraph 3.11 below) and must be open to the public. These premises may not be religious premises as defined by section 6(2) of the Civil Partnership Act 2004 (premises which are used solely or mainly for religious purposes or were so used before and have not been put to some different use since).
- 2.13 Section 2(5) of the Civil Partnership Act 2004 states that no religious service is permitted while a civil partnership registrar is officiating at a civil partnership registration. One of the statutory conditions in the 2005 Regulations for being an approved premises is that any proceedings (for both civil marriages and civil partnerships) must not be religious in nature and in particular must not contain hymns, religious chants or worship. Section 202 of the Act does not alter this aspect of civil partnership registrations, which will remain a secular process. These prohibitions do not cover the period before or after the civil partnership registration in the presence of the civil partnership registrar.

Chapter 3: Our proposals

Introduction

- 3.1 There are many faith groups in England and Wales and there are approximately 30,000 premises that are certified as places of religious worship. The arrangements we propose are designed to achieve a number of objectives:
- To enable decisions about whether to consent to religious premises being used for civil partnership registration to be taken in a way that accommodates faith groups' different structures and degrees of autonomy for individual ministers.
 - To guard against drawing Government or local authorities into any regulation of faith groups or involvement in their governing processes.
 - To enable local authorities to establish easily and with confidence whether each individual application for religious premises to be approved for the registration of civil partnerships is eligible because the specified person or body of the faith group concerned has consented to it, either generally or specifically.
 - To prevent competing claims about the authority for giving consent, and to permit challenges where consent is contested.
 - To enable faith groups to change their position in future if they choose to, in a straightforward way.
- 3.2 This chapter sets out proposals which are designed to ensure that the arrangements for enabling civil partnerships to be registered on religious premises work in the way we intend. Briefly, we envisage these arrangements will have two stages:

- Faith groups will decide whether, in principle, to allow their premises to be approved for civil partnership registrations. Faith groups may specify a person or body of persons entitled to consent to applications being made for individual premises to be approved for the registration of civil partnerships. The specified person could be the governing body of a faith group or an autonomous minister, depending on the internal organisation of the faith group. We expect that faith groups will either agree to the specified person giving general consent for all its premises to be used, or agree that the specified person may give specific consent for individual premises on a case-by-case basis. Independent congregations or faith groups which want to leave the decision to individual ministers will not need to specify a body or person to be able to consent.
- An approval from the local authority in whose area the premises are located must be obtained for each individual premises to host the registration of civil partnerships. The approval process will be similar to that for secular buildings applying to become approved premises for civil marriages and civil partnerships. This process includes public consultation – the application is made available for public inspection and advertised in the local paper, with 21 days for any objections to the application to be made to the local authority.

Detail of our proposals

A voluntary system under the control of faith groups

- 3.3 Presently civil partnerships may not be registered on religious premises. This means that faith groups, ministers of religion or bodies that control religious premises are not currently asked to consider whether or not to permit civil partnership registrations on their premises.

We propose that:

- *Each individual application to the local authority seeking approval to host civil partnership registrations on a particular religious premises must demonstrate that it is being made with the consent of the faith group concerned (expressed by its specified person or body, see below), or clearly state that no such consent is required.*
- *Faith groups that wish to control what happens on all their religious premises will be able to specify the person or body who decides whether or not in principle to permit civil partnerships to be registered on its premises.*
- *Faith groups may choose to ask for this person or body to be individually named in advance, but it will not be essential to do so. A faith group will be able to decide who this person or body is when it first comes to consider whether or not to give consent to an application for approval to host civil partnership registrations on one of its premises.*
- *The faith group's specified person or body will be able to give general consent covering all its religious premises or give specific consent to individual applications for particular religious premises to become an approved premises for hosting civil partnership registrations. It is through giving consent that the faith group would 'opt in'. A faith group that did not wish to opt in would not give consent.*
- *A period is allowed for public inspection of, and objections to the local authority to, each application. This will provide an opportunity for any queries about the consent of the appropriate specified person or body having been obtained for particular premises to be made to the faith group concerned.*
- *The local authority would turn down applications which required, but did not have, a faith group's consent.*
- *Faith groups will be able to withdraw their consent to their premises being used to host civil partnership registrations. This will result in the local authority revoking the approval of the relevant premises.*

Requiring faith groups' consent

- 3.4 We therefore propose that it should not be possible to make an application to the local authority for a religious premises to be used for the registration of civil partnerships without the prior consent of the faith group under which the premises falls. The only exception to this would be an application in respect of a premises of an independent congregation or autonomous minister. Faith groups would be able specify a person or body which is competent to give consent to any application for its religious premises to be approved to host civil partnership registrations. The owner or trustee of the individual religious premises would have to provide evidence of this consent as part of the application for approval, or declare that no consent was needed. The consent could be either general or specific. Without evidence of the appropriate consent, an application would fail.

Question 1: Do you have any comments on our proposals for requiring faith groups' consent for an application to a local authority for a religious premises to be used for the registration of civil partnerships?

Who decides whether or not to allow civil partnerships to be registered on faith groups' premises

- 3.5 Section 202 of the Act enables us, through regulations, to require that applications for premises to be approved for the registration of civil partnerships may only be made with the consent – general or specific – of a person specified or a person of a description specified. Some faith groups may wish to clarify and record who that specified person or body is, even when that person or body does not intend to give consent. Other faith groups may prefer to rely on a generic description of a person or body as the specified person. This process will work as follows:

- Faith groups which want to be individually named in the regulations should provide details of the person or body to enable it to be appropriately specified.
- For faith groups which want to require consent but do not wish a specified person or body to be prescribed by name, the regulations will include a generic description of the specified person or body from whom consent will need to be obtained prior to making an application for approval.
- Faith groups without a central decision-making body, or individual places of worship where consent is not required would simply confirm that no consent was needed in making an application to the local authority.

Question 2: Do you have any comments on the three ways in which decisions can be taken about allowing civil partnerships to be registered on religious premises? Do they cover the circumstances of all faith groups?

Question 3: Would your faith group want to have a specified body or person to take the decision whether or not to consent to civil partnership registrations on its premises? If so, what or who would this body or person be?

Demonstrating consent in applications to the local authority

3.6 We intend that trustees or proprietors of individual religious premises should be able to apply to the local authority for the premises to be approved for the registration of civil partnerships. In doing so, the onus will be on those making the application to demonstrate that there is no faith barrier to its approval. This might work as follows:

- The applicant would declare that the application was made under the authority of an individually listed specified person or body that had given general consent to civil partnerships being registered on its premises or a specific consent for the premises for which the application was being made, and provide evidence of this consent.
- The applicant would declare that the application was made under the authority of a specified body or person that was not individually listed but that had given a general consent in respect of all its premises or a specific consent for the premises for which the application was being made, and provide evidence showing that this consent had been given.
- The applicant would declare that no consent to the application was required, either because it was an independent autonomous place of worship or because it was a member of a faith group that had decided to leave it to individual ministers or congregations to decide for themselves whether to host civil partnership registrations.
- The 2005 Regulations currently make provision for a period of public consultation on all applications received by the local authority. These declarations and evidence of consent would be available for public scrutiny and objection as part of that process. This will enable people to raise any queries with the faith group concerned about whether the application requires and has obtained consent from the specified person or body. The local authority will also be obliged to consider any objections made. A faith group may, of course, itself respond to a consultation about an application.

Question 4: Do you have any comments on our proposals for ensuring that faith groups' consent is demonstrated in an application to the local authority for a religious premises to be approved as a place where civil partnerships may be registered?

3.7 We believe that the arrangements described above would enable local authorities to determine the validity of a request to approve individual religious premises and would give faith groups confidence that their premises will only be approved for civil partnership registrations if this is in line with their policy. An owner or trustee of an individual religious premises that attempted to become an approved premises without the consent needed from its specified person or body, or who did not have the authority or autonomy to do so, should not succeed. This is because its application, if contrary to the arrangements in place for the faith group of which it was a member, would be refused by the local authority on the basis that it did not include the required consents. The 2005 Regulations currently provide a right of review of a refusal decision which will apply also to applications in relation to religious premises. It would be for the faith group concerned to consider how to follow up any applications made without the appropriate consent with the person who had made it.

Question 5: Do you agree that, taken together, the arrangements we propose will prevent religious premises being approved as places where civil partnerships may be registered if the faith group concerned has not consented to it?

Reversing a decision to give consent

3.8 Some faith groups may decide that they wish to revoke the general or specific consent which allowed their premises to apply to be approved for civil partnership registrations. Arrangements will be needed to enable them to do so which minimise uncertainty about whether individual religious premises are places where civil partnerships can be registered at any particular time.

3.9 These arrangements might work as follows:

- The faith group would withdraw its consent to civil partnership registrations on its premises. It would inform the minister of religion of each of its premises that had been approved.
- No new applications for premises to be approved by the local authority would then be possible as the applicant would not be able to provide evidence that it had the necessary consent.
- It would be a condition of approval by the local authority that the holder of the approval inform the authority quickly, for example within five working days, if the faith group withdraws its consent.
- As soon as practicable after receiving this information, the local authority would revoke the approval for the premises with immediate effect.
- It would also be possible for the holder of an approval to ask the local authority to revoke it following a local decision, where the faith group's consent was still in place.
- The 2005 Regulations would require the former holder of the approval immediately to contact any couples who had arranged to register a civil partnership on the premises.

Question 6: Do you have any comments on our proposals for enabling faith groups that had given consent to reverse that decision?

Buildings issues

- 3.10 At present it is not possible for religious premises to be approved for the registration of civil partnerships. The requirements that approved premises must meet have been designed for purely secular buildings and are consistent with the entirely secular nature of the proceedings. Some of these conditions will not be suitable or will need to be adapted for religious premises.

We propose:

- *To use the existing process for registration of places of worship in identifying religious premises.*
- *To require religious premises to be open to the public while a civil partnership is registered.*
- *To apply standard conditions about the layout of the building and the use of the room in which the civil partnership is registered before the registration takes place.*
- *To allow religious buildings to retain their religious symbols, decorations and objects in situ while civil partnership are registered.*

Determining which premises are religious premises

- 3.11 The amendment to the Civil Partnership Act 2004 by section 202 of the Act defines religious premises as premises that are used solely or mainly for religious purposes. We want it to be straightforward for local authorities to determine whether the premises for which approval to register civil partnerships is being sought are indeed religious premises. In particular, it is important to minimise the risk of local authorities being drawn into any controversy about whether or not a particular group is a religion. In practice we believe we can achieve this by making use of the long-standing arrangements for registering places of worship.
- 3.12 The Places of Worship Registration Act 1855 provides for the registration of places of meeting for religious worship to be certified to the Registrar General. In order to register a premises, the faith group concerned must satisfy certain clear requirements to qualify as a religious organisation.
- 3.13 Although there is nothing to oblige faith groups to certify their places of worship to the Registrar General, in practice they usually choose to do so. This is because, apart from the places of worship of the Church of England and the Church in Wales, it is only registered places of religious worship that have certain rights and responsibilities (for example tax benefits).

- 3.14 For most faith groups, certification is required for them to be subsequently registered to solemnize marriages. The Church of England, the Church in Wales, Society of Friends (Quakers) and Jews are not required to register their premises for the solemnization of marriage. Indeed Quakers and Jews may solemnize marriages in any venue that meets the tenets of their faith – and this includes, for example, people’s homes.
- 3.15 It seems sensible to make use of the existing system of certification for the process of considering applications for religious premises to be approved as places where civil partnerships can be registered as far as is possible. We therefore propose that it will not be possible to apply for a premises to be approved as a religious premises where civil partnerships may be registered unless it:
- has been certified by the Registrar General as a place of meeting for religious worship; or
 - belongs to and is used for worship by the Church of England or the Church in Wales; or
 - is not a certified place of religious worship but is a meeting house of the Society of Friends or a Jewish synagogue. In practice we expect there to be few, if any, premises in this category because, in particular, of the tax benefits of certification³.
- 3.16 The application will therefore require the applicant to specify which of the above categories apply to the particular religious premises. Local authorities will be able to check whether premises in the first category appear on the list of places of worship maintained by each local authority for its own area and centrally by the Registrar General.

³ Certified places of public religious worship are exempt from non-domestic rates, for example.

3.17 In the case of Jews and Quakers, this approach may mean that it will not be possible to apply for approval to register civil partnerships in all the places where they are able to solemnize marriages, such as a private home. Such places are also unlikely anyway to be able to meet other conditions of approval, such as the requirements for public access in paragraph 3.19 below.

Question 7: Do the arrangements proposed above cover all the premises which meet the definition of religious premises in the Civil Partnership Act 2004? If not, what types of religious premises are excluded?

Question 8: Do you have any other comments on our proposals for identifying religious premises that may be approved for hosting the registration of civil partnerships?

Availability and public access

3.18 Currently, in order to be approved as a place where civil partnerships (and civil marriages) can be registered, a premises must be regularly available to the public for that purpose. This condition avoids it being possible to seek approval for a particular premises for a one-off ceremony, where there is no intention that any other couple should be able to register their civil partnership at the same location. It also prevents, for example, private homes from being approved and helps ensure that the premises are suitable for a solemn and dignified event. It is also a condition of approval that there is public access to the civil partnership registration, free of charge. Section 202 of the Act makes clear that nothing in the Civil Partnership Act 2004 obliges any religious organisation to host civil partnerships if they do not wish to. Our clear policy is that faith groups should have discretion about who may seek to register civil partnerships on their premises. This might include not making their premises available

for the registration of a civil partnership of a couple of a different or no faith, for example. We believe that individual local authorities and registrars will operate the approved premises rules in a way that secures this religious freedom, but would welcome views on whether further safeguards might be needed.

Question 9: Do you agree with our proposals for enabling faith groups to decide who should be able to register civil partnerships on their premises? Do you believe further safeguards might be needed? If so, what might these be?

- 3.19 The condition in the 2005 Regulations requiring public access during proceedings will apply to civil partnership registrations on religious premises.

Question 10: Do you agree that religious premises should be open to the public while a civil partnership is registered?

Layout and general use

- 3.20 The 2005 Regulations set out conditions about the layout and use of premises which must be met for those premises to become (and remain) an approved premises for civil partnerships and civil marriages. These conditions are imposed to maintain the dignity and solemnity of the event. As well as meeting fire safety and health and safety standards, the premises must be a seemly and dignified venue for the proceedings, which must take place in an identifiable and distinct part of those premises. No food and drink may be sold or consumed in the room in which proceedings take place for one hour before or during those proceedings.
- 3.21 In principle there is no particular reason why different conditions about the layout the building should apply to civil partnerships registered on religious premises from those registered on secular premises and we are not proposing any changes at this stage. We recognise, however,

that religious premises vary in design and layout. We would be interested in views on whether the nature of the premises of particular faith groups that wish them to be approved for the registration of civil partnerships might lead to difficulties about meeting the requirements:

- for the room/rooms in which the proceedings are to take place to be identifiable by description as a distinct part of the premises; and
- that the room in which the proceedings are to take place must be separate from any other activity on the premises at the time of the proceedings.

3.22 We do not propose any changes to the standard conditions attached to the approval that no food or drink may be consumed in the room in which the proceedings take place for one hour prior to or during those proceedings.

Question 11: Do you agree that religious premises should be subject to the same conditions that apply to secular approved premises about the layout of the building and the use of the room in which the civil partnership is registered before the registration takes place?

Question 12: Might the requirements cause difficulties for particular faith groups that wish to opt in to the measure? How might these be resolved?

Religious symbols, iconography and objects

3.23 Many religious premises have religious symbols and iconography embedded within the building, for instance stained glass windows or pictures of deities. Many will also contain religious furniture, objects, decorations and works of art. These features are an integral part of what makes a building religious. It is not intended that religious premises should have to remove religious symbols and iconography before every civil partnership registration. This

would be impractical, unreasonable and inconsistent with our aim which is to enable civil partnerships to be registered in religious settings. Instead these premises should be able to remain as they are usually during civil partnership registrations.

Question 13: Do you agree that religious premises should be able to keep their religious symbols, decorations and objects in place while civil partnerships are registered?

Conduct of the ceremony

3.24 Currently civil partnership registrations must be entirely secular. Section 202 of the Act does not remove the prohibition in the Civil Partnership Act 2004 on the use of religious service while a civil partnership is being registered. The ban on the use of religious service during civil partnership registration means the registration cannot be led by a minister of religion or other religious leader, must not include extracts from an authorised religious marriage service or readings from sacred religious texts, hymns or other religious chants, or involve any religious ritual or any form of worship. These specific prohibitions are set out in the 2005 Regulations and apply also to the introduction to and conclusion of the registration. As the ban on the use of religious service is not lifted by section 202 of the Act, these detailed provisions remain in force and apply to the registration of civil partnerships on religious premises.

We propose that:

- *The ban on the use of religious service while a civil partnership is being registered will remain in place as removing it was not the intention of this provision in section 202 of the Act.*
- *A religious service, clearly distinct from the civil partnership registration, would be able to take place as agreed between the registrar, couple and minister of the religious premises.*

3.25 It is currently possible for couples to have a religious service to celebrate or mark the formation of their civil partnership. What is new under these proposals is the scope to hold the registration itself on the same – religious – premises. We expect that the religious service will take place after the civil partnership registration to celebrate its formation. This will ensure that there is a clear break between the civil and religious elements and will allow the civil partnership registrar the time to establish in advance of the proceedings whether there is any reason why the registration cannot proceed. The exact details of the ceremony will be a matter for the couple to discuss and agree with the civil partnership registrar and minister leading the religious celebration. The service following the registration could be led by the minister of religion, include readings from religious texts, the singing of hymns or other religious chants; in short, all those religious elements that must not take place during the registration itself.

Question 14: Do you agree with our proposals for arrangements for religious services following civil partnership registrations?

Approval of premises

3.26 There is currently no system in place to allow for religious premises to be approved as premises where civil partnerships may be registered. This will be put in place by making the necessary modifications to the process for approving secular buildings for civil partnership registrations.

We propose that:

- *The process for applying to become an approved premises will work in much the same way as it does for a secular building, modified to include checking the religious status of the premises and the extra evidence required to demonstrate that it is covered by a consent or otherwise free to apply.*
- *Religious premises will be able to be approved only for civil partnerships, not civil marriage, though in practice many premises are likely to already be registered for the solemnization of marriage.*

- *Local authorities will be able to revoke approved premises status if conditions on which it was granted are breached.*
- *Information about approved religious premises will be available from the registers of approved premises made available by individual local authorities.*
- *Training and guidance for local authorities and registrars on the new measure and arrangements will be provided.*
- *Guidance for faith groups on the process and requirements for applying to become an approved premises will be provided.*

3.27 Aside from the arrangements for demonstrating that the faith organisation in question has given its consent, or that no consent is required (set out in paragraph 3.6 above), and any additional documentation required to demonstrate qualification as a religious premises (paragraph 3.15 above), we propose that the process for applying to become an approved premises would work in the same way as it does for secular buildings.

3.28 Briefly, the proprietor or trustee of the premises applies in writing to the local authority, setting out how they will meet the various conditions about access, layout etc and supplying a plan which shows the room or rooms in which the registration would take place. The application is advertised in a local newspaper and can be inspected at the local authority's offices. There is a period of 21 days during which objections may be lodged. The local authority must consider any objections before deciding whether to approve the application. The local authority can approve only applications which are properly made and which meet the requirements and conditions set out in the 2005 Regulations. If it refuses an application, or attaches non-standard conditions, it must give the reasons why and the applicant has the right to have that decision reviewed by an officer or member who was not involved in the original decision.

- 3.29 Any faith group seeking to register their religious premises to host civil partnership registrations would pay a fee, as is currently the case for premises seeking approval to host civil marriages and civil partnerships. This fee is set by individual local authorities to recover the costs of administering this process.
- 3.30 Local authorities would have similar powers to revoke approvals as they do for secular approved premises, except that provision would be made obliging them to revoke approval of religious premises where required consents are withdrawn (see paragraph 3.9 above). These cover circumstances such as changes to the premises and failing to meet the conditions of the approval.

Question 15: Do you agree with our proposals for the process for applying for a religious premises to be approved for civil partnership registrations?

Question 16: What fee might need to be charged to enable local authorities to cover their costs?

Question 17: Do you agree that the local authority should be able to revoke the approval of a religious premises that ceases to meet the conditions on which it was granted?

- 3.31 At present, although the General Register Office (GRO) for England and Wales maintains a central list of all approved premises, public information about where civil partnerships may be registered comes from the register of approved premises maintained and made available for public inspection by individual local authorities. Approved religious premises will appear in these registers. There are also several commercial internet sites which enable couples to search for civil partnership venues and we envisage

that the option of searching for a religious venue may be added. We also expect that LGB and relevant faith groups will include lists of these premises on their websites. We do not therefore propose to require the Registrar General to maintain a separate central register of religious premises where civil partnerships may be registered.

- 3.32 Registrars⁴ currently receive training and guidance on how to perform their functions in relation to marriages and civil partnerships. This includes the fact that the law stipulates that there can be no religious element (such as religious readings or music) to a civil marriage or civil partnership. Registrars often receive requests to include religious elements within civil ceremonies and there will need to be training in and guidance about these new arrangements and requirements. The new system will require a civil partnerships registrar to conduct civil partnership registration on religious premises.
- 3.33 We will also provide guidance to ministers of religion, or the trustees or owners of religious premises, on the process and requirements for applying to become an approved premises.

Question 18: Do you have any comments on the proposals for keeping records of the location of religious approved premises?

Question 19: Do you have any comments on the proposals for training and guidance?

Question 20: Are there other administrative issues for which special arrangements may be required for religious premises? What might these arrangements be?

⁴ Superintendent registrars solemnize civil marriages. Civil partnership registrars register civil partnerships.

Other issues

3.34 In principle, under existing legal provisions, it would be possible for a faith group to have their own registrars to conduct civil partnership registrations. However, this is a matter for individual local authorities as all civil partnership registrars are individuals designated by the local authority and in practice tend to be employees of those authorities. We recognise that certain faith groups may wish to see whether they are able to get their ministers designated as a civil partnership registrar. This will need to be discussed with each local authority in which the faith group has approved premises to see whether the authority will designate their minister as a civil partnership registrar for that area. If a local authority supports such an approach, it may well expect the individual to administer civil partnership registrations in other premises as well.

Question 21: Do you have any other points or issues you wish to raise about enabling civil partnerships to be registered on the premises of faith groups that permit this?

3.35 Some concern has been expressed that enabling civil partnerships to be registered on religious premises where faith groups want this may lead to legal challenges against faith groups or ministers of religion who do not. It is important to be quite clear that this is a voluntary measure. When commenced, section 202 of the Act will insert a new provision in the Civil Partnership Act 2004 which states: 'For the avoidance of doubt, nothing in this Act places an obligation on religious organisations to host civil partnerships if they do not wish to do so.' There is also an exception in paragraph 2 of Schedule 23 to the Act which allows a religious organisation to restrict the use of premises that it owns or controls in certain circumstances.

3.36 No faith group will therefore have to consent to allowing civil partnerships to be registered on their religious premises, and no faith group or minister of religion will have to apply to the local authority for their premises to be approved for this purpose. If religious premises have not been approved, by law, a civil partnership registration cannot take place there, so no minister of religion could be sued for not allowing one.

Question 22: Does this approach sufficiently protect faith groups and ministers of religion, or is additional protection needed?

Chapter 4: Impact assessments

Impact Assessment

- 4.1 The Impact Assessment relating to this consultation is attached at Annex 2. It sets out some of the estimated benefits and costs to the public sector, faith organisations and individuals of enabling civil partnership registrations to take place on religious premises where faith groups want this. It is always very difficult to calculate the monetary value of the economic benefits resulting from a measure of this kind. The Impact Assessment outlines a potential further approach by which benefits and costs to these groups could be monetised. We propose to use this consultation to test our assumptions further and gather additional information so that we can strengthen the Impact Assessment.
- 4.2 We would welcome any further data or evidence and views you have on the assumptions and on the approach we have suggested to the monetisation of benefits and on the estimates we have used.

Question 23: Can you provide any evidence of the number of individuals in England and Wales who might wish to register their civil partnership on religious premises each year?

Question 24: Can you suggest whether or not specific religious premises, congregations or denominations will seek to make use of this provision? If you are responding on behalf of a faith group, is your faith group likely to allow civil partnerships to be registered on its premises?

Question 25: Can you provide any additional evidence of the possible costs religious premises will incur when hosting a civil partnership registration, in addition to those discussed in the Impact Assessment?

Question 26: Can you provide any further data or examples of costs and benefits which have not already been included in the Impact Assessment? Do you have any comments on the assumptions, approach or estimates we have used?

Question 27: Can you provide any further information or views to help us calculate the economic benefits of this measure?

Equality Impact Assessment

- 4.3 The Equality Impact Assessment for these proposals is attached at Annex 3. It considers the impact on people with each of the protected characteristics of the proposal to enable civil partnerships to be registered on religious premises of those faith groups that want this. We would welcome any views you have on this.

Question 28: Does the Equality Impact Assessment properly assess the implications for people with each of the protected characteristics? If not, please explain why.

Annex I: Section 202 of the Equality Act 2010

202 Civil partnerships on religious premises

(1) The Civil Partnership Act 2004 is amended as follows.

(2) Omit section 6(1)(b) and (2) (prohibition on use of religious premises for registration of civil partnership).

(3) In section 6A (power to approve premises for registration of civil partnership), after subsection (2), insert—

“(2A) Regulations under this section may provide that premises approved for the registration of civil partnerships may differ from those premises approved for the registration of civil marriages.

(2B) Provision by virtue of subsection (2)(b) may, in particular, provide that applications for approval of premises may only be made with the consent (whether general or specific) of a person specified, or a person of a description specified, in the provision.

(2C) The power conferred by section 258(2), in its application to the power conferred by this section, includes in particular—

(a) power to make provision in relation to religious premises that differs from provision in relation to other premises;

(b) power to make different provision for different kinds of religious premises.”

(4) In that section, after subsection (3), insert—

“(3A) For the avoidance of doubt, nothing in this Act places an obligation on religious organisations to host civil partnerships if they do not wish to do so.

(3B) “Civil marriage” means marriage solemnised otherwise than according to the rites of the Church of England or any other religious usages.

(3C) “Religious premises” means premises which—

(a) are used solely or mainly for religious purposes, or

(b) have been so used and have not subsequently been used solely or mainly for other purposes.”

Annex 2: Impact Assessment

Civil partnerships on religious premises

Lead department or agency:
Government Equalities Office (GEO)

Other departments or agencies:
Ministry of Justice (MOJ), General Register Office/Identity and Passport Service (GRO)

Impact Assessment (IA)

IA No: GEO 1024

Date: March 2011

Stage: Consultation

Source of intervention: Domestic

Type of measure: Secondary legislation

Contact for enquiries:
Holly Riley 0303 444 3045
Eric Powell 0151 471 4452

Summary: Intervention and Options

What is the problem under consideration? Why is government intervention necessary?

Civil partnerships (like civil marriages) may not, by law, be registered on religious premises. This prohibition derives from the Civil Partnership Act 2004, which aligned civil partnerships with civil marriage, replicating the distinction between secular and religious provisions. As a result, unlike opposite sex couples who may have a religious marriage ceremony, lesbian, gay and bisexual (LGB) people in same-sex couples are unable to formalise their union as a couple in front of the congregation at their place of worship. Faith groups¹ who wish to host civil partnership registrations are prevented from being able to do so. Government intervention is needed because the impediment to civil partnerships taking place on religious premises is a legal one.

¹ The term faith groups is used to cover religions, denominations and individual independent places of worship.

What are the policy objectives and the intended effects?

The policy objective is to enable civil partnership registrations to be conducted on religious premises that have been approved for the purpose. The intended effects are to put in place a regime for approving such premises that enables faith groups to opt in to the approach, respects the different structures of decision-making of different faith organisations, protects those groups and individuals from legal challenge if they choose not to opt in, is easy for local authorities to familiarise themselves with and operate, and enables religious same-sex couples to formalise their relationship in an approved place of worship.

What policy options have been considered, including any alternatives to regulation? Please justify preferred option (further details in Evidence Base)

Option 1 – Do nothing: Do not commence Section 202 of the Equality Act 2010 to remove the bar on registering civil partnerships on religious premises. Do not make regulations to allow for religious premises to be approved as places where civil partnerships could be registered.

Option 2 – Enable civil partnerships to be registered on the premises of those faith groups who wish this to happen and these premises to be approved for the purpose. Commence Section 202 of the Equality Act 2010. Amend the relevant regulations² to enable particular denominations to decide whether civil partnerships can be registered on any of their premises, and to allow local authorities to approve such premises for use for the registration of civil partnerships. Wider reforms, for example to include civil marriage, have not been considered. Option 2 has been chosen to respect Parliament's will and to take the first of the next steps for civil partnerships in line with the Government's commitment to protecting and promoting LGB rights and to give faith groups the freedom to act as they wish to in relation to hosting civil partnership registrations.

² Marriages and Civil Partnerships (Approved Premises) Regulations 2005.

| | |
|--|-----|
| Will the policy be reviewed? Yes If applicable, set review date: 2015 | |
| What is the basis for this review? PIR If applicable, set sunset clause date: N/A | |
| Are there arrangements in place that will allow a systematic collection of monitoring information for future policy review? | Yes |

SELECT SIGNATORY sign-off For consultation stage Impact Assessments:

I have read the Impact Assessment and I am satisfied that, given the available evidence, it represents a reasonable view of the likely costs, benefits and impact of the leading options.

Signed by the responsible SELECT SIGNATORY: _____

Date: _____

Summary: Analysis and Evidence

Policy Option 2

Description: Enable Civil Partnerships to be registered on religious premises

| Price Base Year 2011 | PV Base Year 2011 | Time Period Years 10 | Net Benefit (Present Value (PV)) (£m) | | |
|-------------------------|----------------------|-------------------------|---------------------------------------|-----------|----------------------|
| | | | Low: N/A | High: N/A | Best Estimate: -0.07 |

| COSTS (£m) | Total Transition (Constant Price) | | Average Annual (excl. Transition) (Constant Price) | Total Cost (Present Value) |
|---------------|--------------------------------------|-------|--|-------------------------------|
| | | Years | | |
| Low | N/A | 1 | N/A | N/A |
| High | N/A | | N/A | N/A |
| Best Estimate | 0.07 | | 0 | 0.07 |

Description and scale of key monetised costs by ‘main affected groups’

There will be one-off transitional costs to the 3,167 registrars (who register civil partnerships) in England and Wales from familiarisation with the provision and understanding how it affects them (all in year one) of £0.07million. In addition we have considered how we might monetise costs to the owners¹ of religious premises, and other affected groups, where they opt in to the provision. This would include the total cost of licences issued, further familiarisation costs for affected parties, and, annually recurring costs from registering civil partnerships on religious premises.

¹ The term ‘owners’ is used also to cover those who control the individual premises, whether as trustees or through some other relationship.

As explained in the evidence base, whilst we can provide unit cost estimates for all these factors, we are unable to provide aggregate estimates of costs without understanding further how many faith groups may choose to use the provision. With around 30,000 registered places of religious worship² belonging to 40 different faith groups, the degree of uncertainty is so great that it was considered even taking broad ranges would not be appropriate at this stage. However, an approach to monetising benefits has been illustrated in Annex I to this Impact Assessment, and we hope that evidence gathered during the consultation will enable this to be applied more robustly here.

Other key non-monetised costs by ‘main affected groups’

Once the process by which denominations may opt in to the provision is determined, it may become clearer that there are other costs and benefits to public bodies from administering this process.

| BENEFITS (£m) | Total Transition | | Average Annual (excl. Transition) (Constant Price) | Total Cost (Present Value.) |
|----------------------|-------------------------|-------|---|---------------------------------------|
| | (Constant Price) | Years | | |
| Low | N/A | 1 | N/A | N/A |
| High | N/A | | N/A | N/A |
| Best Estimate | 0 | | 0 | 0 |

Description and scale of key monetised benefits by ‘main affected groups’

As above, although this measure is permissive, benefits could be monetised where religious premises opt in to this provision. It is not possible at this stage to determine with confidence the extent to which religious organisations will opt in. The consultation will be used to explore this further.

Annex I sets out an illustrative assessment of potential benefits, and the approach that would be taken to monetise and assess the scale of such benefits more robustly once further evidence is gathered by public consultation.

² This number does not include Church of England or the Church in Wales churches, where no registration is required.

Other key non-monetised benefits by ‘main affected groups’

There will be significant benefits for LGB individuals, their families, friends and fellow worshippers from increased social justice and inclusion. The measure promotes parity of esteem for religious same-sex couples and the social acceptance of LGB people. It gives same-sex couples from faith groups that opt in a legal right to celebrate and form their union in the place where they worship, a civil law right available to opposite-sex couples through religious marriage. Faith groups will benefit from increased freedom to manifest their religious beliefs and determine their rites.

Key assumptions/sensitivities/risks

Discount rate (%)

3.5

Risks

- (i) No public consultation yet about the proposed measure and views expressed so far vary between LGB and faith groups.
- (ii) Uncertainty about how many faith groups may opt in; some of the larger ones have indicated that they do not intend to.
- (iii) Available statistics and evidence mean estimates of the level of demand amongst same sex couples to register their civil partnership on religious premises is uncertain.
- (iv) More enquiries from the public and faith groups may generate additional costs for local authorities and higher licence fees.
- (v) Pressure on Government, local authorities, faith groups and individual places of worship about this additional difference in how and where same- and opposite-sex couples can form an official relationship.
- (vi) Legal challenges on the issues in (v).

Key Assumptions

- (1) 100% of registrars will familiarise and disseminate the meaning of this provision immediately after implementation.
- (2) The approach by which costs and benefits to religious premises owners could be monetised from use of the provision here would rely on an assumption that their choice was founded in economics, whereas it is as likely that this decision would be made from a position of principle.
- (3) The cost and length of licences to approve premises for registering civil partnerships to non-religious premises will be similar for religious premises.
- (4) There is no evidence to suggest that existing venues for civil partnerships, such as hotels, will lose income; the number of civil partnerships in a religious setting is likely to be small and couples are still likely to continue to hire such premises for the reception, as currently occurs with marriage.

| Direct impact on business (Equivalent Annual (£m): | | | In scope of OIOO? | Measure qualifies as |
|---|-------------|--------|-------------------|----------------------|
| Costs: 0 | Benefits: 0 | Net: 0 | Yes | No OUT needed |

Enforcement, Implementation and Wider Impacts

| | | | | | |
|--|---|----------------|-------------------------|---------------|--------------|
| What is the geographic coverage of the policy/option? | England and Wales | | | | |
| From what date will the policy be implemented? | To be decided | | | | |
| Which organisation(s) will enforce the policy? | Local authorities and the General Register Office for England and Wales | | | | |
| What is the annual change in enforcement cost (£m)? | 0 | | | | |
| Does enforcement comply with Hampton principles? | Yes | | | | |
| Does implementation go beyond minimum EU requirements? | N/A | | | | |
| What is the CO ₂ equivalent change in greenhouse gas emissions? (Million tonnes CO ₂ equivalent) | Traded: 0 | | Non-traded: 0 | | |
| Does the proposal have an impact on competition? | No | | | | |
| What proportion (%) of Total PV costs/benefits is directly attributable to primary legislation, if applicable? | Costs: 0 | | Benefits: 0 | | |
| Distribution of annual cost (%) by organisation size (excl. Transition) (Constant Price) | Micro | < 20 | Small | Medium | Large |
| Are any of these organisations exempt? | N/A | N/A | N/A | N/A | N/A |

Specific Impact Tests: Checklist

| Does your policy option/proposal have an impact on...? | Impact | Ref |
|--|--------|----------------------------------|
| Statutory equality duties³ Statutory Equality Duties Impact Test guidance | Yes | Equality Impact Assessment (EIA) |
| Economic impacts | | |
| Competition Competition Assessment Impact Test guidance | No | 73 |
| Small firms Small Firms Impact Test guidance | No | 74 |
| Environment impacts | | |
| Greenhouse gas assessment Greenhouse Gas Assessment Impact Test guidance | No | 74 |
| Wider environmental issues Wider Environment Issues Test guidance | No | 74 |
| Social impact | | |
| Health and well-being Health and Well-being Impact Test guidance | No | 74 |
| Human rights Human Rights Impact Test guidance | Yes | 75 |
| Justice system Justice Impact Test guidance | Yes | 75 |
| Rural proofing Rural Proofing Impact Test guidance | No | 76 |
| Sustainable development Sustainable Development Impact Test guidance | No | 76 |

³ Public bodies including Whitehall departments are required to consider the impact of their policies and measures on race, disability and gender. It is intended to extend this consideration requirement under the Equality Act 2010 to cover age, sexual orientation, religion or belief and gender reassignment from April 2011 (to Great Britain only). The Toolkit provides advice on statutory equality duties for public authorities with a remit in Northern Ireland.

Evidence base (for summary sheets) – Notes

References

| No. | Legislation or publication |
|-----|---|
| 1 | http://www.legislation.gov.uk/ukpga/2010/15/pdfs/ukpga_20100015_en.pdf |
| 2 | http://www.equalities.gov.uk/pdf/Equality%20Act%20Impact.pdf |
| 3 | http://www.equalities.gov.uk/pdf/424757_LGBT-factsheet_Web.pdf |

Annual profile of monetised costs and benefits* – (£m) constant prices

| | Y ₀ | Y ₁ | Y ₂ | Y ₃ | Y ₄ | Y ₅ | Y ₆ | Y ₇ | Y ₈ | Y ₉ |
|---------------------------|----------------|----------------|----------------|----------------|----------------|----------------|----------------|----------------|----------------|----------------|
| Transition costs | 0.07 | | | | | | | | | |
| Annual recurring cost | | | | | | | | | | |
| Total annual costs | 0.07 | | | | | | | | | |
| Transition benefits | | | | | | | | | | |
| Annual recurring benefits | | | | | | | | | | |
| Total annual benefits | | | | | | | | | | |

* For non-monetised benefits please see summary pages (pages 47–48) and main evidence base section (pages 60–61).

Evidence base

Background

Civil partnership is the formal, legally binding relationship between two people of the same sex. It provides lesbian, gay and bisexual couples with legal recognition of their same-sex relationships, giving them vital rights, responsibilities and benefits. Since the implementation of the Civil Partnership Act 2004, more than 40,000 couples¹ have been able to formally celebrate and register their relationship, gaining vital rights, responsibilities and benefits where previously they had none.

The Civil Partnership Act 2004 replicated the provisions for civil marriage in that it included an express prohibition on civil partnership registrations taking place on religious premises. The regulations determining the approval of premises for the registration of civil partnerships (and civil marriage ceremonies) are the Marriages and Civil Partnerships (Approved Premises) Regulations 2005.

Section 202 of the Equality Act 2010, when commenced, removes section 6(1) (b) of the Civil Partnership Act 2004, which states that in England and Wales civil partnerships must not be registered on religious premises. It also removes section 6(2) of the Civil Partnership Act 2004 which defines religious premises.

Section 202 also amends section 6(A) of the Civil Partnership Act 2004 which concerns the making of regulations for the approval of premises. It adds that the regulations concerning the approval of premises for civil partnership registrations in England and Wales may differ from those made for civil marriage. It enables the regulations to set out how denominations can opt in for any of their premises to be approved for the registration of civil partnerships. Further, it states that provisions can be applied differently between religious premises and non-religious premises, and can also be applied differently between different types of religious premises.

¹ <http://www.statistics.gov.uk/cci/nugget.asp?id=1685>

In addition, Section 202 clarifies that nothing in the Civil Partnership Act 2004 places an obligation on any religious organisation to host civil partnerships if they do not wish to do so.

This section was inserted into the Equality Act 2010 following a backbench Lords amendment made after a free vote of all main political parties. The will of Parliament, therefore, is that it should be legally possible for couples to register their civil partnerships on religious premises where the denomination in question has decided to allow this. Section 202 cannot be brought into force without also making regulations that enable such premises to be brought into the regime for local authorities to approve premises as places where civil partnerships can be formed.

Problem under consideration and rationale for intervention

Unlike opposite sex couples who may have a religious marriage ceremony, same sex couples are unable to formally register their union as a couple in front of the congregation at their place of worship. This is because civil partnership registrations are prohibited by law from taking place on religious premises. LGB people and their families and friends do not have the same opportunities as heterosexual people in this respect. Faith groups that wish to express the value they place on a life-long committed relationship between two people of the same sex do not have the freedom to do so through the means of hosting civil partnership registrations because of the civil law. Government intervention is needed because the impediment to civil partnership registrations taking place on religious premises is a legal one and a legal framework is necessary to govern how religious premises can be approved for this purpose.

Policy objectives

The policy objective is to enable civil partnership registrations to be conducted on religious premises that have been approved for the purpose. The intended effects are to put in place a regime for approving such premises that enables faith groups to decide whether or not to permit this in their premises, protects those groups that choose not to opt in from legal challenge, is easy for local authorities to familiarise themselves with and operate, and respects the different structures of decision-making of different faith organisations.

Options

Two options have been considered:

Option 1 – Do nothing

The do nothing option would entail not commencing section 202 of the Equality Act 2010 and not making regulations for an opt-in approach and approval of premises. This option has been rejected because it would disregard the will of Parliament on a free vote. It would run counter to Government policy on protecting and promoting LGB rights and the recent exploration of the next steps for civil partnerships. It would also retain the legal barrier that restricts religious freedom for those faith groups that wish to be able to host civil partnership registrations.

Option 2 – Enable civil partnerships to be registered on the premises of those faith groups that wish this to happen, and these premises to be approved for the purpose.

The chosen option is to enable civil partnerships to be registered on the premises of those faith groups that wish this to happen, and these premises to be approved for the purpose; commence section 202; make regulations to enable denominations to opt in to allow their premises to be approved for civil partnerships to be registered on any of their premises; and enable such premises to be approved by local authorities for use for the registration of civil partnerships.

Further options, including wider reforms to both marriage and civil partnership, have not been considered at this stage. Having listened to stakeholders, the Government is clear that from many there is a desire to move towards equal civil marriage and partnerships. Government will consult further on how legislation can develop, working with all those who have an interest in this area.

Alternatives to regulation – not considered appropriate because it is a legal barrier that prevents couples from being able to register their civil partnership on religious premises, and a statutory process governs the approval of premises for registering civil partnerships.

Costs and benefits of option 2

Box 1: An economic model of costs and benefits

A very basic economic market entry model is illustrated in Annex 1 to this Impact Assessment, which might be used to explore further the potential costs and benefits of this policy option where a religious premises chooses to opt in. This however relies on reliable estimates of demand by couples and supply by premises owners for this new provision. The public consultation process will be used to provide further evidence and, consequentially, to explore whether or not this approach can be reasonably used to form the basis of any further cost/benefit analysis.

The approach set out in Annex 1 to this Impact Assessment requires civil partnership in religious premises to operate as an economic market, whereas the decision of whether or not to opt in is more likely to be formed by principle. It is nevertheless a useful method by which to assess the potential scale of the costs and benefits of this proposal.

Familiarisation costs

In January 2011 there were 3,167 civil partnership registrars in England and Wales². There will be a one-off cost to these registrars of familiarising themselves with the new legislation. It is assumed that 'familiarisation', in the great majority of cases, will mean familiarisation with or through guidance provided by the GRO for England and Wales. It is also assumed that 'familiarisation' means reaching the point where the registrar and other relevant staff in local authorities are aware of the changes in the law and how they impact upon their organisation.

It is assumed individual local authorities will be responsible for ensuring their registrars are familiar with the changes. Office for National Statistics (ONS) data from the Annual Survey of Hours and Earnings (ASHE) 2010 estimates that the median gross hourly wage for this occupation, including 21% uplift for non-labour wage costs is £20.22³.

For the purposes of this Impact Assessment, we assume that 100% of registrars will familiarise themselves with the new law in year one; we are aware this is likely to be an over-estimate with a small number likely to familiarise themselves in following years.

On the basis of initial discussions with those affected, we assume it will take registrars one hour – 30 minutes to understand the change and 30 minutes to understand how it affects them personally – to familiarise themselves with this new provision, which will create a total one-off transitional cost to all registrars in England and Wales of **£65,699**⁴ in 2011 prices.⁵ These costs will fall entirely on public sector organisations.

² GRO, January 2011.

³ ASHE 2010 code 2317.

⁴ $3,167 \times (16.71 \times 1.21 \times 1.026) \times 1 = 65,699$.

⁵ All prices updated to 2011 prices using Her Majesty's Treasury's (HMT's) Gross Domestic Product Deflator Series – forecast consistent with Autumn Statement 29 November 2010.

Furthermore, where this provision is used, religious premises owners would also need to become familiar with the law. Since at this stage we have not been able to robustly estimate the demand for this provision from couples, nor the possible opt in rate by faith groups and denominations, it is not possible to monetise this cost.

Other transitional costs

We expect the costs of updating the existing approved premises guidance to local authorities, and updating websites (Identity and Passport Service and Directgov) to be nominal, as these are already updated as a matter of course; for example when altering licences fees. Local authorities similarly update their websites regularly. However, such costs to local authorities may be at least recompensed by revenue from licences issued, which would be dependent on how many faith groups opt in.

Annually recurring costs

For those premises owners who wish to opt in to this provision, there will be a licence fee payable to local authorities for approval. This licence typically covers a three-year period and must be renewed if a premises owner wishes to register civil partnerships beyond this time. The fee is set by the local authority to recover their costs of approving buildings for civil partnerships. This cost has not been monetised here as it is not possible at this stage to estimate the number of organisations which may choose to opt in to the provision. However, we have estimated that the average cost of obtaining a licence to host the registration of civil partnerships on religious premises would be £1,505. This is an average taken from a sample of local authority fees currently.⁶

⁶ Hampshire, Haringey, Worcestershire, Cornwall, Warwickshire, North Yorkshire, East Sussex, Norfolk, Oxfordshire, and Kent County Councils.

Non-monetised costs

This measure is not expected to lead to a significant increase in the number of couples seeking to register their civil partnership. The provision does not alter access to civil partnerships, but only the location in which they can be held. Couples who did not want to formalise their relationship in secular premises but do in a religious setting may lead to a marginal increase.

Furthermore, we do not anticipate that existing venues for civil partnerships will incur significant costs from loss of income. The number of couples seeking to register their civil partnership on a religious premises is anticipated to be relatively small and these couples may well continue to hire such premises for the reception in the same way that couples who have a religious marriage do not hold a reception at the religious premises itself. The market for venues for civil marriages and civil ceremonies tends to operate in a local rather than a national geographic area. As most areas have a large number of approved premises, the approval of any additional premises for civil partnership registration will have a negligible impact on the business of existing approved premises.

It is intended that the consultation will also address how many faith groups may 'opt in' their premises. The exact detail of this process will not be determined until after the consultation. We will explore the scope for introducing a fee if this process creates a significant burden.

Possible monetised benefits

Were we to consider religious premises owners as rational economic agents, then they would only opt in to this provision, since they are faced with up-front payable fixed costs when doing so, if they consider the potential benefits outweigh the costs. This approach would enable us to subsequently estimate the scale of such benefits. Faith organisations and owners of religious premises are, however, as likely to be influenced by matters of principle here as by economic considerations.

In order to monetise benefits, several significant assumptions would need to be made regarding the demand by couples to register their civil partnership on religious premises and the likelihood that religious premises owners will meet this. However, during the listening exercise about the next steps for civil partnerships undertaken in 2010, a number of the larger denominations and faith groups indicated that they would not be opting in to these arrangements. Other denominations and faith groups that indicated their wish to hold civil partnership registrations on religious premises have a much smaller membership. Due to the inherent uncertainty around these assumptions before a public consultation is launched, no benefits have at this stage been monetised⁷.

Furthermore, revenue gained from licences issued by local authorities, that may recompense some of the potential costs to these bodies discussed above, should be considered in this context as a benefit, but would also be dependent on how many denominations opt in.

Also, we do not here provide any estimate of monetised ‘consumer surplus’ benefits to couples who wish to use religious premises for their civil partnership registration. This is because at this stage it is not possible to estimate the exact nature of the demand relationship. However, demand is likely to be very inelastic, as some individuals would place a very high value on having a civil partnership registration on religious premises, indicating that such benefits would overall be significant if they could be monetised. We believe that if sufficient evidence is gathered during the public consultation, this could be monetised for future impact assessment where this policy option is developed further.

Non-monetised benefits

There are also benefits for LGB individuals, their families, friends and fellow worshippers from increased social justice and inclusion. Society has changed a great deal in the last decade, and since the introduction of civil partnerships in 2005. The UK is a world leader for LGB equality, and there is a commitment to

⁷ See Annex I to this Impact Assessment for an illustration however of the scale of such benefits.

continue to build a fairer society. This measure further promotes parity of esteem for religious same-sex couples and the social acceptance of LGB people, as it allows currently unavailable rights. It gives same-sex couples from denominations that are opting in a legal right to celebrate and form their union in the place where they worship, a right that is available to opposite-sex couples through religious marriage. It highlights the level of inclusion within all aspects of society, and a person's life. By creating this new provision, it allows further equalisation of rights which is a powerful message not only for couples who wish to hold a civil partnership on a religious premises, but also for other LGB people who can see these further steps forward being taken. Faith groups that wish to express the value they place on a life-long committed relationship between two people of the same sex will have the freedom to do so through the means of hosting civil partnership registrations.

Risks

- (i) There has not yet been any public consultation about the proposed measure and views expressed in Parliament and during a listening exercise, conducted by Ministers, ranged from strong support from LGB organisations to doubts from some faith organisations.
- (ii) We do not know before the consultation how many faith groups will make use of this enabling measure to allow their premises to be approved as places where civil partnerships will be registered. Some of the larger faith groups have indicated that they do not intend to.
- (iii) We have used available statistics and evidence to estimate the level of demand amongst same sex couples to register their civil partnership on religious premises, and will seek to improve this during the consultation process.
- (iv) An increased number of enquiries from the public and faith groups about the new measure may generate additional costs for local authorities. As the approved premises regime is self-funding, fees for licences may increase.

- (v) Pressure on Government, local authorities and faith groups and individual places of worship arising because there will be a further difference in the options available to same- and opposite- sex couples for forming an official legal relationship. For example, civil marriage will remain entirely secular and there will be many religious premises on which it will not be possible to register a civil partnership.
- (vi) Legal challenges on the issues in (v).
- (vii) Quakers and Jews do not have to register their places of worship and can currently solemnize marriage in any venue that complies with the tenets of their faith. Allowing for civil partnership registrations to take place on religious premises would not necessarily mean that these faiths will be able to register civil partnerships in these venues as they may not meet the conditions to be approved for this purpose, for example in terms of public access. Additionally, denominations may come under pressure to hold civil partnership registrations for individuals who do not follow their particular faith though nothing in these proposals alters their autonomy on this.

Enforcement

The measure will be enforced in the same way as the existing approved premises regime for civil marriages and civil partnerships. Local authorities have a significant role to play as they approve buildings and supply registrars. They will have internal checks to ensure compliance with processes. Their enforcement activities are funded from the fees paid by premises owners and couples. GRO provides advice and guidance to local authorities in this area and take action (when aware) if any local authority is found to be operating outside of legal powers. The arrangements for opting in and applying for premises to be approved will be designed so as to minimise the risk of applications in respect of premises of those faith groups that have not opted in. Faith groups themselves will also be able to ensure a central decision not to opt in is respected through their usual governance structures.

Wider impacts

The measure will promote equality and parity of esteem for religious same-sex couples, long-term stable relationships and the social acceptance of LGB people. Faith groups that wish to express the value they place on a life-long committed relationship between two people of the same sex will have the freedom to do so through the means of hosting civil partnership registrations because of the civil law. The measure may increase pressure for modernisation of the law and administration of marriage, particularly for the introduction of the celebrant approach consulted on but not taken forward by the previous administration, and for further steps to be taken toward same-sex marriage. There may be protests from opposite-sex couples who would still be unable to undertake civil marriages in religious premises and is likely to be controversial within certain faith communities.

Direct costs and benefits to business and voluntary sector organisations

This measure is permissive and voluntary in nature, and to that effect imposes no direct cost to business or voluntary sector organisations. For the purposes of any further cost/benefit analysis here, we assume that only those owners of religious premises who decide the full economic benefits outweigh the costs may opt in and seek approval to register civil partnerships, whilst acknowledging it is as likely that they will be influenced by matters of principle.

As set out above and in Annex 1 to this Impact Assessment, there will be real economic benefits greater than or equal to £0, depending on how many premises owners choose to enter the 'market' for civil partnership registration, and satisfy the demand to hold registrations on religious premises.

Furthermore, since Government is imposing no direct requirements on businesses or voluntary sector organisations through this proposal, there are also no direct information obligations.

Therefore, for the purposes of One-In-One-Out, no off-setting OUT is required for this measure.

Summary and implementation plan

The Government has decided to take forward the option of enabling civil partnerships to be registered on religious premises of faith groups that wish this to be able to happen. This will enable same-sex couples who are members of such faith groups to celebrate their union in a place of worship. It will enable such faith groups to offer to host the registration of civil partnerships for religious same-sex couples, manifesting their religious beliefs about these relationships. This represents the first of the next steps for civil partnership to which the Government is committed.

| Action | Start date | End date | Lead Department |
|---|------------|---------------|-----------------|
| Consultation on how to enable those religious organisations that so wish to host civil partnership registrations on their premises, and amend the relevant legislation. | April 2011 | November 2011 | GEO and GRO |
| Work with those who have an interest in equal civil marriage and partnerships on how the legislation can develop. | July 2011 | Ongoing | GEO/MOJ/ GRO |

Impact Assessment Annex I: Cost/benefit model

The analysis here treats the policy option of enabling civil partnership to be registered on religious premises as the effective opening of a new economic market. In order to quantify and monetise the potential impacts of this, we must therefore treat both the owners of religious premises and couples seeking to register their partnership on religious premises as rational economic agents. Whilst this approach may not be wholly consistent with reality, it at least enables us to develop a useful tool for assessing costs and benefits of the proposal. We accept that some religious premises owners may use the provision as a matter of principle, regardless of economic considerations.

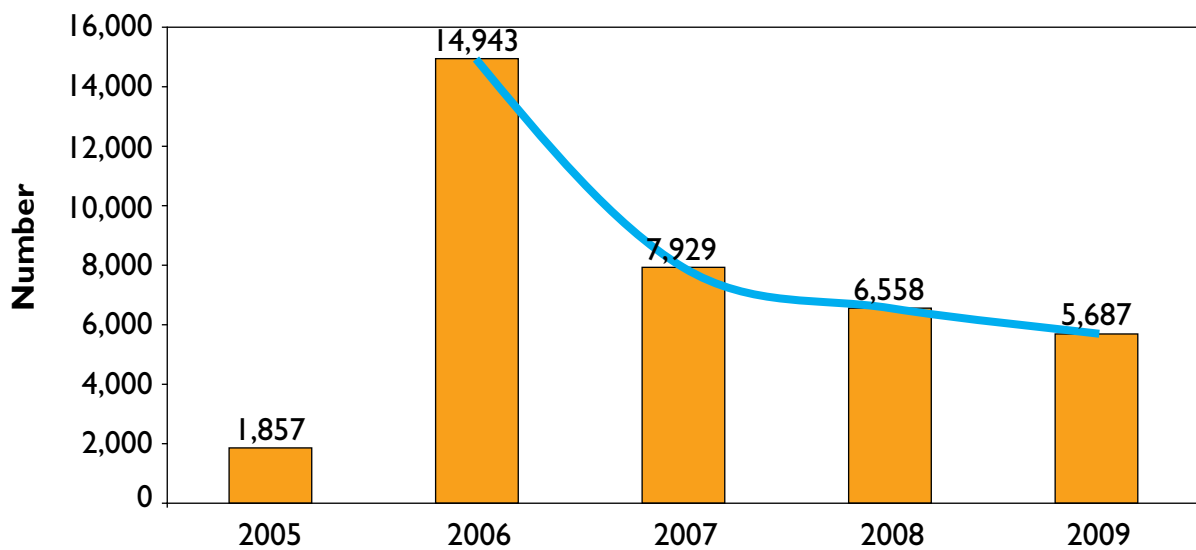
In order to derive potential benefits where this provision is used, we must derive demand and supply relationships for the service that is represented here.

Demand

A point estimate of the potential demand for civil partnerships on religious premises by couples is estimated below.

The number of annual civil partnerships registered in England and Wales has decreased markedly since the spike in 2006 (see Figure 1). Therefore, it is difficult to estimate what the steady-state number of registrations per year is. Using the available data we assume that this is likely to be no more than 5,500.

Figure 1: Number of civil partnership formations in England and Wales, 2005–2009



Source: Civil Partnerships in the UK, 2009, ONS.

In order to estimate the scale of potential demand for civil partnerships in religious premises we use comparable evidence for marriages. In 2008, 33% of all marriage ceremonies in England and Wales were religious.⁸ Also, using the Annual Population Survey, 70.1% of those formerly or currently in civil partnerships declare that they have a religion. The comparable figure for the population as a whole is 79.3%.⁹ Using these statistics would suggest that a high estimate might be as many as 1,593¹⁰ couples per year seeking to use religious premises to register a civil partnership.

This estimate of demand is a point estimate only as we are unable to derive its relationship with the different prices for the service. However, we are nevertheless able to provide a proxy price at which this level of demand occurs. This price is described below in the analysis of the supply relationship.

⁸ Marriages in England and Wales, 2008, ONS.

⁹ Annual Population Survey, April 2009 – March 2010, rates calculated from all those who declared that they had a religion or no religion at all.

¹⁰ $5,500 \times 33\% \times (70.1\%/79.3\%)$.

Supply

As discussed above, since this proposal is entirely permissive in nature, the model here relies on the assumption that only those owners of religious premises who feel that the expected benefits outweigh the full economic costs¹¹ will seek approval and a licence to register civil partnerships.

Evidence about the fees for religious marriages is not readily available and often there are voluntary donations instead of fees. Uniquely, the Church of England has fees for marriage which apply in all of their churches and are set by law. The Church of England Parochial Fee for a marriage ceremony is £262. This does not include any extra charges beyond the ceremony itself. For example, this does not include the marriage certificate, reading of banns and banns certificate; nor other optional extras, such as an organist, choir and bell-ringers, nor the services of a Verger¹². We assume here, in order to simplify and generalise the applicability of the analysis here, that these are provided at cost, and therefore there are no benefits to the owners of religious premises. We use this standard fee as a proxy for the base level of revenue received by the owner of religious premises who accommodate the registration of a civil partnership as it is a standard fee, and widely available.

The opportunity cost of clergy¹³ or other individuals who would administer the ceremony is estimated at £14.00 per hour¹⁴, using ASHE 2010 median gross hourly wage rate figures, excluding overtime. We allow for four¹⁵ hours time for each registration, including other duties beyond the ceremony itself.

We expect that the fees paid to local authorities for a registrar to attend the registration of a civil partnership at an approved premise will be recovered in a fee from the couple, and therefore we do not consider this here.

¹¹ Including any costs of making adaptations to the building.

¹² <http://www.churchofengland.org/media/56806/fees%20table%202011%20both%20sides.doc>

¹³ The registration could be carried out only by a registrar, not by a member of the clergy.

¹⁴ ASHE 2010 code 2444 including 21% uplift for non-wage labour costs.

¹⁵ This would include from two to three hours for the ceremony, and any additional time for preparation of rehearsals.

Therefore, subtracting the opportunity cost of clergy or other individuals who may administer the ceremony from the standard fee, a modest estimate of the net benefit per ceremony to the owner of religious premises is £205¹⁶ in 2011 prices.

We estimate that the average cost of obtaining a licence to host the registration of civil partnerships on religious premises is £1,505. This is an average taken from a sample of local authority fees currently.¹⁷ This licence is valid for a period of three years. We also assume that before deciding to purchase a licence, the owner of the religious premises concerned would have to become familiar with the changes brought about as a result of this proposal, with a total one-off opportunity cost of £14.36.¹⁸

Therefore, using these figures, we can solve for the ex-ante number of civil partnerships per year that a religious premises owner would need to expect to be register there in order for it to be beneficial for them to purchase a licence. As set out in Box 2 below, this number required is 2.6¹⁹ per annum, i.e. if only two civil partnerships were expected in a year, the premises would be operating at a loss, and if three or more partnerships were expected to be registered, they would theoretically make a profit.

¹⁶ $262 - (14 \times 1.21 \times 1.026) \times 4$.

¹⁷ Hampshire, Haringey, Worcestershire, Cornwall, Warwickshire, North Yorkshire, East Sussex, Norfolk, Oxfordshire, and Kent County Councils.

¹⁸ One hour's time of clergy or equivalent, ASHE Code 2444, including 21% uplift for non-wage labour costs, 2011 prices.

¹⁹ Solves for N before rounding: $0 = (204 \times N) \times [1 + 1/r - 1/(r \times (1+r)^2)] - 1,505 - 14.36$; where r is standard social time preference discount factor suggested by HMT's Green Book (3.5%).

Box 1: Break even analysis – suppliers of civil partnerships on religious premises

Given the fixed time duration of the licence fee, it is straightforward to solve for the expected number of civil partnerships required per annum before an owner of a religious premises will decide to purchase a licence, using a simplified approach to the agent's market entry decision.

$$f \leq E(q)(p - c) \left[1 + \frac{1}{r} - \frac{1}{(r(1+r)^{t-1})} \right]$$

Where f is the fixed cost of entry, p is the price basic price, c is constant marginal cost, r is the rate of social time preference, t is the length of the licence or appraisal period and $E(q)$ is the expected number of registrations per annum.

Setting:

$$p = 262$$

$$c = 4 \times 14.38 = 57.45$$

$$f = 1,505 + 14.38$$

$$r = 3.5\% \text{ (Standard HMT Green Book social time preference discount factor)}$$

$$t = 3$$

$$\text{Implies: } E(q) = 2.6$$

Note: We consider the per annum expected number of civil partnerships to be registered, instead of the number over the three-year period, in solving this problem, so that the quantification of aggregate benefits, and number of premises in the market at any single point in time, reflects the fact that not all will enter together.

Scale of benefits and sensitivity analysis

If we accept the derived point estimate of demand by couples for registration of civil partnerships on religious premises, we can consider the potential monetised benefits that result when this is satisfied.

The overall benefit to owners of religious premises of using this permissive measure, and satisfying the level of demand for this service, is dependent on the number who do so (i.e. the number of civil partnerships registered at each approved premises per year). As demonstrated above, no premises owner will apply for a licence unless they expect at least three civil partnerships per year. Table 1 below sets out the potential benefits to religious premises owners as the number of civil partnerships per premises is varied over the three-year licence period, given a total demand of 1,593 couples per year (i.e. the derived demand estimate is satisfied).

Table 1: Benefits to religious premises owners over a three-year licence period, and converted to a benefit over 10 years, 2011 prices

| Number of annual registrations per premises | Number of premises ²⁰ | Present value (3 year) | Equivalent annual benefit ²¹ | Present value (10 years) |
|---|----------------------------------|------------------------|---|--------------------------|
| 2.56 (break even) | 622 | £0 | £0 | £0 |
| 5 | 319 | £2,294 | £791 | £2.17million |
| 10 | 159 | £6,093 | £2,101 | £2.88million |
| 20 | 80 | £13,690 | £4,721 | £3.25million |

Source: GEO estimates, ONS, Church of England Parochial Fees 2011, ASHE 2010.

²⁰ 1,593 (Demand)/Number per premises.

²¹ PV(three years)/three-year annuity factor – note, first time period is t=0.

Theoretically and as consistent with these estimates, as less religious premises opt in, the economic benefits increase as fixed costs or entry are incurred less. If the licence, when issued, lasted for an infinite amount of time, then since our model assumes a fixed price and marginal cost, theoretically the expected number of annual registrations per premises required to promote entry would decrease (replace annuity factor in Box 2 with standard perpetuity factor).

However, as discussed in the main evidence base, these benefits will only be realised if the economic rationale for opting in to this provision overrides other considerations that owners of religious premises will make as to whether or not, for their denomination, use of it is appropriate.

In addition to benefits to the owners of religious premises, there will be increased revenues to local authorities from issued licences for approved premises. This will depend on the number of licences actually expected to be approved, which is consequently dependent on the assumed number of registrations of civil partnership per approved premises. Table 2 below illustrates the potential revenue to local authorities.

Table 2: Benefits to local authorities from issuing licences owners over a three-year licence period, and converted to a benefit over 10 years, 2011 prices

| Number of annual registrations per premises | Number of premises | Present value (3 year) | Equivalent annual benefit | Present value (10 years) |
|---|--------------------|------------------------|---------------------------|--------------------------|
| 2.56 (break even) | 622 | £935,892 | £322,756 | £2.78million |
| 5 | 319 | £479,983 | £165,529 | £1.42million |
| 10 | 159 | £239,239 | £82,505 | £0.71million |
| 20 | 80 | £120,372 | £41,512 | £0.36million |

Hence, here we consider a modest estimate that if the demand for civil partnerships in religious premises is satisfied by premises applying for licences, there will be increased revenue to local authorities of £1.42million – £2.78million over 10 years. However, it is unclear to what extent this revenue would be mirrored by increased costs for local authorities in administering this provision. This will be explored further during the consultation as it is made clearer how denominations will opt in their premises.

As discussed in the evidence base, if significant evidence comes to light during the public consultation regarding the exact demand relationship for couples who wish to register their civil partnership on religious premises, then the analysis here could potentially be expanded to consider the consumer surplus of couples benefiting from this provision.

We will also review the basis of this analysis of using the Church of England prices, and costs, as a proxy for the consideration of benefits from opting into this provision for all possible faith groups and denominations.

Impact Assessment Annex 2: Post Implementation Review (PIR) Plan

Basis of the review

GEO is committed to reviewing the Equality Act 2010 after five years as part of the broader PIR of the Act, and Section 202, which is the enabling provision for civil partnerships in religious premises, will form part of this review. GEO is currently developing an evaluation framework for the Equality Act, which is expected to be agreed in early 2011. This framework sets out how the Act will be evaluated as a whole and where there will be specific focus on those areas that introduce new policy.

Review objective

As part of the overall evaluation of the Act, the precise objectives of this review are currently being developed alongside the other evaluations that will need to be undertaken. At this stage it is envisaged that the review will, as a minimum:

- provide a proportionate check that the regulation is operating as expected; i.e. religious premises²² become approved as places where civil partnerships can be registered, and the extent of their subsequent use for civil partnerships;
- verify and monitor any costs and benefits set out in the evidence base relating to the approval of premises or the registration of civil partnerships on them.

Where there is an opportunity to draw together further supporting evidence, the review will also seek to understand any problems in the operation of the system from the perspective of local authorities, faith groups and individuals.

²² Some denominations may not opt in to this measure and their members' religious premises will not be free to apply for approval to register civil partnerships. The assessment of take-up will not, however, be able to reflect this.

Review approach and rationale

The precise review approach is being determined in the context of the wider Equality Act review and is being considered alongside the other projects within the Evaluation Framework. Currently it is thought that this review will be a light-touch assessment of how the regime is operating, mainly achieved through monitoring the take up of civil partnerships in religious premises through existing administrative data sources and monitoring any changes to the costs of the process. This is because it is not thought that the measure, which is enabling and seeks to provide an opportunity for same-sex couples to officially cement their relationship in a religious context, will affect large numbers or lead to large costs. Where this would provide valuable policy insight, we may gather further stakeholder views, for example about local authorities' understanding of the regime and how the legislation has impacted on religious groups.

Any legal cases arising from the new regime will be monitored and evaluated.

Where there is attributable evidence on wider benefits of this measure from the overall evaluation activity taking place in the evaluation of the Equality Act, this will also be included as part of the review. This might cover, for example, impacts on the social acceptance of LGB people and promoting equality and parity of esteem for same-sex couples.

Baseline

As this is a new measure there is no direct baseline (civil partnerships on religious premises are not permissible). It is not anticipated that this regulation will significantly impact on the total number of civil partnerships (this amounted to 5,687 partnerships in 2009) – rather it will impact on the location in which they are held (currently all civil partnerships are held in approved civil premises).

Success criteria

The precise success criteria for this measure will be determined in the wider context of the overall review of the Equality Act. However, as a minimum they should include:

- denominations in their entirety are able to opt in or decide not to opt in;
- religious premises that opt in are approved to hold civil partnerships;
- civil partnerships are registered on religious premises.

Monitoring information arrangements

Monitoring of civil partnerships in religious premises will take place through existing administrative data collections – this is planned to be from the GRO and data available through the ONS. Monitoring will take place throughout the review period. These data will be supplemented with evidence established in the evaluation of the Equality Act.

Reasons for not planning a review

Whilst this measure will be reviewed as part of the PIR for the Equality Act as a whole, only light-touch monitoring of the measure itself will take place, as it is only enabling and should neither affect large numbers nor lead to large costs. However, if there is an identifiable need to provide further policy insight, subsequent review activity will be developed into the wider framework of the evaluation of the Equality Act

Impact Assessment Annex 3: Specific impact tests

Economic impacts

Competition assessment

A detailed competition assessment is not necessary for this measure. Any impact on competition will be on the market for approved premises for civil partnership and will be marginal and local, rather than significant or national.

This measure has no effect on the ease or difficulty with which businesses can enter the market for registering civil partnerships and hosting the accompanying celebration. Any nominal direct and indirect impact will be to increase rather than restrict the number of suppliers. In January 2011 there were 5,919 approved premises in England and Wales and 205 register offices. Couples who have their civil partnership registered in religious premises are anyway likely to hold any reception in a hotel or similar venue, in the same way as couples who form a civil partnership in a register office or solemnize a religious marriage.

Competition filter test

Does this measure:

- directly limit the number or range of suppliers?
- indirectly limit the number or range of suppliers?
- limit the ability of suppliers to compete?
- reduce suppliers' incentive to compete vigorously?

As the answers to these questions are all 'No' a competition assessment is not required.

Small firms impact test

This measure does not impose administrative or other burdens or other direct costs on businesses of any size. Any impact will be nominal and restricted to any increased competition in the approved premises for civil partnerships market. There will be no disproportionate impact on small businesses. The Federation of Small Businesses said that they did not see an impact on their members, apart from if there were protests against faith groups or outside religious premises, which they accepted would be unlikely.

Environmental impacts

Greenhouse gas assessment

We do not believe there will be an impact on greenhouse gas emissions as a result of this policy.

Wider environmental issues

This measure will have no implications in relation to climate change, waste management, landscapes, water and floods, habitat and wildlife, or noise pollution.

Social impacts

Health and well-being

We anticipate that any impact of this measure on health and well-being will be positive for same-sex couples who are able to register their civil partnerships on religious premises, their families, friends and members of the congregation. Evidence is not available to enable any impact to be quantified. The consultation may generate anecdotal evidence about these impacts.

Human Rights

Based on the analysis conducted to date, the risks of a successful legal challenge to this measure on the grounds that it breaches the European Convention on Human Rights (ECHR) is small when it is left to individual faith groups or individual ministers of approved religious premises to decide whose civil partnership registrations to host (for example, to exclude non-religious couples or members of a different faith group). Given the controversies surrounding sexual orientation and religion and belief, such challenges cannot be excluded. The inequality between same- and opposite-sex couples in terms of rights to marry or enter a civil partnership is already the subject of a legal challenge in the European Court of Human Rights (ECtHR). The Human Rights implications will be considered further during the consultation period and subsequent development of policy and legislation. In the recent case of *Schalk & Kopf v Austria* the ECtHR found that marriage only for opposite-sex couples and civil partnerships only for same-sex couples did not breach articles 8 (the right to respect for private and family life), 12 (the right to marry) and 14 (prohibition of discrimination in the rights granted by the ECHR). The ECtHR also found that it is for national law to determine whether or not to permit same-sex marriage.

Justice system

Any impact on the justice system would be marginal and is difficult to predict. The measure does not create any new rights that are enforced by individuals through the courts or tribunals; nor does it create any new criminal (or civil) penalties which could impact on the justice system. There is a risk of additional legal challenges. These would be to Government about the legislation and possibly to denominations/faith groups or individual ministers of religion about either the hosting or the not hosting of civil partnerships on their premises.

Rural proofing

This measure applies across England and Wales and, as an enabling measure, will not adversely affect communities whether they are rural or urban. Rural communities are less densely populated and tend therefore to have fewer religious buildings, meaning that rural same-sex couples may have less opportunity to register their civil partnership in a religious setting. The opportunities in urban areas may also be greater because a wider variety of faith groups may have places of worship in them. Anecdotal evidence suggests that LGB people are more likely to live in an urban than a rural area.

Sustainable development

The measure is not contrary to the shared UK principles of sustainable development.

Annex 3: Equality Impact Assessment

Introduction

This document considers the effect of allowing civil partnership registrations to take place on religious premises on the elimination of unlawful discrimination, harassment and victimisation, the promotion of equality of opportunity, and the fostering of good relations between different groups.

The aim is to ensure that the effect on equality for all the protected characteristics in the Equality Act 2010 ('the Act') have been properly assessed during the development of the policy, taking account of views expressed, and to provide assurance that changes needed to mitigate any potential adverse impacts have been identified. The analysis will cover race, disability and gender, age, religion or belief, gender reassignment, sexual orientation, and pregnancy and maternity.

Context

These proposals have been developed by GEO following discussions with a wide range of government departments and partners, including LGB representatives and faith groups.

In *Working for Lesbian, Gay, Bisexual and Transgender Equality*, published in June 2010, the Government made a commitment to talk to those with a key interest about what the next stage should be for civil partnerships, including how some religious organisations can allow same-sex couples the opportunity to register their relationship in a religious setting if they wish to do so. Following this commitment, a number of meetings were held with a variety of groups; including faith groups, LGB groups and those representing the registration service.

Many of those attending fully supported this move (with some feeling it did not go far enough), however, there was a polarisation of opinion in many areas and a number of considerations were raised which are considered in the consultation document. Even those who did not want civil partnerships to take place as part of their own faith said that they did not want others to be stopped from doing so.

On 17 February 2011, the Government committed to the following:

The coalition government is committed to protecting and promoting LGB rights in the UK. As part of that commitment we intend to implement section 202 of the Equality Act 2010 which will remove the ban in England and Wales on civil partnership registrations being held on religious premises. Implementing this provision will allow those religious organisations who wish to do so to host civil partnership registrations on their premises. Because section 202 is a permissive provision, religious organisations who do not wish to host civil partnership registrations will not be required to do so as a result of this change.

By making this change, we will be giving same-sex couples, who are currently prevented from registering their civil partnership in a religious setting, the chance to do so. The implementation of this provision is the first part of our work on the next steps for civil partnerships as laid out in the LGB&T action plan. Having listened to stakeholders it is clear from many that there is a desire to move towards equal civil marriage and partnerships. We will consult further on how legislation can develop, working with all those who have an interest in this area.

Methodology

In *Working for Lesbian, Gay, Bisexual and Transgender Equality* the Government committed to talking to those with an interest about what the next step should be for civil partnerships, including how some religious organisations can allow same-sex couples the opportunity to register their relationship in a religious setting.

Over a number of weeks the Government met with representatives from LGB organisations, faith groups and the registration service. In total we met with approximately 25 groups, representing many more people. Following these meetings, we have analysed the comments made and issues raised. These are reflected within the provision, as laid out, and the further work streams which the Government has committed to undertake. Other groups who may be affected by this provision, as laid out by this document, will be referred to as part of this consultation.

Impact of this provision

This provision will allow same-sex couples the option to formally register their civil partnership in the building where they worship (should the faith group agree to do so). This is something same-sex couples are currently unable to do. The provision will ensure that same-sex couples can register their partnership on religious premises, just as most opposite-sex couples can do in a religious marriage.

Impact on sexual orientation

We consider that there are some same-sex couples who would wish to register their civil partnership in the building where they also worship, and are currently not able to do so despite their wishes being supported by their denomination. In the current system, they can have a blessing of the partnership, but the legal formation cannot take place within religious premises. Therefore, the creation and purpose of this provision is to improve equality for LGB people by offering a wider choice of where to register their civil partnership and have an overall impact on the perception of LGB people within society.

Currently, opposite-sex couples have the choice of either a civil or religious marriage ceremony. While this provision will allow same-sex couples to have a civil partnership on a religious premises, this will not be replicated to allow heterosexual couples to have a civil marriage on a religious premises. This could have a negative effect on good relations between different sexual orientation groups as there will be a difference in provision available. However, this can be mitigated and explained as it rectifies a provision that currently does not exist.

Impact on religion or belief

The provision as laid out is intended to be entirely permissive in its nature, meaning that faith groups would have to opt in, to allow their premises to be used for civil partnership registrations. There is no intention to force any groups to have to sign up to be able to register civil partnerships on their premises. This was the intention of the initial amendment to the then Equality Bill (made by Lord Alli) and this remains integral to the Governments considerations and plans.

The intention is to allow a greater freedom of religious expression for LGB people who wish to express their religion or religious belief in the same building as their civil partnership registration. Previously, there was an express prohibition on them holding their civil partnership registration in a religious building, whereas opposite-sex couples have the option of a religious marriage. The intention of this provision is to allow same-sex couples to have a similar option.

The intention of this provision is also to allow religious freedom for faith groups that wish to recognise same-sex couples within their community. They currently do not have the capability to register civil partnerships even if they wish to do so. The Government included faith groups in the discussion on the next steps for civil partnerships and remains committed to widely consulting with a wide variety of such groups. This includes faith groups that are supportive of the implementation of section 202 of the Equality Act and taking the next step to equal marriage and partnerships, and also those who do not support the implementation of this provision.

There could be a negative impact on organisations who do not register to conduct civil partnership registrations as they face pressure to do so, possibly damaging relations with their wider community. Conflict could also be caused if the competent authority of a denomination decides not to opt in but an individual wishes to conduct these ceremonies (or vice versa). However, the internal structures and governance of religious bodies would not be for Government to interfere with.

Impact on disability

Local authorities may consider (as part of their requirements for a licence to hold civil partnership registrations) that an approved building needs to make reasonable adjustments to allow access by disabled people.

This currently does not apply to religious venues for religious marriage ceremonies. We are aware that consideration needs to be given to this point as this may entail religious buildings facing large costs of amending the buildings, which they may argue are also of historical significance. However, this could limit the possibility of disabled people in a same-sex partnership having a civil partnership on religious premises.

Impact on gender reassignment

A person can enter a civil partnership with someone of the same-sex, regardless of whether this is the sex they were assigned at birth (regardless of whether this is a civil partnership registration on religious premises or a civil registration). This must be their legally recognised sex. The provision provided for in section 202 would be available to all same-sex couples.

The Equality Act 2010 contains a provision which means that people who solemnise marriages, those who give consent in registered premises and approved celebrants in Scotland are able to decline to marry someone if they believe that one member of the couple is transsexual. Schedule 4 of the Gender Recognition 2004 also provides that the clergy in the Church of England and the Church in

Wales are not obliged to solemnise the marriage of a person they reasonably believe to have changed gender under that Act. Any new provision should ensure that these provisions are not changed. This could mean that there are less religious premises available to someone who has undergone gender reassignment than people who have not.

If a person is in a marriage and wishes to obtain legal recognition of their acquired gender (by means of a Gender Recognition Certificate) they are required to end their marriage before they can obtain a full Gender Recognition Certificate. They can then enter into a civil partnership if they so wish. These provisions would not change that position or have any effect on the Gender Recognition Act 2004. Making amendments to civil partnerships without addressing this issue (which was raised as part of the listening exercise) could have an impact on good relations.

Impact on sex

Same-sex couples formed 6,281 civil partnerships (3,227 male and 3,054 female) in the UK in 2009. Therefore we can assume that there would be no particular impact on men over women.

Impact on age

In 2009, the average age for men in a civil partnership was 41.2 in 2009 and for women, it was 38.9 years. Older LGB people may not be aware of the changes that have taken place as they may not be as involved in the LGB community. To mitigate this risk we will communicate with older LGB people through a range of channels.

Impact on race

There may be a difference in the number of people who enter into a civil partnership from different races. Different races could be considered to be impacted in different ways, due to differing cultural acceptance of same-sex couples, but this would be based on anecdotal evidence.

Areas not impacted by these provisions

The protected characteristic of **pregnancy and maternity** is not impacted by this provision in any way.

Annex 4: Consultation questions

The following is a list of the consultation questions.

The responses to the questions should be made on the proforma, which is available for download from the Government Equalities Office website at www.equalities.gov.uk

Question 1: Do you have any comments on our proposals for requiring faith groups' consent for an application to a local authority for a religious premises to be used for the registration of civil partnerships?

Question 2: Do you have any comments on the three ways in which decisions can be taken about allowing civil partnerships to be registered on religious premises? Do they cover the circumstances of all faith groups?

Question 3: Would your faith group want to have a specified body or person to take the decision whether or not to consent to civil partnership registrations on its premises? If so, what or who would this body or person be?

Question 4: Do you have any comments on our proposals for ensuring that faith groups' consent is demonstrated in an application to the local authority for a religious premises to be approved as a place where civil partnerships may be registered?

Question 5: Do you agree that, taken together, the arrangements we propose will prevent religious premises being approved as places where civil partnerships may be registered if the faith group concerned has not consented to it?

Question 6: Do you have any comments on our proposals for enabling faith groups that had given consent to reverse that decision?

Question 7: Do the arrangements proposed above cover all the premises which meet the definition of religious premises in the Civil Partnership Act 2004? If not, what types of religious premises are excluded?

Question 8: Do you have any other comments on our proposals for identifying religious premises that may be approved for hosting the registration of civil partnerships?

Question 9: Do you agree with our proposals for enabling faith groups to decide who should be able to register civil partnerships on their premises? Do you believe further safeguards might be needed? If so, what might these be?

Question 10: Do you agree that religious premises should be open to the public while a civil partnership is registered?

Question 11: Do you agree that religious premises should be subject to the same conditions that apply to secular approved premises about the layout of the building and the use of the room in which the civil partnership is registered before the registration takes place?

Question 12: Might the requirements cause difficulties for particular faith groups that wish to opt in to the measure? How might these be resolved?

Question 13: Do you agree that religious premises should be able to keep their religious symbols, decorations and objects in place while civil partnerships are registered?

Question 14: Do you agree with our proposals for arrangements for religious services following civil partnership registrations?

Question 15: Do you agree with our proposals for the process for applying for a religious premises to be approved for civil partnership registrations?

Question 16: What fee might need to be charged to enable local authorities to cover their costs?

Question 17: Do you agree that the local authority should be able to revoke the approval of a religious premises that ceases to meet the conditions on which it was granted?

Question 18: Do you have any comments on the proposals for keeping records of the location of religious approved premises?

Question 19: Do you have any comments on the proposals for training and guidance?

Question 20: Are there other administrative issues for which special arrangements may be required for religious premises? What might these arrangements be?

Question 21: Do you have any other points or issues you wish to raise about enabling civil partnerships to be registered on the premises of faith groups that permit this?

Question 22: Does this approach sufficiently protect faith groups and ministers of religion, or is additional protection needed?

Question 23: Can you provide any evidence of the number of individuals in England and Wales who might wish to register their civil partnership on religious premises each year?

Question 24: Can you suggest whether or not specific religious premises, congregations or denominations will seek to make use of this provision? If you are responding on behalf of a faith group, is your faith group likely to allow civil partnerships to be registered on its premises?

Question 25: Can you provide any additional evidence of the possible costs religious premises will incur when hosting a civil partnership registration, in addition to those discussed in the impact assessment?

Question 26: Can you provide any further data or examples of costs and benefits which have not already been included in the Impact Assessment? Do you have any comments on the assumptions, approach or estimates we have used?

Question 27: Can you provide any further information or views to help us calculate the economic benefits of this measure?

Question 28: Does the Equality Impact Assessment properly assess the implications for people with each of the protected characteristics? If not, please explain why.



Alternative formats

We will consider any reasonable request for **alternative accessible formats** of this document. Please send your request to:

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