

*The Anglican Chaplaincy in Norway*  
*Church of England - Diocese of Europe – St Edmund's Church*

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**Høringsuttalelse – forslag om endringer i ekteskapsloven mv. – Felles ekteskapslov for likekjønnede og ulikekjønnede par**

The Anglican Chaplaincy in Norway (Den anglikanske kirken i Norge) har mottatt til høring forslag til endringer i ekteskapsloven. The Anglican Chaplaincy in Norway tilhører the Diocese in Europe som er et bispedømme i Church of England. Som medlem av Norges Kristne Råd støtter vi deres høringsuttalelse, men vil komme med noen tilleggsbemerkninger. Våre egne kommentarer til høringen er basert på den uttalelse som bispemøtet i Church of England sendte ut i forbindelse med introduksjon av Civil Partnerships i England i 2005 (House of Bishops issues pastoral statement on Civil Partnership 25 July 2005- se vedlegg). Vi har derfor følgende bemerkning til lovendringen i Norge.

*1. Syn på ekteskapet*

The Church of England anser ekteskapet for å være en del av skapelsen, en gave fra Gud og endel av hans nåde. Ekteskapet som er definert som en trofast, forpliktende, permanent og lovlig godkjent forhold mellom en mann og en kvinne, er sentral i stabiliteten og velferden i samfunnet. Selv om man innser at det kan være mange grunner til å inngå et sivilt partnerskap, mener bispemøtet det ikke riktig å lage en autorisert liturgi i forbindelse med registreringen av partnerskapet og oppfordrer prester til ikke å holde gudtjenester med velsignelser for de som har registrert et partnerskap. Basert på denne uttalelsen anser vi som et av kirkesamfunnene i Norge det som helt uriktig å skulle holde vigslar for likekjønnede par.

Det betyr ikke at kirkesamfunnet vil diskriminere mot likekjønnede par, men som det heter i uttalen fra bispemøtet "møte disse par med pastoral omsorg og empati i lys av omstendighetene i hvert enkelt tilfelle og ta hensyn til kirkens lære om seksual moral, sølibat og de positive verdier i et forpliktende vennskap i en kristen tradisjon.

*2. Vigselsrett og vigselsplikt*

Forslaget til loven angir at det skal være en rett og ikke en plikt til å utføre vigsel av like-kjønnede par. Dersom loven blir vedtatt anser vi som en selvfølge at et trossamfunn skal ha rett til å kunne forbeholde oss mot vigsel av like-kjønnede par. En slik reservasjon skal heller ikke være til hinder for at et trossamfunn skal få vigselsrett. Tros- og livssynssamfunn må kunne fristilles i å kunne akseptere like-kjønnede vigslar ut fra et religiøst synspunkt.

### 3. Forholdet til lover i andre land

Utenlandske trossamfunn i Norge vil i forhold til forslaget om ny ekteskapslov være i en særstilling i forhold til norske kirkesamfunn. Av de par som søker vigsel i disse trossamfunnene vil den ene part ofte ha utenlandsk statsborgerskap eller sterk tilknytning til land hvor like-kjønnete ekteskap ikke er godkjent. De juridiske implikasjoner ved å inngå ekteskap for like-kjønnete par under slike forhold vil bli veldig kompliserte. Dersom loven blir vedtatt anser vi at det må være en rett for utenlandske trossamfunn til å reservere seg mot å vigsle likekjønnede par.



Janet Heil  
Chaplain/prest



Sigrid I. Kvaal  
Forstander

#### Vedlegg:

- House of Bishops issues pastoral statement on Civil Partnership 25 July 2005
- Civil Partnership – A pastoral statement from the House of Bishops of the Church of England

# House of Bishops issues pastoral statement on Civil Partnerships

25 July 2005

The House of Bishops has today issued a pastoral statement to help the Church as it addresses the implications of the Civil Partnership Act, which comes into force on 5 December 2005.

The statement reaffirms the Church's teaching on both marriage and sexual intercourse. 'Sexual intercourse, as an expression of faithful intimacy, properly belongs within marriage exclusively,' the statement says. Marriage, it states, 'is a creation ordinance, a gift of God in creation and a means of his grace. Marriage, defined as a faithful, committed, permanent and legally sanctioned relationship between a man and a woman, is central to the stability and health of human society.'

The statement notes that the new legislation makes no change to the law in relation to marriage and that the Government has stated that it has no intention of introducing 'same-sex' marriage. It also notes that the Act leaves 'entirely open the nature of the commitment that members of a couple choose to make to each other when forming a civil partnership. In particular, it is not predicated on the intention to engage in a sexual relationship.'

One consequence of this ambiguity is that people in a variety of relationships will be eligible to register as civil partners, some living consistently with the teaching of the Church, others not. 'In these circumstances,' says the pastoral statement, 'it would not be right to produce an authorised public liturgy in connection with the registering of civil partnerships. In addition, the House of Bishops affirms that clergy of the Church of England should not provide services of blessing for those who register a civil partnership.'

Clergy who are approached by people asking for prayer in relation to entering into a civil partnership are reminded to respond pastorally and sensitively in the light of the circumstances of each case, having regard to the teaching of the church on sexual morality, celibacy, and the positive value of committed friendships in the Christian tradition.

The ambiguity over the nature of a commitment in a Civil Partnership also informs the statements attitude to clergy. 'The House of Bishops,' it says, 'does not regard entering into a civil partnership as intrinsically incompatible with holy orders, provided the person concerned is willing to give assurances to his or her bishop that the relationship is consistent with the standards for the clergy set out in *Issues in Human Sexuality*.'

*Issues in Human Sexuality* made it clear that, while the same standards apply to all, the Church did not want to exclude from its fellowship those lay people of gay or lesbian orientation who, in conscience, were unable to accept that a life of sexual abstinence was required of them and instead chose to enter into a faithful, committed relationship. 'The House considers that lay people who have registered civil partnerships ought not to be asked to give assurances about the nature of their relationship before being admitted to baptism, confirmation and communion.'

'What needs to be recognized,' says the House of Bishops' statement, 'is that the Church's teaching on sexual ethics remains unchanged.'

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# Civil Partnerships- A pastoral statement from the House of Bishops of the Church of England

1. On 5 December 2005 the Civil Partnership Act comes into force. It will for the first time enable two people of the same sex to acquire a new legal status by registering a civil partnership with each other. The House of Bishops has prepared this statement to help the Church as it addresses the pastoral and other implications of the new legislation.

## The Church's Teaching

2. It has always been the position of the Church of England that marriage is a creation ordinance, a gift of God in creation and a means of his grace. Marriage, defined as a faithful, committed, permanent and legally sanctioned relationship between a man and a woman, is central to the stability and health of human society. It continues to provide the best context for the raising of children.

3. The Church of England's teaching is classically summarised in *The Book of Common Prayer*, where the marriage service lists the causes for which marriage was ordained, namely: 'for the procreation of children, ... for a remedy against sin [and]... for the mutual society, help, and comfort that the one ought to have of the other.'

4. In the light of this understanding the Church of England teaches that "sexual intercourse, as an expression of faithful intimacy, properly belongs within marriage exclusively" (Marriage: a teaching document of the House of Bishops, 1999). Sexual relationships outside marriage, whether heterosexual or between people of the same sex, are regarded as falling short of God's purposes for human beings.

5. The approach of the House of Bishops has been to explore how the Church's existing approach to same-sex relationships can be applied and worked through in the new situation created by this legislation. We do not repeat here the extensive treatment of the underlying questions. These were extensively discussed in the study guide *Some Issues in Human Sexuality* published in November 2003. Those questions will continue to be a matter for debate, in a context which is likely to be influenced to some degree by the existence, for the first time, of legally registered same-sex partnerships.

6. The key Church statements, each with their own distinctive status, are rehearsed at more length in paragraphs 1.3.16-33 of *Some Issues in Human Sexuality*. In summary they are:

- The General Synod motion of November 1987 which affirms that 'homosexual genital acts' fall short of the Christian ideal and are to be met 'with a call to repentance and the exercise of compassion';
- The House of Bishops' statement of December 1991 – *Issues in Human Sexuality* – which states that 'heterosexuality and homosexuality are not equally congruous with the observed order of Creation or with the insights of revelation as the Church engages with these in the light of her pastoral ministry', that the conscientious decision of those who enter into homophile relationships must be respected and that the Church must not 'reject those who sincerely believe it is God's call to them'. Nevertheless, because of 'the distinctive nature of their calling, status and consecration' the clergy 'cannot claim the liberty to enter into sexually active homophile relationships';
- The 1998 Lambeth Resolution 1.10, which drew a clear distinction between homosexual orientation and practice, rejecting the latter as 'incompatible with Scripture' while calling on 'all our people to minister pastorally and sensitively to all'. It also recorded that the Conference 'cannot advise the legitimising or blessing of same-sex unions nor ordaining those involved in same gender unions'. This resolution, like *Issues in Human Sexuality*, called for continued listening to the experiences of gay and lesbian people.

7. The Windsor Report 2004 examined the implications for the Anglican Communion of developments in North America which are at variance both with the Lambeth Resolution and the declared teaching of most of the worldwide Church.

## **The effect of the legislation**

8. The new legislation makes no change to the law of the land in relation to marriage. It remains the case that in law, as in the eyes of the Church, marriage can be entered into only by a man and a woman. The Government has stated that it has no intention of introducing 'same-sex marriage'. Civil partnerships are not a form of marriage.
9. The effect of the legislation will be that two people of the same sex may form a civil partnership by signing a civil partnership document in the presence of each other, a civil partnership registrar, and two witnesses. The Act underlines the civil nature of the registration by providing that it may not take place on religious premises nor include a religious ceremony.
10. Many provisions in the new legislation are, however, similar to or identical with those in marriage law. In particular, couples may not register if they are under 16 (or under 18 and do not have parental consent), are within one of the prohibited degrees of relationship, or already have a civil partnership or are married.
11. The legislation does, however, leave entirely open the nature of the commitment that members of a couple choose to make to each other when forming a civil partnership. In particular, it is not predicated on the intention to engage in a sexual relationship. Thus there is no equivalent of the marriage law provision either for annulment on grounds of non-consummation or for its dissolution as a result of sexual infidelity.
12. Behaviour such that one party 'cannot reasonably be expected to live with' the other can trigger a dissolution. Whether sexual conduct was relevant would depend on the circumstances of each case and the nature of the understandings reached between the couple when entering into the partnership. While many partnerships will no doubt be between gay and lesbian couples who intend to be in a sexual relationship, there is likely to be a range of circumstances in which people of the same sex choose to register a partnership, including some where this is not so.
13. Civil partners will have the same rights as married couples in relation to property law, taxation, pensions, etc. Once the legislation comes into force the current protection in Regulation 25 of the Employment Equality (Sexual Orientation) Regulations 2003 for 'anything which prevents or restricts access to a benefit by reference to marital status' will disappear. Thus, in future, while it will still be lawful for employers, for example, to deny cohabiting couples pension benefits which are available to married couples, it will be unlawful to treat married couples and civil partners differently.
14. In accordance with the preferences expressed by the Archbishops' Council and the House of Bishops, the Government has included certain enabling provisions in the legislation. These enable the Government, with the consent of the Church, to amend any provisions in ecclesiastical legislation (for example in relation to pensions) that would fall foul of the new law.
15. It remains to be seen what the repercussions of the new legislation will be in society more generally. The government has estimated that by 2010 between 11,000 and 22,000 partnerships may have been registered, though this is necessarily speculative. Even if these modest estimates are accurate, questions will arise over what the Church's attitude should be towards those who enter into civil partnerships.

## **The blessing of civil partnerships**

16. It is likely that some who register civil partnerships will seek some recognition of their new situation and pastoral support by asking members of the clergy to provide a blessing for them in the context of an act of worship. The House believes that the practice of the Church of England needs to reflect the pastoral letter from the Primate of the Anglican Communion in Pentecost 2003 which said:

*'The question of public rites for the blessing of same sex unions is still a cause of potentially divisive controversy. The Archbishop of Canterbury spoke for us all when he said that it is through liturgy that we express what we believe, and that there is no theological consensus about same sex unions. Therefore, we as a body cannot support the authorisation of such rites.'*

17. One consequence of the ambiguity contained within the new legislation is that people in a variety of relationships will be eligible to register as civil partners, some living consistently with the teaching of the Church, others not. In these circumstances it would not be right to produce an authorised public liturgy in connection with

the registering of civil partnerships. In addition, the House of Bishops affirms that clergy of the Church of England should not provide services of blessing for those who register a civil partnership.

18. It will be important, however, to bear in mind that registered partnerships do allow for a range of different situations- including those where the relationship is simply one of friendship. Hence, clergy need to have regard to the teaching of the church on sexual morality, celibacy, and the positive value of committed friendships in the Christian tradition. Where clergy are approached by people asking for prayer in relation to entering into a civil partnership they should respond pastorally and sensitively in the light of the circumstances of each case.

### **Those wishing to be in ordained ministry and to register a civil partnership**

19. The House of Bishops does not regard entering into a civil partnership as intrinsically incompatible with holy orders, provided the person concerned is willing to give assurances to his or her bishop that the relationship is consistent with the standards for the clergy set out in *Issues in Human Sexuality*. The wording of the Act means that civil partnerships will be likely to include some whose relationships are faithful to the declared position of the Church on sexual relationships (see paragraphs 2-7).

20. The Church should not collude with the present assumptions of society that all close relationships necessarily include sexual activity. The House of Bishops considers it would be a matter of social injustice to exclude from ministry those who are faithful to the teaching of the Church, and who decide to register a civil partnership. There can be no grounds for terminating the ministry of those who are loyal to the discipline of the Church.

21. Nevertheless, it would be inconsistent with the teaching of the Church for the public character of the commitment expressed in a civil partnership to be regarded as of no consequence in relation to someone in- or seeking to enter- the ordained ministry. Partnerships will be widely seen as being predominantly between gay and lesbian people in sexually active relationships. Members of the clergy and candidates for ordination who decide to enter into partnerships must therefore expect to be asked for assurances that their relationship will be consistent with the teaching set out in *Issues in Human Sexuality*.

22. While clergy are fully entitled to argue, in the continuing debate, for a change in that teaching, they are not entitled to claim the liberty to set it aside, simply because of the passage of the Civil Partnerships Act. Because of the ambiguities surrounding the character and public nature of civil partnerships, the House of Bishops would advise clergy to weigh carefully the perceptions and assumptions which would inevitably accompany a decision to register such a relationship.

### **Lay people who register civil partnerships**

23. The House considers that lay people who have registered civil partnerships ought not to be asked to give assurances about the nature of their relationship before being admitted to baptism, confirmation and communion. *Issues in Human Sexuality* made it clear that, while the same standards apply to all, the Church did not want to exclude from its fellowship those lay people of gay or lesbian orientation who, in conscience, were unable to accept that a life of sexual abstinence was required of them and instead chose to enter into a faithful, committed relationship.

24. The Adoption Act 2003 allows for couples that are not married, opposite-sex and same-sex, to adopt children. The Civil Partnership Act includes legislation about children and reflects an expectation that some people who register civil partnerships will have children in their care. While the House of Bishops recognises many in the Church have reservations about these developments, we believe an unconditional welcome should be given to children in our churches, regardless of the structure of the family in which they are being brought up.

25. In relation to infant baptism, Canon B 22.4 makes it clear that, while baptism can be delayed for the purposes of instruction (including on marriage and the family), it cannot be refused. The responsibility for taking vows on behalf of the infant rests with the parents and godparents. Provided there is a willingness, following a period of instruction to give those vows, priests cannot refuse to baptise simply because those caring for the infant are not, in their view, living in accordance with the Church's teaching.

## **Conclusion**

26. The Government's decision to introduce civil partnerships for two people of the same sex has produced a range of reactions within the Church. There has been support for the remedying of particular, longstanding injustices for those who have for too long been the victims of discrimination and prejudice. At the same time there are concerns that the introduction of civil partnerships in this form may create fresh anomalies and in practice- even though not in law- erode the unique position which marriage has previously occupied.

27. What needs to be recognised is that the Church's teaching on sexual ethics remains unchanged. For Christians, marriage- that is the lifelong union between a man and a woman - remains the proper context for sexual activity. In its approach to civil partnerships the Church will continue to uphold that standard, to affirm the value of committed, sexually abstinent friendships between people of the same sex and to minister sensitively and pastorally to those Christians who conscientiously decide to order their lives differently.

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