Rosemary Le Breton

Dear Corporate Services Scrutiny Panel,

In response to the scrutiny panel's call for evidence, I would like to submit that I am very much against any proposed changes to the marriage laws.

What concerns me is that there are no provisions in the proposed changes which would protect private citizens, government employees or businesses who are conscientious objectors to same-sex marriage.

In communities where same-sex marriage laws have been passed, without appropriate protection for conscientious objectors, individuals and businesses have been targeted and intimidated simply because they choose to live by their moral convictions and cannot participate in a same-sex wedding.

These convictions, that can't be written-off lightly, since they are shared by billions of people around the globe and are articulated in nearly every major faith tradition-including that of the established church here in Jersey-are at the heart of many law abiding citizens in Jersey.

If people wish to marry someone of the same sex this is their private decision, but I would never attend such an event and in this Island I would like to see this freedom of choice maintained.

Before this drastic change to the definition of marriage is debated in the States, protections for conscientious objectors should be passed.

I would recommend the draft language that has been published by the Christian Legal Centre. This draft language is included in the attached memorandum.

Thank you for your consideration of my views.

Respectfully yours,

Rosemary Le Breton

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FOR:
RE: Jersey Same-Sex Marriage Legislation
DATE: 05 October 2017

I. Introduction

The following memorandum addressing the same-sex "marriage" legislation in Jersey will serve a two-fold purpose. First, it will provide draft language pertaining to conscience clauses in instances that may affect Christians, or those with objections to same-sex marriage. Second, the memorandum will look at the legal threats posed by redefining marriage, providing examples from Christian Concern's own experiences in this area.

II. Draft Conscience Clause

§1 The sincerely held religious or moral beliefs protected herein are as follows:

(a) Marriage is, or should be, defined by the law as the union of one man and one woman;
(b) Sexual relations should be confined to marriage as between one man and one woman; and
(c) Children should be raised, or have a right to be raised, by both a mother and a father.

§2 The States of Jersey, or any branch of government including the judiciary, are prohibited from discrimination on the basis of religious or moral beliefs as defined in §1 of the Act.

§3 Exempted Activities

No discriminatory activity shall be permitted, in whole or in part, against a religious organisation or individual on the basis that said religious organisation or individual:

(a) Declines to solemnise any marriage, or declines to provide services, accommodations, facilities or goods for any purpose related to the solemnisation, celebration or recognition of any relationship not consistent with the sincerely held beliefs of that religious organisation or individual in relation to marriage as defined in §1 above.
(b) Makes employment related decisions regarding hiring, terminating, or disciplining anyone based on conduct which is inconsistent with the ethos of that religious organisation or religious employer.
(c) Makes any decision relating to the sale, letting or occupancy, or provides terms and conditions relating thereto, of any property under its control based upon or in a manner consistent with its sincerely held religious or moral beliefs.
(d) Facilitates adoptions or foster care services in a manner consistent with a religious ethos, including, but not limited, to the beliefs defined in §1 above.
(e) Holds sincere religious or moral views regarding issues of gender, sexuality, or sexual behaviour, as a prospective adoptive parent or foster carer, and would raise a child based on those views.

(f) Declines to participate in the provision of treatments, counselling, surgery, or provision of fertility services based on sincerely held religious or moral convictions.
(g) Declines the provision of any good or service which would violate that individual's or business' sincerely held religious beliefs as described in §1 above.
(h) Establishes sex specific standards or policies concerning employee or student dress or toileting facilities, changing rooms or any other area where privacy or intimacy concerns may be involved.
(i) Is an employee of the government and acts in any area relating to the performance, solemnisation, registration of marriages or partnerships which are inconsistent with their views as defined in §1 above.

§ 4 Freedom of expression, including the right to share views relating to the issue of marriage and sexuality, and to try and convince others of the correctness of these views, shall be protected. The discussion or criticism of sexual conduct or practices, including calls to refrain from said activities, or issues related to the definition of marriage, shall be protected speech.
(i) Government employees shall not be prejudiced or punished for the expression of such views;
(ii) Teachers shall not be punished for sharing their personal opinion on any matter relating to religious or moral convictions consistent with §1 above.

III. Consequences of Redefining Marriage

Marriage has for time immemorial, brought a woman and man together in an exclusive relationship, which was meant to be permanent, and with the purpose of rearing children. Because of the family centred nature of marriage, government has a compelling interest to ensure a healthy marriage culture. By redefining marriage to be merely a contract based primarily on love, and divorcing it from its biological, social and anthropological purposes, the result is not only a breakdown of the marriage culture but numerous other serious threats to our freedoms.

Studies suggest that the leading indicator of whether a child will know only poverty is whether he or she grew up in an intact home with a mother and a father. Statistics suggest that marriage, as defined in this sense, reduces child poverty by 80 percent.[1]

Further studies evidence the collective harm brought on by a breakdown of family centred marriage. The left leaning American think tank, the Brookings Institution, has suggested that expenditures related to an unhealthy marriage culture cost taxpayers US$228 between the years 1970 and 1996.[2] A further study postulated that divorce and unwed child bearing costs taxpayers $112 billion each year.[3] Similar scenarios, have no doubt, being playing themselves out in Europe. It is estimated that in the United Kingdom, welfare expenditures related to a broken marriage culture have cost each taxpayer an estimated £1, 820 per year.[4]

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[1] Robert Rector, "Marriage: America's Greatest Weapon Against Child Poverty," Heritage Foundation Special Report No. 117, 05 September, 2012.
[2] Isabel V. Sawhill, "Families at Risk," in Henry J. Aaron and Robert D. Reischauer, eds., *Setting National Priorities: The 2000 Election and Beyond* (Washington: Brookings Institution Press, 1999), pp. 97, 108. See also Witherspoon Institute, "Marriage and the Public Good," p. 15. As cited in Ryan T. Anderson, *"Marriage Matters: Consequences of Redefining Marriage*, Heritage Foundation Report, 18 March 2013.
[3] Institute for American Values et al., "The Taxpayer Costs of Divorce and Unwed Childbearing: First-Ever Estimates for the Nation and for All Fifty States," 2008, http://www.americanvalues.org//pdfs/COFF.pdf . As cited in Ryan T. Anderson, *"Marriage Matters: Consequences of Redefining Marriage*, Heritage Foundation Report, 18 March 2013.
[4] Relationships Foundation, "*Counting the Cost of Family Failure: 2016 Update*", February 2016, http://www.relationshipsfoundation.org/wp-content/uploads/2016/02/Counting-the-Cost-of-Family-Failure-2016-Update.pdf.

Apart from the social benefits lost by promoting policies centred around children growing up in intact households with a mother and a father, numerous freedoms are also threatened. Redefining marriage, premised on the fallacious notion that sexual orientation provides a positive source of human rights, has led to a major cultural shift in how we regard those who support the natural family. Those who support traditional marriage have become marginalised with a consequent erosion to freedom of expression and religious liberty. Campaigners for marriage redefinition and homosexual agenda advocates have, with much success, confused the language around the marriage debate and labelled anyone who does not fully adhere to their worldview as 'homophobic'. As with racism, there has been a cultural push to deem people who do not support the homosexual agenda or marriage redefinition as being unworthy of respect of enjoyment of the same freedoms as other members of society. This has been well documented in the United Kingdom, where Christian Concerns own cases provide numerous examples of how marriage redefinition affects Christians disproportionately.

One significant consequence of marriage redefinition is that the view that children do best with a mother and a father has been deemed to be discriminatory and hateful. Those who have supported this position, which is well evidenced by social science[5], have suffered unconscionable consequences as a result. Richard Page[6], a Christian magistrate, was disciplined by a Cabinet minister and England's highest judge for saying that a child's best interests lie in being raised by a mother and a father. He was also removed as a non-executive trust member by the NHS who expressed their opinion that because of his views on parenting he was not fit to hold a position with the NHS. Simply for expressing his views on what is in the best interests of children, in what was meant to be a privileged conversation, during deliberations over a custody dispute, Richard suffered both loss of employment and loss of reputation. Similarly, Andrew McClintock[7], a Christian magistrate sitting on the family panel at Sheffield Magistrates Court, was forced to resign his position simply for wishing to opt-out of any matter which required him to place children in the case of same-sex partners. Andrew, like Richard, had a sincere Christian belief that children should be raised by a mother and a father.

Belief in Christian sexual morals and conjugal marriage has also had negative consequences in the area of adoption and foster care. Christian Concern has been supporting a couple who has sought to adopt the 2 young children in their care.[8] When informed by their local council that another couple, who were in a same-sex relationship, were being considered for adoption, the family shared their opinion that these 2 children in their care needed a mother and a father. As a result of this comment, the family was deemed to be unsuitable for adoption. Only after Christian Concern's intervention and national media coverage, were the family again considered for prospective adoption. The council, even after deeming them to be fit parents in all areas, shared their only concern to be that the couple's Christian views might be homophobic.

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[5] For a summary of studies on the benefits of being raised by both a mother and a father, *see:* herif Girgis, Ryan T. Anderson, and Robert P. George, *What Is Marriage? Man and Woman: A Defense* (New York: Encounter Books, 2012). *See also*: Witherspoon Institute, "Marriage and the Public Good: Ten Principles," August 2008, pp. 9–19, http://www.winst.org/family_marriage_and_democracy/WI_Marriage.pdf.

[6] http://www.christianconcern.com/cases/richard-page

[7] http://www.christianconcern.com/cases/andrew-mcclintock.

[8] http://www.christianconcern.com/cases/christian-family-adoption-block.

Dr Sheila Matthews[9] was dismissed from her role on the local authority's adoption panel after requesting to refrain from voting when homosexual couples were being considered by the panel as potential adoptive parents. Dr Matthews resigned from her job as a paediatrician and brought a claim against Northamptonshire County Council on the grounds that she had been discriminated against because of her faith. Like Richard and Andrew, here sincerely held Christian beliefs about the definition of family centred marriage and her desire to have those beliefs respected and accommodated in accordance with the law, ultimately were punished by loss of employment.

In relation to foster care, Eunice and Owen Johns[10] applied to foster a child in Derby but their application stalled because of their Christian sexual ethics. This despite the fact that the Johns' were highly experienced foster carers with a long history of public service with children from troubled homes. In a High Court judgment, the judges failed to rule on the specific declaration sought by the Johns and stated that homosexual "rights" trump freedom of conscience in the context of fostering; that if children are placed with parents who have biblical Christian views, then "there may well be a conflict with the local authority's duty to safeguard and promote the welfare of looked-after children". The tax-payer funder Equality Commission made submissions against the Johns' stating that placing foster children with Christian parents runs the risk of "infecting them" with Christian views. The court ruled that councils can require the promotion of homosexuality as a pre-requisite to being allowed to foster. It also made it clear that councils can stop Christians from fostering children on this basis. As a result, the Johns remain unable to foster.

Christian teachers have also suffered. This despite the statement of former Secretary of State for Education Michael Gove, who explained during the passage of the Marriage (Same Sex Couples) Bill that: "…any teacher, if asked direct or invited to share his view by a parent or a student, is perfectly at liberty to say, with equal marriage—as with adultery, divorce or abortion—what their own moral view might be".[11] He further referenced the fact that this position had been, and continues to be the statutory guidance of the Secretary of State for Education since it was issued in 2000 under David Blunkett.

Vickey Allen[12], for example, is a teacher for special needs students who was formally reprimanded for answering a direct question from one of her students about her personal beliefs on marriage. Despite no one being offended or injured by her comments in any way, the school proceeded in its disciplinary process. Their actions were challenged by the Christian Legal Centre and Mrs. Allen was provided an official apology.

Sarah Mbuyi[13], a Christian nursery nurse, was dismissed for gross misconduct from her job in a London children's nursery after saying that marriage is between one man and one woman. She was fired from her job at a nursery in West London after having a conversation with a homosexual colleague in which she explained the biblical position on homosexuality and marriage. Only by recourse to an Employment Tribunal, with the support of the Christian Legal Centre, did Sarah win her case against the nursery.

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9 http://www.christianconcern.com/cases/dr-sheila-matthews.

10 http://www.christianconcern.com/cases/eunice-and-owen-johns.

11 Marriage (Same Sex Couples) Bill Deb, 12 February 2013, c9.

12 http://www.christianconcern.com/cases/vicky-allen.

13 http://www.christianconcern.com/cases/sarah-mbuyi.

Kwabena Peat[14] is another Christian teacher who was suspended because he sent letters to several other staff members complaining of a school training day that was used to promote homosexual agenda issues and which marginalised and labelled anyone who disagreed with those views as being hateful. After being reinstated, he was dismissed for reading Scripture pertaining to sexual ethics during an assembly dealing with promotion of LGBT awareness.

Collectively, these cases show that any dissenting opinion related to sexual orientation can lead to punishment, including dismissal, as a teacher.

Freedom of expression, including preaching on sexual issues and purity, has also been under attack within the United Kingdom despite Section 29JA of the Public Order Act 1986, which states:

> **Protection of freedom of expression (sexual orientation)**
>
> 1)In this Part, for the avoidance of doubt, the discussion or criticism of sexual conduct or practices or the urging of persons to refrain from or modify such conduct or practices shall not be taken of itself to be threatening or intended to stir up hatred.
>
> 2)In this Part, for the avoidance of doubt, any discussion or criticism of marriage which concerns the sex of the parties to marriage shall not be taken of itself to be threatening or intended to stir up hatred.

Despite this, street preachers have consistently been arrested for preaching on the issue of homosexual behaviour. Michael Jones[15], Andrew Geuter[16], Rob Hughes[17], and Tony Miano[18]are all examples for Christian Legal Centre cases which involved Christians being arrested for so-called homophobic remarks. While the Christian Legal Centre has a 100% success rate is street preacher cases, it cannot be denied that such arrests have a strong chilling effect on freedom of Christian expression.

Sensitivities over issues involving sexual orientation are so high that even pastors are being punished for preaching on sexual purity from the pulpit in United Kingdom prison services. Barry Treyhorn[19] is an ordained Pentecostal minister who was forced to resign from his post as a gardener at HMP Littlehey, after a complaint was made about Bible verses he quoted at a prison chapel service where he volunteered. The case clearly raises significant issues of freedom of worship and freedom of expression (the right to share Scripture during a voluntary church service) and church autonomy (the obligation of the state not to interfere with the internal workings of a church). The prison in question houses a large population of sexual offenders and Barry's comments related to sexual purity. A prisoner filed a complaint about being offended by Barry's comments regarding homosexual behaviour leading to Barry's being disciplined.

Reasonable accommodation of sincerely held religious views within employment and the provision of goods and services has also been affected, particularly with the legalisation of same-sex partnerships and then same-sex "marriage." This is despite Article 9 of the European Convention for Human Rights, as implemented into UK domestic law vis-à-vis the Human Rights

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[14] http://www.christianconcern.com/cases/kwabena-peat.
[15] http://www.christianconcern.com/cases/michael-jones.
[16] http://www.christianconcern.com/cases/andrew-geuter.
[17] http://www.christianconcern.com/cases/rob-hughes.
[18] http://www.christianconcern.com/cases/tony-miano.
[19] http://www.christianconcern.com/cases/barry-trayhorn.

Act 1998, requiring that any restrictions to religious expression be narrowly tailored and proportionate to serving a legitimate government aim.[20]

Gary McFarlane[21], a relationship counsellor, was terminated from his position with Relate Counselling for gross misconduct for merely asking if he could be accommodated in his Christian beliefs on Biblical sexuality, by not being required to counsel same-sex couples in matters pertaining to sexual activity. Gross misconduct is the harshest penalty available to an employer and as a result, Gary has essentially been blacklisted from the counselling profession all together. Importantly, Gary was terminated despite not actually having discriminated against anyone (he had simply made the query of his employer). In counselling, it is commonplace to refer clients out to other therapists for any number of reasons including conflict of interest, lack of scheduling capacity, or lack of competency in that area of counselling. The case was ultimately heard by the European Court of Human Rights.[22]

In another example where Christian views on sexual practice have been deemed to be a potential bar to profession, Felix Ngole[23] is a Christian student who has been removed from his university social work course after he made comments on his personal Facebook page in support of biblical teaching on marriage and sexual ethics. Felix was told that, by posting his comments on Facebook, he *"may have caused offence to some individuals"* and had *"transgressed boundaries which are not deemed appropriate for someone entering the Social Work profession."* The case represents an egregious incidence of viewpoint discrimination whereby Felix has been disciplined not for the subject matter he addressed, but for the side he took in the debate. The case highlights the reality that some universities are seeking to create a bar to certain professions which would make it impossible for authentic Christians to practice those vocations. The Christian Legal Centre case has this week been heard by a High Court, which has granted the matter judicial review.

Theresa Davies[24], a registrar with Islington Borough Council, was demoted in her job for refusing to preside over same-sex civil partnership ceremonies. The case exhibits the importance of robust conscience clauses in relation to anyone, including government employees, asked to solemnise same-sex relationships in any form.

Service providers, letting rooms in their private home, have also been caught up in overly expansive equality legislation because of the proliferation of sexual orientation privileges. Leading up to the redefinition of marriage in the United Kingdom, Jeff and Sue Green[25], Christian bed and breakfast owners, had been accused of discriminating against same-sex couples by operating a 'married couples only' policy for their double rooms at their guesthouse in Wales. The failure of equality legislation in the United Kingdom to properly balance religious expression against the promotion of sexual orientation has been incredibly damaging.

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[20] (1) Everyone has the right to freedom of thought, conscience and religion; this right includes freedom to change his religion or belief and freedom, either alone or in community with others and in public or private, to manifest his religion or belief, in worship, teaching, practice and observance. (2) Freedom to manifest one's religion or beliefs shall be subject only to such limitations as are prescribed by law and are necessary in a democratic society in the interests of public safety, for the protection of public order, health or morals, or for the protection of the rights and freedoms of others.

[21] http://www.christianconcern.com/cases/gary-mcfarlane.

[22] http://hudoc.echr.coe.int/eng?i=001-115881.

[23] http://www.christianconcern.com/cases/felix-ngole.

[24] http://www.christianconcern.com/cases/theresa-davies.

[25] http://www.christianconcern.com/cases/jeff-and-sue-green.

Finally, counselling services for those who want to move away from unwanted same-sex attraction have been demonised and practitioners punished simply for assisting clients who sincerely wanted their assistance and expertise. The reality is that there are any number of valid reasons an individual would seek help in refraining from unwanted same-sex attraction including, but certainly not limited to, loving Jesus passionately and wanting to be faithful to Him and His teaching; maintaining a heterosexual marriage and preventing a family breakup; because of strong biblical convictions; or to maintain vows of religious celibacy.

The Christian Legal Centre has supported both Michael Davidson of CORE Issues Trust[26] and Lesley Pilkington[27], who have been leaders in this field of counselling. Lesley was secretly recorded by an undercover journalist during a counselling session, who deceived her into believing that he wanted counselling for unwanted same-sex attraction. She agreed to treat the man but only within a Christian counselling context and he agreed. The journalist later complained to her professional body and to the press. The result was Leslie losing her practicing license. Michael Davidson similarly lost his practicing license for discussing counselling for unwanted same-sex attraction during a television interview. Michael, who represents Core Issues Trust, was further denied the right to place advertising on the sides of buses promoting a post-gay message; this despite homosexual agenda campaigners Stonewall being allowed to hold a very similar ad campaign but in promotion of homosexuality.

IV. Conclusion

How we define marriage matters. Redefining marriage in a manner which deprioritises children, and which equalises all sexual relationships, will have immense social and economic consequences. As the United Kingdom has evidenced, once sexual orientation is made sacrosanct and marriage redefined, the consequent is a rapid and aggressive erosion of Christian freedoms. This memorandum has outlined numerous cases evidencing this trend, showing the importance of being proactive in legislating strong conscience protections. It has also provided draft language for conscience exemptions relating to freedom of religion and freedom of expression.

[26] http://www.christianconcern.com/cases/core-issues-trust.
[27] http://www.christianconcern.com/cases/lesley-pilkington.