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**SUBMISSION TO SCRUTINY PANEL REGARDING
STATE OF JERSEY DRAFT MARRIAGE AND CIVIL STATUS (Amendment No.4)
(JERSEY)
LAW 201**

Thank you for this opportunity to respond to the STATE OF JERSEY DRAFT MARRIAGE AND CIVIL STATUS (Amendment No.4) (JERSEY) LAW 201. As an interested stakeholder and representing the Church of England in Jersey, I would like to make the following observations and comments regarding the proposed law:

- **P.91/2017 Page 5: SECTION B:** Protection for religious organisations and officials.
Under heading: Consent/no compulsions to consent heading:

The First paragraph states: Religious officials and religious organisations will be required to consent to all matters relating to same sex marriage and they cannot be compelled to consent by any means to.....

This surely should state that religious officials and religious organisations will NOT be required to consent to all matters relating to same sex marriage and they cannot be compelled by any means to....

The same problem occurs on p 17. (Article 7). The paragraph on page 47 on the quadruple lock seems to get this right and includes the missing 'not' i.e..."shall **not** be compelled to do, or refrain from doing, certain activities in relation to a marriage....

- **P.91/2017 Page 5: SECTION B. (para 4)**
The paragraph: The amended law also provides that, whilst a religious organisations or official cannot be compelled to take any action with regard to same sex marriage, the Law does not prevent them from doing so, in the event that they chose to. This is not strictly

accurate as the Law does prevent Church of England Clergy, through the Canons of the Church of England in Jersey, (Canon B.30.1) from conducting same sex marriages. This may need some clarity to ensure that the quadruple lock is not undermined.

- **P.91/2017 Page 6: SECTION C: CONSCIENCE CLAUSE**

This is the area where the most submissions from colleagues have been received and they have commented primarily on the impact of the proposed law on those who, out of sincerely held religious conviction, cannot consent to same-sex marriage and who will not, according to the draft law, receive any protection for those sincerely held beliefs.

One submission states: “Whilst the case for redefining marriage to include same-sex marriage is often made on the basis of equality, the end goal of its strongest supporters is actually uniformity, with legal sanctions for those who dissent. It has been noted that same-sex marriage was promoted in the UK as an issue of supposed tolerance and equality. What we have seen however, is the most unequal and intolerant outcomes of any political issue in recent history.

“Whilst section B of the draft law outlines the protection for religious organisations and officials through the quadruple lock, it is incongruous to provide protection for those religious officials operating in their professional capacity, whilst providing no protection for religious lay people holding precisely the same moral conviction.

“Footnote 2 on page 7 of the Draft Law highlights the damaging effects of enforcing uniformity. The failure in the UK to provide a conscience-clause—and the ongoing fallout of that—is surely reason enough for Jersey to do better. Otherwise the result will be that Christian, and other, business people—from florists to hoteliers, from chauffeurs to printers—will find themselves unable to operate.

“Churches and other religious places, whilst exempt from being required to solemnise same-sex marriages, will find themselves unable to refuse to rent out a community space for a same-sex wedding breakfast. Would someone unable to support same-sex marriage be discriminated against in working as, or applying to work as, a Registrar? Those holding to such beliefs must be free to carry out the provision of goods and services in a way that is consistent with those beliefs.

“In the UK, enforced uniformity has extended beyond action to thought. e.g. the ongoing case against Richard Page, cases against potential foster-carers, teachers, students, whose freedom of expression has been curtailed, such as the most recent case against Felix Ngole. A healthy society will protect and defend the right of citizens to share views on marriage and on sexuality”.

It is clear from the above and other submissions I have received and the on-going cases in the UK, that a conscience clause, properly and robustly drafted, would be the best solution to protect those who, out of religious conviction, are unable to support same-sex marriage

and whose professional livelihoods and careers might be in danger as a result, as well as those who in conversation with others, expound a traditional Biblical view on a moral or ethical subject, only to find themselves prosecuted for so doing because of a lack of protection.

It is clear that this would be a challenging task. However, it is an option that is worth exploring and is not dependent on the progress of the draft marriage law. There has been a significant lack of political will to address this in other jurisdictions but we strongly urge the States of Jersey to work to find a Clause that protects people of faith in their daily expression of it where it may come into conflict with the views of others. Giving freedom and rights to one group at the expense of another does not make a just society.

Footnote 3 on page 7 is poignant in this regard.

- **P.91/2017, page 12: SECTION E EFFECTS OF DRAFT LAW AND CIVIL STATUS LAW 201 – Articles 2-4.**

We would urge the States to act swiftly with regard to the marriage of minors (boys or girls aged 16 or 17) as this does allow for the potential law in Jersey to be exploited in relation to forced marriages. We are concerned over the wording on page 12, Section E where it says “The States may, therefore, prohibit marriage between minors (girls and boys aged 16 – 17) at some point in the future, subject to full public consultation”. With the Abuse Inquiry and the rights of children at the forefront of our minds, the language used here does not express any sense of urgency or that the rights of children are a priority. Even with safeguards in place as to permission giving for the marriage of minors, this still does not instil confidence that children will be properly protected.

- **P.91/2017 Page 82 SCHEDULE AMENDMENT OF OTHER ACTS. 17: SOLEMNISATION OF MARRIAGE (8) AND (9)**

We would like to express concern surrounding Articles (8) and (9) under 17 Solemnisation of marriage. Article (8) states “A civil marriage celebrant must not permit any marriage solemnised by him or her to include any religious ritual or symbol or permit prayers or any religious worship or service to be conducted during the marriage ceremony”.

However, it is immediately followed by Article (9) which states: “A civil celebrant, if satisfied that the content of the marriage ceremony does not contravene paragraph(8), must permit any marriage solemnised by him or her to contain any of the following –

- (a) Hymns, songs or chants, whether or not they contain any references of a religious nature.
- (b) Readings from the Bible or other holy books or any other reading that contains references of a religious nature
- (c) Vows or statements of commitment by the person to each other that make any references of a religious nature, provided that any such vow or statement does not replicate any made in any religious ceremony.

We believe that paragraphs (8) and (9) are contradictory and lack clarity. A hymn, by its very definition, is an act of worship, as is a reading from the Bible. How can a civil celebrant or Registrar define or decide what is, or is not, worship? Surely, this is outside of their gift and remit? This to our minds is conflicting in and of itself, in that it is a non-religious celebrant

who makes the decision as to what is religious and gives such a broad latitude to the celebrant conducting the ceremony, that it allows almost anything and simply becomes a quasi-religious ceremony! It is our clear view that civil ceremonies should remain civil and should not include material that is specifically of a Christian nature, namely hymns and Bible readings. This is dressing up a ceremony to be what it is not.

- **P.91/2017 Page 35 ARTICLE 24: MARRIAGE: SPECIAL CIRCUMSTANCES**
There seems to be a lack of understanding of the Dean's Special (Accurately "Extraordinary") Licence in that it is primarily for those who are close to death. This is not accurate as the extraordinary licence may be given to couples to marry in certain chapels and on other occasions.

Thank you for the opportunity to respond to the proposed law amendment and for all that you do in scrutinising legislation on behalf of the people of Jersey.

Yours sincerely

A handwritten signature in black ink, appearing to read 'M Keirle', written in a cursive style.

Very Revd Michael R Keirle