

# STATES OF JERSEY

## Education and Home Affairs Panel Draft Civil Partnership (Jersey) Law 201-

WEDNESDAY, 15th JUNE 2011

**Panel:**

Deputy R.G. Le Hérissier of St. Saviour (Chairman)

Deputy M. Tadier of St. Brelade

Deputy J.M. Maçon of St. Saviour

**Witnesses:**

Clerk for Jersey Quakers

Assistant Clerk for Jersey Quakers

**In attendance**

Mr. M. Haden, Scrutiny Officer

[12:08]

**Deputy R.G. Le Hérissier:**

Well, thank you very much for attending. There is a notice, which is important you read about the truthfulness, which I am sure will be in abundance of your evidence. We welcome you to this meeting; it is very kind of you to come at relatively short notice. You have obviously picked up some of the discussion with the Dean. I wonder, just to set it off and then our lead member in a way is Deputy Tadier and he will move the points along, but I wonder if you could tell us succinctly what your approach is to this law, and why you as a group appear to have taken a different approach to the other religious groups in terms of “solemnising the civil partnership”, if you could explain (a) the general approach and (b) your involvement in this particular matter.

**Clerk for Jersey Quakers:**

Well, Quakers have traditions to support a balance with equal rights with equal responsibilities. That is very much in our traditions, it goes back about 350 years, Quakers have always been very proactive in equality and truth. They began really looking at the equality of same sex relationships I think back about the 1960s when they moved from tolerance of same sex relationships into an acceptance and a welcomingness. We believe in the worth of a relationship, not necessarily the detail of whether it is heterosexual or homosexual. We believe that a loving and honest and supportive relationship is valuable, and therefore people who, because of the way they feel and they way they are, wish to have that relationship in a same sex situation, they should not be in any way disadvantaged, and that they should be supported by their friends in the Meeting. When I use this word “Meeting”, it is an old Quaker word and we use it all the time. We hold meetings for everything so our worship is in a Meeting, when we have our business meetings that is a Meeting. We just use this word “Meeting” for everything that we do and we have different sorts of meetings. So if you hear me talking about Meeting for Commitments, it is a worshipful service that is one in which people can have commitment to each other. We do not have a priesthood, we do not offer blessings, and when we have a marriage ceremony, because we do not have priests, we believe that it is the couple who make the sacredness of the act, and nothing comes between them and God. So a marriage ceremony, if I can put in context of a marriage ceremony, which is held in silence, and at a time of their suiting the couple will stand up and make the vows to each other, and they are the vows that you know and understand in a church service. So that is how it works.

**Deputy R.G. Le Hérissier:**

For the purposes of the Jersey law, are you recognised as “a religion”?

**Clerk for Jersey Quakers:**

Yes. We are recognised as a church I think, are we not?

**Assistant Clerk for Jersey Quakers:**

Yes.

**Clerk for Jersey Quakers:**

They do recognise us as a church.

**Deputy M. Tadier:**

Are you currently able to carry out marriages in the same way that the Church of England or the Catholic Church does?

**Clerk for Jersey Quakers:**

We have a registry officer and you can be married in the Quaker Meeting House. It is not very often that we hold marriages but yes you can be. At the most recent one that we had in the Quaker Meeting House, the registrar also attended as well as our Quaker registrar and there was a small part of it, just very small, slightly on the side, that was conducted and that part was the registrar.

**Deputy M. Tadier:**

So ultimately a ...

**Assistant Clerk for Jersey Quakers:**

We used to have ... we would be an accepted case like the Jewish community were but when you changed the law to have marriages everywhere, you know, castles and things like that, they withdrew our special case.

**Deputy M. Tadier:**

Really?

**Assistant Clerk for Jersey Quakers:**

Yes, and we were able to marry in the Quaker Meeting House but when you changed the law we have to have this civil ...

**Deputy M. Tadier:**

Okay, but the point is as things stand with the drafted law you would not be able to do the same with a civil partnership in your premises with a registrar, for example?

**Clerk for Jersey Quakers:**

Not if the law was drafted to prevent civil partnerships being held in a worshipful setting. What we have been doing in actual fact, I think it was 9 years prior to the U.K. (United Kingdom) Civil Partnerships Act, is we would celebrate same sex relationships in our Meeting House, well at least they did in the U.K., I do not think we have ever done one in Jersey, through what is called a Meeting for Commitment, which would be a Meeting for Worship where the couple could at their own time stand up and commit to one another, but of course it has not got any legal status.

[12:15]

But what we would like to see is, if civil partnerships come in in Jersey, if the Act is passed, then rather than have to have the civil partnership and then a secondary Meeting for Commitment, we would like to be able to hold it in the Quaker Meeting House.

**Deputy M. Tadier:**

Okay, I mean that is a voice which has not come out really officially yet. We have seen representatives, obviously the Dean of Jersey was here a moment ago and we had the Chief Minister in but it is interesting to know that there are denominations, if I can call you that, in Jersey, which would welcome the opportunity to perform civil partnerships legally in their own premises.

**Clerk for Jersey Quakers:**

Well, I would also stress ... I do not know if you have this, I sent it on to Mike. I think you might have it in front of you but Quakers, we would not just marry or create a civil partnership for anybody. We take marriage and civil partnerships very seriously; to us it is not just a civil contract. As I have said it is a religious act, and as with marriage, with civil partnerships only members of the Meeting or those who were not in formal membership, in sympathy with it, could be joined in a Quaker Meeting. I know that the churches just will not marry people who, if you like, walk in of the street but if both of you are not a member of the Quaker Meeting - this has gone on for hundreds of years - if one is a member and one is not as very often is the case then we would send a member round to talk to the couple concerned to make sure that they were in sympathy with our Quaker Witness.

**Deputy M. Tadier:**

Okay. That is reasonable. I think that is consistent with what would happen with marriage in most denominations anyway.

**Clerk for Jersey Quakers:**

Yes.

**Assistant Clerk for Jersey Quakers:**

In England at the time of the Meeting, at the yearly Meeting, you know, all Quakers were be invited to come to discuss this particular issue and there were over 2,000 Quakers and it was put forward very well because they had different couples giving their opinion. There were 2 heterosexual old age pensioners who were getting married who said, you know: "We cannot have children, to say that marriage is just for the procreation of children does not come into it in our case", you know, so you cannot make that a provision for marriage. Then there was a couple of homosexual men who had adopted children who spoke to the fact what a marvellous thing they were bringing up children. We had a couple of lesbians who were saying that when they got married they had really missed being able to have the same service as any other couple getting married. They missed having it in the Meeting. Then we had a normal run-of-the mill man who had children so we had every aspect covered, and the Meeting for Worship was 2,000 people in silence, except for one person getting up to speak at any one time. It was very moving, and they really did feel that we wanted to treat everyone equally. If they were committed to a partner regardless of sex that they should be able to have a religious service in the Quaker Meeting House and it was passed.

**Deputy M. Tadier:**

One option is that well there is a provision in the law, which unfortunately from your perspective and from some of our perspectives, would mean that you cannot carry out civil partnerships and have them registered on your premises.

**Clerk for Jersey Quakers:**

Why is that?

**Deputy M. Tadier:**

Just that is what is in it, so currently there is an Article, which prohibits a religious service to be used while a civil partnership registrar is officiating. So similarly, you can go down to the registry office and have your part but he would not be allowed to come to your premises while you were having the religious ceremony. Now, one idea, which we may favour, is just to remove that Article and that

does not provide you with any obligation to perform a civil partnership, nor does it provide an obligation for any denomination to do that but at least it would give you the choice if you wanted to apply to perform these kind of ceremonies in your own place, you could do that. Would that be something you were ...?

**Clerk for Jersey Quakers:**

Yes, this would be very much like incorporating the United Kingdom Amendment 211, which they are planning to bring in this year, I think. Is that what you are trying to incorporate into the Act?

**Deputy M. Tadier:**

I think that is what we are looking at. I think the current proposal is to get the law in as is currently the case in the U.K., and which we understand because it is essentially copy and paste to all intents and purposes.

**Clerk for Jersey Quakers:**

Yes.

**Deputy M. Tadier:**

I think the concern of the Scrutiny Panel is that while there is consultation going on in the U.K. at the moment, things are in flux, and rather than having a law, which is introduced which may then later be changed with the relevant expense, it may well be the case that we should just take this Article out, which would allow the flexibility for your denomination to retain its autonomy while not obliging other denominations to perform a ceremony that they do not want to.

**Clerk for Jersey Quakers:**

May I ask are there any other denominations who are prepared to have civil partnerships within their churches?

**Deputy M. Tadier:**

The Dean informed us that, for example, the Unitarian Church would be likely to carry out, was that the name of it? Yes, the Unitarian.

**Deputy R.G. Le Hérissier:**

Yes, which does not have a church over here.

**Deputy M. Tadier:**

And the Liberal Jewish community may.

**Deputy R.G. Le Hérissier:**

And the Methodist Church.

**Deputy M. Tadier:**

And the Methodist Church would.

**Deputy R.G. Le Hérissier:**

But you have not made any representation, Frances, to the progenitors of this law?

**Clerk for Jersey Quakers:**

No, we have not. This is the first time we have actually been to see you at all.

**Deputy R.G. Le Hérissier:**

Yes.

**Deputy M. Tadier:**

We will certainly convey those but it is up to you to decide whether you may want to contact the

Chief Minister's Department directly, and we can certainly give you the contact details to convey your views.

**Clerk for Jersey Quakers:**

I would be grateful for that, yes.

**Deputy M. Tadier:**

Are there any other aspects, which would be useful to ...

**Assistant Clerk for Jersey Quakers:**

I know in England that a Quaker couple of heterosexuals have wanted a civil partnership and wondered why they cannot have one, and I notice that you are prohibiting that.

**Deputy M. Tadier:**

Well, I think it would be useful to get your view. It has been necessary, we heard from the Chief Minister, probably politically and socially, to distinguish civil partnerships from marriage. Of course that did not have to be the case, there were several options put forward for consideration but that was considered, I think, the most current of options, which has been adopted elsewhere.

**Deputy R.G. Le Hérissier:**

I think the view was it has been put to us and interestingly enough it has been partly, not because they approve of course, I suspect they are taking a pragmatic view of the situation, it has been put to us by the representatives of the Community Relations Trust that this is a very, very important step on the way but it is not the attainment of the journey, it is not the culmination of the journey.

**Clerk for Jersey Quakers:**

Well, the Quaker intention or policy, if you like, is that same sex couples eventually could share in the sacrament of marriage like heterosexual couples but I think at the moment if we can even get this step it would be marvellous, and then we can go on.

**Deputy R.G. Le Hérissier:**

Yes, and I think the issue was raised by the Deputy Chief Minister - who I noticed has been promoted to Chief Minister by Deputy Tadier, who I know is one of his admirers - and was adamant on the point that the 2 things, they were linked but separate. I have to say that we were all struggling with that but he was adamant on that point but I think the broader explanation is that there is a pragmatic view out there, I am not commenting on it right or wrong, that Jersey society will only take so much of this reform and this is as much as can be pushed at the moment. That seemed to be the view of some other parties.

**Deputy M. Tadier:**

I think part of the problem, and you may be able to say whether this is the case I think, is we are in a situation where we do not have any Civil Partnership Law at all so legally these relationships are not recognised. There is probably a reluctance from those who would want the law to go further, to speak out, because there is a fear that what we do have already needs to be achieved before we go that one step further.

**Clerk for Jersey Quakers:**

I think that is very fair?

**Deputy M. Tadier:**

I think that is why we are mindful as politicians; we can voice the concerns, which maybe have been neutered up until this point.

**Clerk for Jersey Quakers:**

I think eventually it will end up as marriage because if heterosexual couples push for civil

partnerships then you will get kind of 2 types of marriage, which is not right so eventually I think it may move to marriage but you know there has to be ...

**Assistant Clerk for Jersey Quakers:**

If there were ...

**Clerk for Jersey Quakers:**

We all want everything immediately but if you are prepared to give it loving consideration and time then eventually you may find that it just happens because there is no reason for it not to happen but I do not know if it terribly matters if it does not happen next week.

**Assistant Clerk for Jersey Quakers:**

I know the way we approached this certainly in the Meeting is to have every area Meeting throughout Britain discussing it and getting used to it.

**Deputy R.G. Le Hérissier:**

Yes.

**Assistant Clerk for Jersey Quakers:**

Seeing where marriage was born from, because I mean people used to jump over the broom and that was quite legal, and it was only when the church wanted to make a bit of money out of it that it became solemn. You know, if you look back into your theological history of marriage it is all a bit vague. The Dean did say it was a bit muddled well it certainly was, people got married just by saying they were married and jumping over a broom.

**Deputy M. Tadier:**

That is true, yes.

**Deputy R.G. Le Hérissier:**

Okay, but it would have been, from a law drafting point of view, immensely easier to have simply said that the 2 are synonymous in other words because there are enormous, we have dealt with other witnesses on this issue, there are unbelievable complex changes that have to be made to a whole raft of laws because by not being able to use the word "marriage" as synonymous we have to add the words "civil partnership." Plus look at the gender consequences of Social Security, which was as we have been rightly reminded, a gender based law for example. Tax is still in large part gender based, a tax law at its base so it would have been so much easier but anyway that is not really relevant, I suppose.

**Deputy M. Tadier:**

We would need to look about maternity leave as well.

**Deputy R.G. Le Hérissier:**

Yes, I would imagine there is actually, with adoption for example. So, Jeremy, have you got any final questions you wish to pose?

**Deputy J.M. Maçon:**

No, I have nothing further to ask, thank you very much for coming.

**Deputy R.G. Le Hérissier:**

Have you any?

**Deputy M. Tadier:**

I think just to clarify, so you would prefer that Article to be removed?

**Clerk for Jersey Quakers:**

Yes.

**Deputy M. Tadier:**

So that you could at least have the choices as to which ...

**Deputy J.M. Maçon:**

That is left to your discretion.

**Clerk for Jersey Quakers:**

We would be very happy with that.

**Deputy R.G. Le Hérissier:**

But would you be prepared ... sorry do you want to say something?

**Clerk for Jersey Quakers:**

No, I have forgotten what I was going to say.

**Assistant Clerk for Jersey Quakers:**

So, could that be part of this law? Let us hope it is a move forward to equality.

**Deputy R.G. Le Hérissier:**

But would you be prepared as a compromise position, the point I put to the Dean was, while there might not necessarily be approval for a religious element within a civil ceremony, it could be followed by a religious ceremony. Would you be prepared ...?

**Assistant Clerk for Jersey Quakers:**

That is how we have our ...

**Deputy R.G. Le Hérissier:**

That is how you do it at the moment?

**Clerk for Jersey Quakers:**

Well, we have been doing these Meetings for Commitment and in actual fact after the ... well we were doing it before the 2005 Act but after the 2005 Act in the United Kingdom they continued to do them. It is still ... it is not really equal in that you have got to sort of nip down the road get married and come up and do your own thing but we live in a democracy and it is what people will accept but I really do wonder, if you put in it about places of worship, if the sky would fall in, you know?

**Deputy R.G. Le Hérissier:**

Yes. Okay, are there any final points you wish to make or things you may feel we have left out or not understood properly or whatever?

**Assistant Clerk for Jersey Quakers:**

From how I understand it is you are not allowing heterosexual commitment.

**Deputy R.G. Le Hérissier:**

In a civil partnership.

**Assistant Clerk for Jersey Quakers:**

In a civil partnership.

**Deputy R.G. Le Hérissier:**

Well, no sorry it is not us, it is what the law will ...

**Deputy M. Tadier:**

You raise an interesting ... that has been brought up and I think as Roy said the contradictions of having 2 separate laws, I mean on the one hand we could face possible discrimination challenges, although we do not have a discrimination law yet, first of all from same sex couples who want to get married in the church or have religious content; secondly that there could be challenges for heterosexual couples who want the civil partnership for whatever reason.

**Assistant Clerk for Jersey Quakers:**

I think it is really important that couples whatever their sex be allowed to have a religious ceremony if that is what they want.

**Deputy R.G. Le Hérissier:**

Okay, so good. On those grounds I would like to say thank you very, very much for attending and we can formally end the session.

[12:29]