

EQUALITY IMPACT ASSESSMENT RECORD

Title of policy/ practice/ strategy/ legislation etc.	Prescribing Free Church of Scotland (Continuing) (FCC) by Scottish Statutory Instrument (SSI) so all its celebrants are authorised to solemnise mixed sex marriage.
Minister	Minister for Victims and Community Safety
Directorate: Division: Team	Justice: Civil Law and Legal System Division: Family Law Policy Unit.
Is this new policy or revision to an existing policy?	Revision. There are a number of religious and belief bodies which are already prescribed. The policy is to add the FCC, after it made an application to be prescribed.

Screening

Policy Aim

The aim is to prescribe the FCC by SSI so all of its celebrants are authorised to solemnise mixed sex marriage. This contributes to the National Outcome of living in communities that are inclusive, empowered, resilient and safe.

Who will it affect?

The policy will have a limited direct effect as FCC celebrants can already solemnise marriage, once they are authorised by the Registrar General.

Being granted prescribed status has no effect on any religious requirements laid down by the FCC regarding its celebrants or in relation to marriage or its solemnisation.

However, being granted prescribed status will reduce an administrative burden on the FCC. The FCC currently nominates new ministers to the Registrar General to be authorised to solemnise marriage, as well as nominating existing authorised celebrants whose authorisation period is reaching its expiry.

What might prevent the desired outcomes being achieved?

Nothing. A body seeking prescribed status needs to satisfy the Scottish Ministers that it meets the criteria specified. The Scottish Ministers consider the FCC has met these criteria, as outlined in the Policy Note accompanying the SSI.

Stage 1: Framing

Results of framing exercise

The framing exercise noted:

- FCC celebrants can already solemnise marriage once they are authorised by the Registrar General.
- There is a benefit to the FCC in being prescribed as an administrative burden will be reduced.

Extent/Level of EQIA required

A brief EQIA is required.

Stage 2: Data and evidence gathering, involvement and consultation

Include here the results of your evidence gathering (including framing exercise), including qualitative and quantitative data and the source of that information, whether national statistics, surveys or consultations with relevant equality groups.

Characteristic	Evidence gathered and Strength/quality of evidence	Source	Data gaps identified and action taken
AGE	<p>Section 7 of statistics published by National Records of Scotland has data on number of marriages by age and by sex: List of Data Tables National Records of Scotland (nrscotland.gov.uk)</p> <p>This is high quality data. However, it provides factual information on the number of marriages in Scotland rather than information which would help determine the application</p>	NRS	None
DISABILITY	<p>We are not aware of any data on the number of disabled people who marry. However, we do not consider that such data would be relevant to the application.</p>	-	-
SEX	<p>Section 7 of statistics published by National Records of Scotland has data on number of marriages by age and by sex: List of Data Tables National Records of Scotland (nrscotland.gov.uk)</p>	NRS	None.

	<p>This is high quality data. However, it provides factual information on the number of marriages in Scotland rather than information which would help determine the application</p> <p>The solemnisation of marriage by the FCC will be by ministers who are men. Paragraph 2 of schedule 9 of the Equality Act 2010 contains provisions so that a religious requirement that ministers of religion be of a particular sex does not contravene the 2010 Act.</p> <p>Other religious and belief bodies may take different approaches to the question of who can solemnise marriage on their behalf.</p>		
PREGNANCY AND MATERNITY	This does not appear relevant to this application.	-	-
GENDER REASSIGNMENT	This does not appear relevant to this application.	-	-
SEXUAL ORIENTATION	It is for religious denominations to decide for themselves whether or not to take part in	-	-

	same sex marriage. The FCC have decided not to do so.		
RACE	This does not appear relevant to this application.	-	-
RELIGION OR BELIEF	<p>Prescribed status will remove an administrative requirement on the FCC. The FCC itself noted that granting of prescribed body status would place them on a par with kindred denominations and would more accurately reflect their place among the smaller Presbyterian churches.</p> <p>FCC celebrants have solemnised 68 marriages. This is high quality data from National Records of Scotland. However, the number of marriages carried out by a body is not one of the specific criteria considered when dealing with an application to be prescribed.</p>	The data on the number of marriages solemnised by FCC celebrants comes from NRS.	-
MARRIAGE AND CIVIL PARTNERSHIP (The Scottish Government does not	Not applicable	-	-

require assessment against this protected characteristic unless the policy or practice relates to work, for example HR policies and practices).

Stage 3: Assessing the impacts and identifying opportunities to promote equality

Do you think that the policy impacts on people because of their age?

Age	Positive	Negative	None	Reasons for your decision
Eliminating unlawful discrimination, harassment and victimisation			X	Policy is not designed for this.
Advancing equality of opportunity			X	Policy is not designed for this.
Promoting good relations among and between different age groups			X	Policy is not designed for this.

Do you think that the policy impacts disabled people?

Disability	Positive	Negative	None	Reasons for your decision
Eliminating unlawful discrimination, harassment and victimisation			X	Policy is not designed for this.
Advancing equality of opportunity			X	Policy is not designed for this.

Promoting good relations among and between disabled and non-disabled people			X	Policy is not designed for this.
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Do you think that the policy impacts on men and women in different ways?

Sex	Positive	Negative	None	Reasons for your decision
Eliminating unlawful discrimination			X	The FCC will only have male ministers of religion and male celebrants. This is lawful under the Equality Act 2010, given the terms of paragraph 2 of schedule 9 of the 2010 Act Equality Act 2010 Other denominations may have different approaches.
Advancing equality of opportunity			X	Policy is not designed for this.
Promoting good relations between men and women			X	Policy is not designed for this.

Do you think that the policy impacts on women because of pregnancy and maternity?

Pregnancy and Maternity	Positive	Negative	None	Reasons for your decision
Eliminating unlawful discrimination			X	Policy is not designed for this.
Advancing equality of opportunity			X	Policy is not designed for this.
Promoting good relations			X	Policy is not designed for this.

Do you think your policy impacts on people proposing to undergo, undergoing, or who have undergone a process for the purpose of reassigning their sex? (NB: the Equality Act 2010 uses the term ‘transsexual people’ but ‘trans people’ is more commonly used)

Gender reassignment	Positive	Negative	None	Reasons for your decision
Eliminating unlawful discrimination			X	Policy is not designed for this.
Advancing equality of opportunity			X	Policy is not designed for this.
Promoting good relations			X	Policy is not designed for this.

Do you think that the policy impacts on people because of their sexual orientation?

Sexual orientation	Positive	Negative	None	Reasons for your decision
Eliminating unlawful discrimination			X	The FCC do not take part in same sex marriage. Under the Marriage (Scotland) Act 1977 , there are no duties on religious and belief bodies to take part in same sex marriage. Under paragraph 25B of schedule 3 of the Equality Act 2010 , it is not a breach of equality requirements if a religious or belief body decides not to take part in same sex marriage.
Advancing equality of opportunity			X	Policy is not designed for this.
Promoting good relations			X	Policy is not designed for this.

Do you think the policy impacts on people on the grounds of their race?

Race	Positive	Negative	None	Reasons for your decision
Eliminating unlawful discrimination			X	Policy is not designed for this.
Advancing equality of opportunity			X	Policy is not designed for this.
Promoting good race relations			X	Policy is not designed for this.

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Do you think the policy impacts on people because of their religion or belief?

Religion or belief	Positive	Negative	None	Reasons for your decision
Eliminating unlawful discrimination			X	Policy is not designed for this. FCC Ministers are already authorised to solemnise marriage by the Registrar General.
Advancing equality of opportunity	X			The FCC noted that the granting of prescribed body status would place them on a par with kindred denominations and would more accurately reflect their place among the smaller Presbyterian churches.
Promoting good relations			X	Policy is not designed for this.

Do you think the policy impacts on people because of their marriage or civil partnership?

Marriage and Civil Partnership¹	Positive	Negative	None	Reasons for your decision
Eliminating unlawful discrimination	Not applicable	Not applicable	Not applicable	Not applicable

¹ In respect of this protected characteristic, a body subject to the Public Sector Equality Duty (which includes Scottish Government) only needs to comply with the first need of the duty (to eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under the Equality Act 2010) and only in relation to work. This is because the parts of the Act covering services and public functions, premises, education etc. do not apply to that protected characteristic. Equality impact assessment within the Scottish Government does not require assessment against the protected characteristic of Marriage and Civil Partnership unless the policy or practice relates to work, for example HR policies and practices.

Stage 4: Decision making and monitoring

Identifying and establishing any required mitigating action

Have positive or negative impacts been identified for any of the equality groups?	There is a positive impact for religion or belief.
Is the policy directly or indirectly discriminatory under the Equality Act 2010?	No.
If the policy is indirectly discriminatory, how is it justified under the relevant legislation?	Not applicable
If not justified, what mitigating action will be undertaken?	Not applicable

Describing how Equality Impact analysis has shaped the policy making process

The policy remains the same following the EQIA process. No adverse impacts on any of the protected characteristics has been found.

No new data will be collected as a consequence of this EQIA. NRS will continue to collect data on the number of marriages solemnised by each denomination and on the number of marriages by age and by sex.

There are no budgetary implications: costs and savings here are very low.

Prescribed status will reduce an administrative burden for the FCC

Monitoring and Review

The Scottish Government will take a proportionate approach to monitoring and reviewing.

The Scottish Government does not seek information on a regular basis from the prescribed bodies on their solemnisation of marriage as the prescribed bodies are “self-policing”.

The expectation is that prescribed bodies will:

- themselves deal with any concerns about a particular celebrant in relation to the solemnisation of marriage; and
- have an appropriate disciplinary process which allows for the suspension or dismissal of a celebrant if a celebrant has acted in a way which could undermine the dignity and solemnity of marriage.

As is the case with all bodies prescribed to solemnise marriage, the Scottish Government will follow up with the FCC any complaints received about the solemnisation of marriage by their celebrants.

Stage 5 - Authorisation of EQIA

Please confirm that:

- ◆ This Equality Impact Assessment has informed the development of this policy:

Yes No

- ◆ Opportunities to promote equality in respect of age, disability, gender reassignment, pregnancy and maternity, race, religion or belief, sex and sexual orientation have been considered, i.e.:
 - Eliminating unlawful discrimination, harassment, victimisation;
 - Removing or minimising any barriers and/or disadvantages;
 - Taking steps which assist with promoting equality and meeting people’s different needs;
 - Encouraging participation (e.g. in public life)

- Fostering good relations, tackling prejudice and promoting understanding.

Yes No

- ◆ If the Marriage and Civil Partnership protected characteristic applies to this policy, the Equality Impact Assessment has also assessed against the duty to eliminate unlawful discrimination, harassment and victimisation in respect of this protected characteristic:

Yes No Not applicable