

PROSECUTION GUIDANCE IN RELATION TO SAME SEX MARRIAGE

Criticism of same sex marriage or homosexuality is not in itself an offence nor is the expression of religious views or the display of religious symbols. The European Convention on Human Rights and the Charter of Fundamental Rights of the European Union state that all people are guaranteed the right to freedom of thought, conscience and religion along with the freedom of expression. These freedoms include the freedom to hold opinions and to receive and impart information and ideas without interference by public authority. It is important that those wishing to debate the issue of same sex marriage are able to express views and opinions which may be disagreed with and which may cause concern.

Crown Office and the Procurator Fiscal's Service recognise the sensitivity of the issues and the strength of opinion surrounding same sex marriage. COPFS will consider any incident reported to it involving criticism of or support for same sex marriage on its facts and circumstances. Views expressed or comments made in relation to same sex marriage in ways which do not incite hatred or violence towards a particular person or group of people and which do not cause or intend to cause public disorder will not be the subject of criminal prosecution.

In considering whether a prosecution is appropriate, consideration will be given to the facts of the case, the context in which any statements are made or actions taken and wider issues in relation to public safety, the protection of public order and the protection of the rights and freedoms of any victims. Any decision to take proceedings in relation to cases of this nature will be approved by Crown Counsel.