

File: New

RESTRICTED—POLICY

P - 4 MAR 2003 / 4

From: Gareth Johnston

Date: 28 February 2003

Dr Caven
Mrs Harkness
Mrs McAuley
Mr O'Neill
Mr Lambe

A. TRANSSEXUAL PEOPLE
B. CIVIL PARTNERSHIPS

1. This is just to note some points from our meeting yesterday.
2. On **transsexual people**, we noted what was happening across the water. Depending on when we were able to get the necessary permissions to launch a consultation—and at this stage there were too many imponderables to be able to make a judgement on that—there could be timing difficulties in joining a UK-wide Bill.
3. We agreed that it would be useful to share our thoughts on timing with the Lord Chancellor's Department, perhaps when the next few weeks of political uncertainty had passed and there might be a clearer steer on devolution. We noted that in the meantime we would be continuing to see the English material as it was produced, and that there could be opportunities to consult Legislative Counsel on the implications for Northern Ireland.
4. We also agreed that it would be important to circulate Departments once again, particularly as papers emerged from London which gave a clearer sense of the issues involved which were likely to impact upon other Departments.
5. On **civil partnerships**, we noted that there was likely to be a resolution of the discussions on the Sexual Orientation Regulations quite soon. We noted the differences which would arise in the social security sphere if Great Britain moved to introduce a scheme but Northern Ireland did not—these included survivor benefits and those benefits based in National Insurance contributions where wives could rely on husbands' payments. We observed the implications for parity, including the financial implications, and discussed the likelihood of challenges arising if different systems obtained in different jurisdictions. The risk in a challenge was not confined to the issues in the case; a case might give the opportunity for a wider examination of how European law had been implemented.

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6. There were even more imponderables here than on the issue of the rights of transsexual people, but for now the way forward seemed to be:
- (a) to see what came out of the discussions on the Sexual Orientation Regulations, which might affect the English timetable;
 - (b) a submission to Ministers on foot of this, alerting them to the issues on which ultimately they would have to take a line;
 - (c) further consideration of the appropriate lead Department for this work;
 - (d) further consideration of the Section 75 implications of a registered partnership scheme applying only to same-sex couples. We noted that objective justification of any differences in treatment was key.

R. Johnston

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