



**Privy Council Judgement decision right for same sex couples to marry
By Premier Hon. G. Wayne Panton, MP, JP
Wednesday, 16 March, 2022**

The Privy Council on Monday released its judgement in relation to the appeal by Chantelle Day and Vickie Bush against the decision of the Court of Appeal of the Cayman Islands on the question of whether the Bill of Rights of the Cayman Islands supported a right to same sex marriage.

The substance of the appeal originated in the decision of the Grand Court in 2019 that the Marriage Act was in conflict with the Bill of Rights and that it was necessary to amend the Marriage Act to comply with these obligations.

The Government successfully appealed the decision of the Grand Court to the Court of Appeal and it is that decision that was the substance of the appeal to the Privy Council.

The Privy Council is the highest court of appeal for the United Kingdom's Overseas Territories and this decision makes it clear now that the Constitution (inclusive of the Bill of Rights) of the Cayman Islands does not confer a right to same sex marriage.

Specifically it does confer a right for "every unmarried man and woman of marriageable age freely to marry a person of the opposite sex and found a family".

This decision also makes it clear that the Privy Council agrees with the Court of Appeal that the interpretation of the Bill of Rights as reflected in their ruling "does not prevent

Parliament [in the Cayman Islands] from introducing legislation to recognise same-sex marriage”.

Following the passage into law of the Civil Partnership Law, 2020, both same sex and opposite couples may be united in a civil partnership, which affords the functional equivalence of marriage. Unfortunately, the enactment of this Act is being challenged by way of a judicial review. Should that succeed, Government will be in breach of its obligations to provide a mechanism for a union with functional equivalence to marriage and will be required to respond. This is clear from the decision of the Court of Appeal in 2019.

The issue of same-sex marriage is an emotive one in our Islands, with strong views held by those in support of and those against same sex marriages. As we process the Privy Council’s ruling, we must remember to conduct ourselves with respect and civility.

While there are those Caymanians who believe in the traditional definition of marriage, I recognise that times are changing. Many of the younger generations of Caymanians have different views on the issue of marriage and this may become an issue of social justice in time to come.

In the meantime, as Premier I have an obligation under the law to ensure that all people, especially any minority group, are treated fairly and without discrimination. The constitution provides clear guidance on the matter of non-discrimination and the Civil Partnerships Law Act provides for legal recognition of same sex unions.

No matter your view on the issue of same sex marriage, I ask that you discuss your views respectfully and with due consideration to the feelings and emotions of others.

I would like to acknowledge the efforts of the men and women who made arguments on both sides, and to express my appreciation for the work of the Privy Council.

###