

Scottish Election Briefing 2021

AN ANALYSIS OF PARTY POLICIES ON
ISSUES OF IMPORTANCE TO CHRISTIANS



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KEY RESOURCES



Party manifestos

Find links to 2021 manifestos of the parties covered in this publication as they become available at christian.org.uk/scottishelection



Questions for your candidates

These help Christians find out the views of their candidates. See the back cover of this publication or christian.org.uk/scottishelection



This Scottish Election Briefing

*Further copies can be ordered from our office on **0191 281 5664** or downloaded at christian.org.uk/scottishelection*

Introduction

SCOTTISH PARLIAMENT ELECTION 2021

As Christian citizens, we should think carefully about how we vote in the elections for the Scottish Parliament on **6 May**.

The Christian Institute is a registered charity and we cannot tell you how to vote. What we can do in this briefing is address:

- why should you vote?
- biblical priorities
- issues on the horizon
- two key factors in voting
- speaking to candidates
- party policies on key issues
- background information on legislation and public policy.

Our analysis of party policies covers many issues where important Christian principles are at stake. They tend to be issues where biblical standards, particularly the Ten Commandments, directly apply. In modern Scotland they can be among the most controversial subjects, yet in our view the Bible is perfectly clear about them.

We cannot be exhaustive. There will be other areas of concern where much material is available or where there is honest disagreement among Christians holding to the Bible as their authority, such as the environment.

WHY SHOULD YOU VOTE?

The state is a means of God's 'common grace'. The Bible is very clear that the governing authorities act on God's behalf to restrain evil and promote what is good

(Romans 13 and 1 Peter 2). This benefits all people in this world, not just Christians.

As a general rule Christians follow Jesus' command to: "Render therefore unto Caesar the things which are Caesar's" (Matthew 22:21, KJV).¹ Christians are citizens of heaven (Philippians 3:20) and also of an earthly nation. The Christian's duty is to obey the governing authorities. The exception is where they forbid what God requires, or require what God forbids (Acts 5:29).

It is our earnest prayer that Christians will have freedom to share the Gospel and live out the Christian life (1 Timothy 2:1-4). In praying "deliver us from evil" (Matthew 6:13) we are praying against the persecution of the Church as well as against personal temptation.

Common grace and the privilege of voting

Romans 13 makes clear that God has ordained the governing authorities in every country, whether rulers are Christian or not. Thanks to God's common grace, there are many non-Christians who take the morally right view on a range of issues. Nobody's thinking is wrong at every point. Politicians who disagree with Christians about redefining marriage can still be strongly against assisted suicide or liberalising drug laws. Some atheists will strongly defend the free speech of Christians. The Christian Institute can testify that there are men and women of integrity in parties across the political spectrum.

Like the prophet Daniel, God's people must encourage leadership which promotes truth and righteousness, such as when he said to King Nebuchadnezzar: "Therefore,

O king, be pleased to accept my advice: Renounce your sins by doing what is right, and your wickedness by being kind to the oppressed” (Daniel 4:27).

But unlike Daniel, Christians in Scotland today get to play a part in electing their leaders. In our democracy we all have the legal right to vote. Billions of people around the world do not enjoy the same freedoms as we have here. We elect Members of the Scottish Parliament and so ultimately the Scottish Government. We help choose ‘Caesar’. So voting is a privilege and a serious responsibility.²

The election provides an opportunity for Christians to speak out and play their part by voting. Governments can make it easier or harder to live freely as a Christian or to share the Gospel. Believers have to make a judgement about how their vote can be used to best effect.

BIBLICAL PRIORITIES

When it comes to matters of public policy, Christians have to assess biblical priorities. We can distinguish those political issues on which the Bible is absolutely clear from those on which it is not.

For instance, the Bible is not clear on how to improve access to GPs or the most appropriate level of university tuition fees. To decide on these issues involves a detailed assessment of the facts and the exercise of judgement based on experience. Many situations we encounter in ordinary life are at this level, and so are many political issues.

But at the other end of the spectrum the Bible is “clear, direct, and decisive”³ about a whole host of political issues. For example, a vote for abortion or euthanasia is a vote to break the sixth Commandment (Exodus 20:13). These are the kinds of issues that we mainly focus on in this briefing – straightforward matters of right or wrong.

For a very large proportion of political issues, making a Christian judgement depends on the wise assessment of several biblical principles. This can result in Christians arriving at different conclusions. For example, we know for certain that the state has a right to levy taxes (Romans 13:7). But Christians who hold to biblical truth can legitimately disagree on the level of individual taxes.

ISSUES ON THE HORIZON

The new Parliament elected on 6 May 2021 could vote on laws affecting religious liberty, freedom of speech, transgender rights, abortion, assisted suicide and drugs legalisation. More information about legislation and public policy on these and other issues is given on page 24 onwards.

These are all issues of concern to Christians. Some are ‘conscience votes’, where MSPs are free to vote without a party whip, which underlines the importance of finding out what individual election candidates think.

Biblical Christians believe that the Gospel is paramount. Salvation is only found in Christ, not in any political programme. Yet followers of Christ are to care about their world, being salt and light in our society. And in order for that to happen, and for evangelism, there has to be freedom for the Gospel. Religious liberty is a crucial issue.

Christians in this country have enjoyed remarkable freedom for centuries, which was hard won down the years. Yet this is being increasingly challenged. Street preachers have been arrested, Christians have lost their jobs for talking about their faith, and individuals and churches have been discriminated against for believing in traditional marriage.

Many Christians are also gravely concerned about legislative proposals that

intrude into ordinary family life, evangelism and the running of the local church. Christians believe that governing authorities are established by God, but at the same time the Government is not responsible for everything – indeed it must not be, if there is to be freedom.

It is important to say that society is more than the state. Society is made up of families and many institutions and organisations between the state and the citizen. Government by itself cannot solve all our problems or even come remotely close.

DEVOLUTION

The Scottish Parliament can make laws in areas such as education, health, family life, crime, local government, agriculture, social work, economic development and transport. As a result of the Scotland Act 2016, it has powers to set rates and bands of income tax, and powers over certain aspects of welfare. The Act has also devolved abortion law to the Scottish Parliament.

Westminster retains responsibility for other areas such as defence, equality/discrimination law, employment law and foreign affairs. These are 'reserved matters' on which Holyrood cannot legislate.

Though Westminster makes laws on reserved matters, the Scottish Parliament can still have a role on those same issues. Although legislation such as the Equality Act 2010 can only be passed at Westminster, Holyrood can significantly affect the equality agenda in Scotland – for example it has power to make its own regulations to implement the 'public sector equality duty' contained in the 2010 Act.

CANDIDATES AND PARTIES

In the voting system for elections to the Scottish Parliament, each elector has two votes – one for their constituency and one for their region. A system of proportional representation is used. Overall, the aim of the electoral system is to ensure that the number of seats in the Parliament won by each party broadly reflects their percentage of votes in each region.

You have to consider how you will cast your two votes. In the *constituency* list you vote for individual candidates; in the *regional* list you vote for a party.

There are therefore two obvious factors which you must consider: the individual candidates and the political parties.

Thinking first about the constituency list: you may decide it is better to vote for an exceptional candidate who shares your Christian views across a range of moral issues, even if they are standing for a party which you would not naturally support. You may decide that the most important consideration is to vote for the candidate who is standing for a party which in your view represents the 'least-worst' option. You may decide that it is better to vote for a candidate representing a Christian political party who may happen to stand in your area. These are decisions which ultimately only you can make.

Christians should exercise their Christian conscience in these matters. Just because your parents or your work colleagues vote in a certain way does not mean that you need to do the same. It is your choice.

In terms of the regional list, people's thinking is more in terms of the parties as a whole. That makes finding out the policies, and past record, of the political parties all the more important. Of course, you are free to vote for a candidate from *one party* in the *constituency* list, but vote for a *different party*

in the *regional* list. You are also free to vote for individuals standing in a constituency or region who have no party affiliation.

It is highly unlikely that you will find a party or a candidate you feel has all the right views. In some constituencies there will be the option to vote for a candidate who takes a firm stand on moral issues. This is unlikely to be the norm. For many Christians there is a genuine dilemma over choosing a party or a particular candidate. Whatever your decision, it is relevant to consider how the parties fared in previous elections in your constituency and your region.⁴

Type in your postcode *here* to find out which constituency you live in: whocanivotefor.co.uk

SPEAKING TO CANDIDATES

Candidates or their representatives may come to your door, phone or stop you in the street to ask how you intend to vote. This presents an ideal opportunity to raise concerns and to find out where the candidates stand on biblical issues, with a view to promoting wider debate on those matters. The candidate's opinions on certain moral issues can be quite different from the position of their party.

More than at any other time, the candidates and the sitting MSPs will be open to listening to your views. Should they be elected they will be representing you at Holyrood.

Think through one or two issues and have our *Questions for candidates* ready in case canvassers contact you. Limit yourself to the one or two issues with which you are most concerned. Be prepared to give a reason for your view. This briefing will help you get to grips with the issues you are interested in.

If you speak to the candidates themselves, ask if they are willing to raise your concerns at the Scottish Parliament,

if elected. If they say that they will, you can hold them to their promise should they be elected.

If you speak to a representative canvassing on behalf of the candidate, ask for your concerns to be forwarded. The very act of asking questions is a Christian witness.

CONTACTING YOUR CANDIDATES

You don't need to wait for candidates to contact you. You can contact them by letter or email, or on social media, in order to raise your concerns. This way you can be sure that all the candidates have been made aware of the issues important to you.

For contact information about candidates and parties, go to: whocanivotefor.co.uk

Election literature put through your letterbox will give contact details for your candidates. If you write to a candidate, keep your letter short but do raise specific points. Make sure you tell them you are a constituent. You could swap notes with other Christian friends who have had contact with a candidate.

There are many ways of being a Christian citizen, but elections provide a good opportunity for Christians to be salt and light in our society. We must pray for wisdom and speak out for the truth.

THE POLICIES OF THE POLITICAL PARTIES

Since its inception, The Christian Institute has sought to promote the Christian faith in the public square in six main areas – religious liberty in the UK, marriage and the family, medical ethics, education, matters of public morality, and constitutional issues.

Within these broad areas, this *Scottish Election Briefing* highlights some of the policies of the political parties currently represented at Holyrood – the SNP, the

Scottish Conservatives, Scottish Labour, the Scottish Greens, the Scottish Liberal Democrats and Reform UK Scotland. Space and time constraints do not permit us to cover other parties fielding candidates.

The parties set out their policies in their manifestos, official policy documents, or resolutions determined by their party conferences. The Christian Institute's Scottish election website will link to the 2021 manifestos of the parties covered in this publication as they become available: christian.org.uk/scottishelection

Obviously the Scottish Government's actions are there for all to see. Since the opposition parties have not been in a position to implement their ideas, we can

only note what they have said and the way they have voted.

Christians must weigh the evidence and exercise their Christian conscience, remembering that: "If any of you lacks wisdom, he should ask God, who gives generously to all without finding fault, and it will be given to him" (James 1:5).

i ***For contact information about candidates and parties, visit:***
whocanivotefor.co.uk

i ***For party manifestos (as available) and other election information, visit:***
christian.org.uk/scottishelection

The Scottish National Party (SNP) has been in Government in Scotland since 2007. It currently has 61 MSPs in the Scottish Parliament. The Party's leader, **Nicola Sturgeon MSP**, is First Minister. The SNP has 47 MPs at Westminster.

RECORD AS SCOTTISH GOVERNMENT 2007-2021

Hate crime – The Scottish Government introduced the Hate Crime and Public Order (Scotland) Bill in 2020. The Bill extended the law on 'hate crime', including on grounds of religion, sexual orientation and transgender identity. New 'stirring up hatred' offences were widely criticised for endangering free speech.⁵ As originally tabled, the legislation would have criminalised words or behaviour perceived to be "abusive" and "likely" to stir up hatred. The Government agreed to amend the Bill during its passage, including strengthening free speech protections and requiring intention to stir up hatred for an offence to be committed.⁶ However, it rejected a defence for private conversations in the home.⁷ The Bill passed in March 2021. *See More Information.*

A 2018 Scottish Government campaign against hate crime that included a poster addressed "Dear Bigots" was criticised as singling out religious believers.⁸

Free speech – The SNP's Criminal Justice and Licensing (Scotland) Bill in 2009 and sectarianism Bill in 2011 gave rise to serious free speech concerns, but were amended during their passage to include protections.

The sectarianism legislation was repealed in 2018 – the SNP voted against repeal.⁹ *See More Information.*

Covid church closures – During the coronavirus outbreak, the Scottish Government outlawed gathered public worship for several months, including in 2021, later than any other part of the UK. When public worship was allowed, attendance was restricted to 50 or 20 depending on an area's infection rate, regardless of the size of the church building.¹⁰

Smacking – The SNP strongly supported the Bill that criminalised parents for reasonable chastisement.¹¹ It came into force in November 2020.¹² *See More Information.*

Named Person – In 2014 the SNP Government passed legislation to give every child in Scotland a 'named person' – a state employee – to oversee their 'wellbeing' or happiness. The Supreme Court ruled in 2016 that the scheme breached the right to a private and family life. The SNP repealed the statutory scheme in 2019, after being unable to make it lawful and workable.¹³



◉ Nicola Sturgeon MSP, First Minister

Home education – Guidance published by the SNP Government in 2007 upheld the right of parents to home educate and denied that child protection problems are any more likely to arise with home-educated children than those educated at school.¹⁴ In 2019 the Government announced plans to review the guidance, including a consultation that is yet to take place.¹⁵

Religious education – As part of the Scottish Government's Curriculum for Excellence, paganism was introduced into religious education classes for the first time in 2012.¹⁶

Sex education – Government guidance from 2014 on Relationships, Sexual Health and Parenthood (RSHP) education emphasises children's rights at the expense of parental involvement.¹⁷ The guidance is set to be revised to cover various themes relating to LGBT lifestyles.¹⁸ The Scottish Government defended an RSHP online resource that parents have said promotes masturbation and pornography.¹⁹

LGBT education – In November 2018 the SNP Government announced that Scotland would be the first country in the world to embed LGBT education across the curriculum.²⁰

Same-sex marriage – A Government Bill to introduce same-sex marriage was passed in the Scottish Parliament in 2014. SNP MSPs were given a free vote on the Bill; 56 SNP MSPs voted for the Bill and seven voted against it. The Government denied that there was any need for amendments to protect religious liberty and freedom of speech.²¹ *See More Information.*

Transgenderism – In late 2019, the Scottish Government launched a consultation on a draft Bill to allow self-declaration of legal sex. The consultation also asked for views on lowering the age for changing legal sex from 18 to 16.²² Legislation was paused because of the Covid pandemic. The Government supports a third gender option for passports, and amending the Equality Act to explicitly protect "all trans and non-binary people".²³

Assisted suicide – The SNP gave its MSPs a free vote on a Member's Bill to legalise assisted suicide in 2015. Nicola Sturgeon voted against the Bill, having questioned how such legislation could contain sufficient safeguards.²⁴ *See More Information.*

Organ donation – The SNP Government legislated for an opt-out organ donation system in the Human Tissue (Authorisation) (Scotland) Act 2019.²⁵ *See More Information.*

Abortion – In 2020 the Government introduced early home abortions during the coronavirus pandemic and consulted on making the move permanent.²⁶ In the 2020-2021 Programme for Government it pledged to "improve access to abortion".²⁷ In 2017 the Scottish Government offered to cover the cost of abortions for Northern Irish women on the NHS in Scotland.²⁸

Abuse of trust – In 2018, the Scottish Government consulted on extending the existing definition of a ‘position of trust’ in the Sexual Offences (Scotland) Act 2009 to better protect children.²⁹ The law has not yet been extended.

Sexual Offences (Scotland) Act 2009 – The Bill originally proposed by the SNP minority Government would have legalised oral sex between teenagers, but the Government moved an amendment to close the loophole after a parliamentary committee scrutinising the Bill raised concerns. *See More Information.*

Prostitution – In September 2020 the Minister for Community Safety published a consultation asking for views on how to end the demand for prostitution. It outlined the Government’s view that it is a form of violence against women.³⁰ In 2015 the Scottish Government passed legislation to tackle human trafficking but resisted amendments on criminalising the purchase of sex.³¹ The SNP supported the Prostitution (Public Places) (Scotland) Act 2007 which strengthened the law against prostitution in Scotland.³² *See More Information.*

Pornography – As part of its Criminal Justice and Licensing (Scotland) Act 2010, the SNP introduced an offence of possessing extreme pornography.

Drugs – Nicola Sturgeon has pledged to improve funding for rehab services.³³ The Government wants to be able to introduce facilities where drug addicts can inject themselves and wants to make heroin-assisted treatments more widely available.³⁴ The SNP Government introduced new limits to tackle drug-driving in October 2019.³⁵

Cannabis – In 2003 the party supported the UK Government’s reclassification of cannabis from class B to class C.³⁶ However, in 2008 an SNP minister in the Scottish Government welcomed the decision to return cannabis to class B.³⁷ In May 2016, Nicola Sturgeon said: “Cannabis is not a harmless substance. I am not in favour of general decriminalisation but I do think there is a specific case for medicinal use.”³⁸

Alcohol – The SNP Government passed the Alcohol (Minimum Pricing) Scotland Act 2012. The Act allows for a minimum price per unit of alcohol and was implemented in May 2018.³⁹ *See More Information.*

SNP POLICIES

Islamophobia – The SNP has adopted the All-Party Parliamentary Group on British Muslims’ definition of ‘Islamophobia’.⁴⁰

LGBT ‘conversion therapy’ – The Party is committed to pushing for Westminster law reform “to ban and prevent the practice of LGBTI conversion therapy”.⁴¹ Depending on drafting, there are concerns this could affect the ordinary work of churches. *See More Information.*

Transphobia – The SNP national executive has adopted a definition of transphobia that would see Party members punished for using words, forms of address or pronouns that do not correctly reflect the gender with which someone identifies.⁴²

LGBT rights – The SNP has said that in an independent Scotland it would embed LGBTI rights in a written constitution.⁴³

Marriage allowance – The SNP is against marriage tax breaks.⁴⁴

‘Do Not Resuscitate’ orders – In 2020 the First Minister said “no one should receive a DNR form out of the blue without... sensitive discussions having taken place, and absolutely nobody should feel under any pressure to complete such a form.”⁴⁵ *See More Information.*

Drugs – In October 2019 the SNP conference backed a resolution to decriminalise the possession and consumption of drugs.⁴⁶

Gambling – In 2019 the SNP’s manifesto pledged to “press for greater devolution of gambling regulation to the Scottish Parliament”, put pressure on the UK Government to “stop underage gambling on video games” and “support a full public health inquiry into gambling related harm”.⁴⁷

Constitution – The SNP campaigns for an independent Scotland. The Party’s 2019 manifesto pledged to oppose the repeal of the Human Rights Act.⁴⁸

House of Lords – The SNP committed in its 2019 manifesto to abolishing the “undemocratic” House of Lords.⁴⁹

SNP STANCE ON ISSUES AT WESTMINSTER

Human Fertilisation and Embryology Act 2008 – SNP MPs had a free vote on the Bill, including on abortion.⁵⁰

GM babies – When the House of Commons voted on plans to allow genetically modified babies with three or four parents, four SNP MPs voted in favour; two voted against.

Sexual Orientation Regulations 2007 (SORs) – At the time the SORs were being considered, the Party said Roman Catholic adoption agencies should be free to refuse to place children with same-sex couples.⁵¹

Equality Act 2010 – The SNP offered general support for the legislation.⁵² SNP MP John Mason moved amendments in the Commons to protect religious liberty, making clear that he did so as a backbench MP and not on behalf of his party.

LGBT envoy – The SNP has pledged to “press for the establishment of a special envoy to promote the rights of LGBTI people, and to make LGBTI equality an integral part of UK foreign policy.”⁵³

Abortion – In July 2019 Nicola Sturgeon gave her support to SNP MPs voting to legalise abortion in Northern Ireland.⁵⁴

Gambling – The SNP spoke out against the Gambling Act 2005.⁵⁵ In November 2018 SNP MPs were involved in a cross-party effort to force an earlier introduction of a reduced maximum stake on Fixed Odds Betting Terminals.⁵⁶

Sunday trading – In 2016 SNP MPs voted against the Government’s plans to relax Sunday trading.⁵⁷ The party supports Sunday trading in principle, but did not want Scottish workers to be adversely affected by the legislation for England and Wales.⁵⁸



The Scottish Conservatives currently have 30 MSPs. The leader of the Scottish Conservatives is **Douglas Ross MP**. The leader in the Scottish Parliament has been Ruth Davidson MSP, who is standing down at the election. The Conservative Party has 365 MPs in the House of Commons, including its leader, UK Prime Minister Boris Johnson.

SCOTTISH CONSERVATIVES PARTY POLICIES

Hate crime – Scottish Conservatives raised concerns about the impact of the Hate Crime and Public Order (Scotland) Bill on free speech. Justice spokesman Liam Kerr described the ‘stirring up hatred’ provisions as “dangerous”.⁵⁹ He tabled amendments to remove these sections from the Bill and to exempt private conversations in the home. These were rejected and the Conservatives voted against the final Bill at Stage 3.

Sectarianism Bill – The Scottish Conservatives voted against the Offensive Behaviour at Football and Threatening Communications (Scotland) Act 2012 and supported its repeal in 2018.⁶⁰

Smacking – Each Conservative MSP voted against the Children (Equal Protection from Assault) (Scotland) Act 2019 at least once. Just before the law came into effect at the end of 2020, a Party spokesman said that the previous law was “entirely sufficient” to tackle abuse and that parents risk being criminalised.⁶¹

Named Person – The Scottish Conservatives opposed the now-repealed Named Person provisions.⁶² Conservative MSPs abstained on the legislation as a whole, saying that they did not want to oppose the other things in the Bill.⁶³

Education – The 2016 manifesto said that school inspections “should specifically ask about action on LGBT issues as opposed to simply broad equality matters”.⁶⁴

Sex education – In 2018 the Party’s education spokeswoman acknowledged parents’ concerns that some content of sex education lessons might not be age-appropriate.⁶⁵

Same-sex marriage – At Holyrood, Scottish Conservative MSPs had a free vote on redefining marriage. Seven voted in favour of the Marriage and Civil Partnership (Scotland) Bill and eight voted against.



🕒 Douglas Ross MP, Scottish Conservative leader

Transgenderism – Scottish Conservative MSPs have raised concerns about the proposals to make it easier to change legal sex. Spokesperson Annie Wells has said that before amending the law, “we need to consider all the evidence and examine the detail of any changes”.⁶⁶

Assisted suicide – Conservative MSPs were given a free vote on the late Margo MacDonald’s Bill to legalise assisted suicide in 2015. Of the 15 Conservative MSPs at the time, 13 voted against the Bill, including Ruth Davidson. Davidson has since said she has become convinced that the law should change.⁶⁷

Organ donation – Party spokesperson Brian Whittle MSP welcomed the Human Tissue (Authorisation) (Scotland) Act, which introduced an opt-out organ donation system in Scotland. The Party also pushed for a “consistent marketing campaign” to ensure “maximum understanding of the idea of expressed consent”.⁶⁸

‘Do Not Resuscitate’ orders – The Scottish Conservatives health spokesperson has called for an inquiry into the “widespread” use of Do Not Resuscitate orders for elderly people during the Covid-19 pandemic.⁶⁹

Abortion – In 2019, a Scottish Conservatives spokesperson said: “Our position is that the current set-up in Scotland in relation to abortions is appropriate, and we are not seeking to change that.”⁷⁰

Prostitution – The Party supported the Prostitution (Public Places) (Scotland) Act 2007 to strengthen law against prostitution in Scotland. Party spokesmen have said there needs to be a debate on the issue,⁷¹ that it is not “healthy or cohesive for any community”, and that it is vital to address the drivers behind it.⁷²

Drugs – The Scottish Conservatives say they would review the current methadone treatment regime, and redirect funds into “rehabilitation, recovery and abstinence”.⁷³ Deputy Leader Annie Wells has called on the Scottish Government to increase the number of rehab beds.⁷⁴

Alcohol – The Party supported the Alcohol (Minimum Pricing) (Scotland) Act 2012, which allows for a minimum price per unit of alcohol (*see More Information*).⁷⁵ Since then, the Party has said that unless improvements in drinking behaviour are apparent, the policy should be scrapped.⁷⁶

Constitution – The 2019 Scottish Conservative manifesto said the party would “update” the Human Rights Act.⁷⁷

House of Lords – The 2019 manifesto pledged to review the role of the House of Lords.⁷⁸

CONSERVATIVE RECORD AT WESTMINSTER

The Conservatives have been in Government at Westminster since 2010. From 2010 to 2015, the Conservatives were coalition partners with the Liberal Democrats.

Covid church closures – During the coronavirus outbreak, the Conservative Government outlawed gathered public worship for several months.

LGBT ‘conversion therapy’ – The Conservative Government says it is “committed” to “ending the practice of conversion therapy” and will “consider all options”.⁷⁹ Depending on drafting, there are concerns this could affect the ordinary work of churches. *See More Information.*

Same-sex marriage – The coalition Government passed the Marriage (Same Sex Couples) Act 2013 for England and Wales. Though it was supposed to be a free vote for Government MPs, there were reports of undue pressure put on Conservative MPs.⁸⁰ In July 2019 the Government allowed time for amendments to be discussed that led to same-sex marriage being legalised in Northern Ireland. Conservative MPs were given a free vote.

Marriage allowance – The coalition Government introduced a tax break for married couples from April 2015, now worth around £250 a year.

Divorce – In 2020 the Westminster Government passed the Divorce, Dissolution and Separation Act, which introduces ‘no-fault’ divorce in England and Wales.

Human Fertilisation and Embryology Act 2008 – Conservative MPs had a free vote on the Bill, including on abortion.

GM babies – The Coalition introduced regulations under the 2008 HFE Act in February 2015 allowing genetically modified babies with three or four parents. *See More Information.*

Abortion – In 2020 the Government introduced early home abortions during the coronavirus pandemic and consulted on making the move permanent. In July 2019 the Government allowed time for amendments to be discussed that led to abortion on demand being introduced in Northern Ireland. Conservative MPs were given a free vote. The Province had previously had the most pro-life abortion laws in the UK.

Gender Recognition Act 2004 – The Conservative Party had a free vote on this issue, though the frontbench spokesman voted for it. The Party also permitted a free vote on an amendment to protect churches from the effects of the Act. In 2018 the Westminster Government consulted on making it easier to change legal sex in England and Wales, but dropped the plans in 2020.

Sexual Orientation Regulations 2007 (SORs) – The then Conservative leader David Cameron voted for the SORs and said that Roman Catholic adoption agencies would have to comply with the law.⁸¹ Conservative MPs and Peers were given a free vote.

Equality Act 2010 – Conservative MPs and Peers were whipped to support an amendment by Lady O’Cathain maintaining existing employment exemptions for churches, but the Party gave its general support to the Bill as a whole.⁸²

Gambling – In 2005, the Party did not oppose the then Labour Government’s Gambling Act. The Westminster Government is now reviewing the Act, having expressed concern that it is not “fit for the digital age”.⁸³

Constitution – The Coalition’s Succession to the Crown Act 2013 changed the law relating to royal succession, allowing a future monarch to marry a Roman Catholic.



The Scottish Labour Party has 23 MSPs. **Anas Sarwar MSP** became leader of Scottish Labour in February 2021, replacing Richard Leonard MSP. Labour currently has 199 MPs at Westminster.

SCOTTISH LABOUR PARTY POLICIES

Hate crime – Scottish Labour supported the overall principles of the Hate Crime and Public Order (Scotland) Bill, but raised free speech concerns about the ‘stirring up hatred’ offences as originally drafted.⁸⁴ The Party welcomed the additional safeguards introduced and backed the final legislation.⁸⁵

Sectarianism Bill – In 2017, Labour MSP and spokesman James Kelly introduced a Bill to repeal the Offensive Behaviour at Football and Threatening Communications (Scotland) Act 2012. Labour MSPs voted for the Bill. *See More Information.*

Smacking – Scottish Labour supported the Bill that criminalised parents for reasonable chastisement.⁸⁶

Named Person – Scottish Labour MSPs voted in favour of the Children and Young People (Scotland) Act 2014, containing the statutory Named Person provisions. The Party was supportive of “the principle of the named person scheme”, but later criticised the implementation.⁸⁷

Sex education – In its 2017 manifesto, Scottish Labour committed to including “LGBTI relationships and sexual health” within sex education.⁸⁸

Same-sex marriage – Scottish Labour supported the introduction of same-sex marriage in 2014. Labour MSPs were given a free vote, and 31 voted to redefine marriage in Scotland, while three voted against. The 2017 manifesto said “it was only through Labour votes that equal marriage became law across the UK”.⁸⁹

LGBT ‘conversion therapy’ – Anas Sarwar has pledged his “full support” to a campaign to end so-called conversion therapy in Scotland.⁹⁰ Depending on drafting, there are concerns this could affect the ordinary work of churches. *See More Information.*

Transgenderism – The Party’s manifestos have supported self-declaration of sex, legal recognition for non-binary people, and lowering the minimum age for changing legal sex from 18 to 16.⁹¹ The 2019 manifesto noted the Government consultation on changing the gender recognition process



◀ Anas Sarwar MSP, Scottish Labour leader

and said Scottish Labour would “listen carefully to the submissions and debate as the legislation progresses”.⁹²

Assisted suicide – Labour MSPs were given a free vote on Margo MacDonald’s Assisted Suicide (Scotland) Bill in 2015. Five Labour MSPs voted in favour of the Bill, while 31 voted against.

Organ donation – Scottish Labour supported the Human Tissue (Authorisation) (Scotland) Bill, which legislated for an opt-out organ donation system.⁹³ *See More Information.*

‘Do Not Resuscitate’ orders – Former Scottish Labour leader Richard Leonard called for more transparency and better record keeping on the use of DNR forms.⁹⁴ The party has stated that those in care homes should be treated the same as everyone else when diagnosed with Covid-19, and called for an end to blanket DNR letters to care home residents.⁹⁵

Abortion – The Party’s 2019 manifesto supported “access to a safe, legal abortion” for all women.⁹⁶ Scottish Labour supported extending abortion to Northern Ireland.⁹⁷

Prostitution – Scottish Labour’s 2016 manifesto supported “criminalising the buying of sex, decriminalising people involved in prostitution, and providing long-term support and exiting services for those exploited through prostitution”.⁹⁸ The law against prostitution was strengthened by the Prostitution (Public Places) (Scotland) Act 2007, when Labour ran the Scottish Executive with its Liberal Democrat coalition partners. *See More Information.*

Drugs – Scottish Labour backed the SNP’s ‘safe injection space’ proposals in 2018 and supports a focus on “harm reduction rather than criminalisation”.⁹⁹ In 2020, health spokeswoman Monica Lennon called for “urgent funding” to “boost access to treatment and residential rehab”. She added that the Scottish Government “must get behind safe consumption facilities”.¹⁰⁰

Alcohol – Labour abstained on the Alcohol (Minimum Pricing) (Scotland) Act 2012, which allows for a minimum price per unit of alcohol (*See More Information*). The 2019 manifesto supported “restrictions on licensing, marketing, labelling and affordability” and a “social responsibility levy on alcohol sales”.¹⁰¹

Gambling – The Party’s 2019 manifesto sought to: “curb gambling advertising in sports and introduce a new Gambling Act fit for the digital age, establishing gambling limits, a levy for problem gambling funding and mechanisms for consumer compensations”.¹⁰² (*See also Record at Westminster before 2010 overleaf*).

Persecution of Christians – The 2015 manifesto committed Scottish Labour to appointing a “Global Envoy for Religious Freedom”.¹⁰³

Constitution – The Scottish Labour Party maintains a “firm commitment to the Human Rights Act”.¹⁰⁴ The Labour Party supported the Succession to the Crown Act 2013, which lifted the legal bar on heirs to the throne marrying Roman Catholics.¹⁰⁵

House of Lords – Scottish Labour has said it wants to replace the House of Lords with “an elected Senate of the Nations and Regions”.¹⁰⁶

LABOUR RECORD AT WESTMINSTER BEFORE 2010

In 2008 Labour passed the **Human Fertilisation and Embryology Act** which:

- ➊ legalised the creation of **animal-human hybrid embryos** for research;
- ➋ allowed the creation of ‘**saviour siblings**’;
- ➌ abolished the ‘**need for a father**’ consideration before commencing IVF treatment.

Labour allowed its MPs a free vote on these three issues and on **abortion**, though Labour MPs were whipped to support the Bill as a whole. The legislation included regulation-making powers to allow the birth of **GM children** with three or four parents.

The 2007 **Sexual Orientation Regulations (SORs)** outlawed discrimination on the ground of sexual orientation and resulted in almost all religious adoption agencies in Britain becoming entirely secular bodies or closing down. At the time, then First Minister Jack McConnell insisted that Scottish Labour was in favour of an opt-out for Roman Catholic agencies.¹⁰⁷ The SORs have also been used to sue Christian B&B owners for operating a ‘married couples only’ policy for double rooms.

The **Equality Act 2010** consolidated all discrimination laws, including the SORs, into a single Act. The Bill as introduced would have narrowed the employment freedom of churches and religious organisations. The House of Lords voted three times against the plans and the Labour Government gave way. The Act also places a duty on public bodies – like schools and the police – to promote homosexual and transsexual rights.

The law on **cannabis** was downgraded by the Labour Government in 2004 – cannabis became a class C drug on a par with sleeping pills. However, in response to overwhelming evidence of cannabis damaging mental health, it restored the drug to class B in 2009.

The Labour Government’s **Gambling Act 2005** provided for a massive deregulation of the gambling industry, allowing for a great multiplication of betting shops, slot machines and internet gambling.

Scottish Liberal Democrats

scotlibdems.org.uk



The Scottish Liberal Democrats have five MSPs. Their leader is **Willie Rennie MSP**. The Liberal Democrats currently have eleven MPs in Westminster.

SCOTTISH LIBERAL DEMOCRATS PARTY POLICIES

Hate crime – The Scottish Liberal Democrats supported “the overall aim of updating hate crime law”.¹⁰⁸ However, Justice Spokesman Liam McArthur raised free speech concerns and said the Hate Crime and Public Order (Scotland) Bill needed “urgent and, in places, radical surgery”.¹⁰⁹ All five Lib Dem MSPs voted in favour of the amended Bill at Stage 3.

Sectarianism Bill – All five Liberal Democrat MSPs at the time voted against the Offensive Behaviour at Football and Threatening Communications (Scotland) Act in 2012 and for its repeal in 2018.

Smacking – The Liberal Democrats strongly supported the Bill that criminalised parents for reasonable chastisement and all its MSPs voted for it.¹¹⁰

Named Person – All five Lib Dem MSPs at the time voted in favour of the Children and Young People (Scotland) Act 2014.

Sex education – The Scottish Lib Dems want to ensure that “sexual health, parenthood and relationships education is LGBTI inclusive in all schools”.¹¹¹

Same-sex marriage – All five Lib Dem MSPs at the time voted to introduce same-sex marriage in 2014.

LGBT ‘conversion therapy’ – The Scottish Liberal Democrats have formally backed a campaign to ban so-called conversion therapy in Scotland.¹¹² Depending on drafting, there are concerns this could affect the ordinary work of churches. *See More Information.*

Transgenderism – The 2016 manifesto committed to “reform” the Gender Recognition Act, including recognising “the gender identity of non-binary people”.¹¹³

Assisted suicide – Scottish Liberal Democrats voted in favour of assisted suicide at their Spring Conference in March 2015,¹¹⁴ but the Party’s MSPs had a free vote when it came before Holyrood later in the year. Three Lib Dem MSPs voted in favour of legalising assisted suicide, while two, including Willie Rennie, voted against.

Abortion – The Lib Dems backed devolving abortion law to Scotland.¹¹⁵ Westminster MPs have previously been allowed to vote according to their conscience on lowering the time limit for abortion from 24 weeks.



Willie Rennie MSP, Scottish Lib Dems leader

Drugs – The Scottish Liberal Democrats propose to decriminalise drug possession and treat drug use as a health issue.¹¹⁶

Cannabis – The Party supports allowing cannabis for personal use.¹¹⁷

Alcohol – The Lib Dems voted against amendments to set a minimum price for alcohol in the Alcohol etc. (Scotland) Bill (see *More Information*). They want the minimum unit price of alcohol to be raised to 60p “to meet the policy’s original ambition”.¹¹⁸

Prostitution – The Lib Dems have repeatedly called for decriminalising of prostitution.¹¹⁹ The law against prostitution was strengthened by the Prostitution (Public Places) (Scotland) Act 2007, when the Liberal Democrats were coalition partners with Labour in the Scottish Executive.

Human Rights Act – The Liberal Democrats opposed plans to repeal the Human Rights Act and introduce a Bill of Rights.¹²⁰

LIBERAL DEMOCRATS STANCE ON ISSUES AT WESTMINSTER

From 2010 to 2015 the Liberal Democrats were coalition partners with the Conservatives in the Westminster Government.

Same-sex marriage – The Coalition passed the Marriage (Same Sex Couples) Act 2013 for England and Wales. The Liberal Democrats allowed their MPs a free vote.¹²¹

Marriage allowance – Despite describing the marriage tax break measure as “patronising drivel” before entering into coalition, the Lib Dems at Westminster agreed not to block its introduction.¹²² However, they have committed to abolishing it.¹²³

Sexual Orientation Regulations (SORs)

– The Lib Dems supported the Labour Government in voting for the SORs and opposed exemptions for religious adoption agencies.¹²⁴

Equality Act 2010 – The Lib Dems firmly supported the Equality Bill and voted for narrowing employment protections for churches and religious organisations.¹²⁵

Human Fertilisation and Embryology Act

– In 2008, Liberal Democrats were allowed to vote according to their conscience on lowering the time limit for **abortion** from 24 weeks. MPs were also allowed a free vote on the creation of animal-human embryos, ‘saviour siblings’ and scrapping the ‘need for a father’ requirement for IVF children.



The Scottish Green Party has five MSPs, including its co-leader **Patrick Harvie MSP**.

SCOTTISH GREENS PARTY POLICIES

Hate crime – The Scottish Greens supported the Hate Crime and Public Order (Scotland) Bill in Parliament, including criminalising ‘stirring up hatred’.¹²⁶ During the progress of the Bill, the Party tabled amendments to narrow proposed protections for free speech. All of its MSPs voted for the final legislation.

In 2008 Patrick Harvie MSP brought forward the **Offences (Aggravation by Prejudice) (Scotland) Bill**, which introduced tougher penalties for crimes committed against homosexuals and transsexuals. *See More Information.*

Sectarianism Bill – Both Green MSPs at the time voted against the Offensive Behaviour at Football and Threatening Communications (Scotland) Act 2012 and all its MSPs voted for its repeal in 2018.

Smacking – Green MSP John Finnie introduced a Bill that criminalises parents for reasonable chastisement. It came into force in November 2020. The Scottish Greens strongly supported the Bill, and all its MSPs voted for it.

Named Person – Both Green MSPs at the time voted in favour of the Children and Young People (Scotland) Act 2014. When the statutory scheme was abandoned in September 2019, education spokesman Ross Greer MSP said that the policy of having named persons was “unquestionably legitimate” but had been ‘bungled’.¹²⁷

Education – Ross Greer has called on the Government to introduce “critically important LGBTI*-inclusive sex and relationships education”.¹²⁸ The party wants to ensure that education as a whole is “LGBTI+ inclusive”.¹²⁹

Same-sex marriage – The two Green MSPs at the time voted in favour of introducing same-sex marriage in 2014.

LGBT ‘conversion therapy’ – Patrick Harvie has pledged to support a campaign to ban so-called conversion therapy in Scotland. He said: “Attempts to use conversion therapy of any form against LGBT+ people stem from prejudice”, adding that it is “a form of abuse” and “should be outlawed”.¹³⁰ Depending on drafting, there are concerns that a ban could affect the ordinary work of churches. *See More Information.*



Patrick Harvie MSP, Scottish Greens co-leader

Transgenderism – The Scottish Green Party supports the self-definition of legal sex, including an option for those who claim to be “neither male nor female”.¹³¹

Assisted suicide – Patrick Harvie MSP took charge of Margo MacDonald’s Assisted Suicide (Scotland) Bill after her death. Both Green MSPs at the time voted for the Bill. *See More Information.*

‘Do Not Resuscitate’ orders – Patrick Harvie questioned the First Minister over concerns that ‘Do Not Resuscitate orders’ were being issued on a blanket basis. He asked for assurance that care homes and medical professionals would be reminded of the need to sensitively discuss these matters with the individuals concerned.¹³²

Abortion – The Scottish Greens support the total decriminalisation of abortion.¹³³ They support the provisions allowing DIY abortions at home.¹³⁴

Prostitution – The Scottish Green Party advocates the total decriminalisation of prostitution.¹³⁵ Green MSPs abstained on the Prostitution (Public Places) (Scotland) Bill 2007, arguing that it failed to deal with the harm and exploitation that surrounds prostitution.¹³⁶

Drugs – The Scottish Greens “support the decriminalisation of the cultivation and possession of cannabis for personal use, and decriminalisation of possession of drugs that grow wild in the UK”.¹³⁷

Alcohol – In 2010, both Scottish Green MSPs at the time voted in favour of introducing a minimum price per unit of alcohol.

Constitution – The Scottish Greens would campaign for an independent Scotland in a second independence referendum.¹³⁸

The Scottish Green Party wants to “make sure Scotland’s **Human Rights Commission** is strong and independent, to protect and uphold the European Convention on Human Rights”.¹³⁹

Reform UK Scotland

reformuk.scot



Reform UK Scotland has one MSP, **Michelle Ballantyne**. A Conservative MSP until November 2020, Ballantyne was made leader of Reform UK Scotland in January 2021. Reform UK was formerly known as 'The Brexit Party'.

REFORM UK SCOTLAND PARTY POLICIES

Hate crime – Reform UK Scotland says that it would repeal the Hate Crime and Public Order (Scotland) Bill.¹⁴⁰ It says: “The basic right of freedom of thought and worship is fundamental... The right to disagree in a reasoned and respectful manner is fundamental and not negotiable in a free society.”¹⁴¹ Ballantyne voted against the Bill at Stage 3.

Smacking – Ballantyne (while a Conservative member) voted against the Bill that criminalised parents for reasonable chastisement.

Named Person – Ballantyne (while a Conservative member) opposed the Named Person scheme, which she called “poorly designed” and “unnecessary.”¹⁴²

Assisted suicide – As convener of the Cross-Party group on End of Life Choices, Michelle Ballantyne has sought to change Scotland’s law on assisted suicide.¹⁴³ She formerly served on the council of ‘Friends at the End’, a group campaigning to legalise assisted suicide.¹⁴⁴



Drugs and alcohol – Ballantyne (while a Conservative member) called for reform of Scotland’s drugs and alcohol policy. She has spoken in opposition to long-term methadone use and the normalisation of drugs and alcohol use in the family.¹⁴⁵ She has stated support for minimum alcohol pricing.¹⁴⁶

More information about legislation and public policy

RELIGIOUS LIBERTY IN THE UK

Free speech and hate crime

Hate Crime and Public Order (Scotland) Bill 2021

The most serious forms of hate crime are 'incitement to hatred' offences. Before the Hate Crime and Public Order (Scotland) Bill 2021, these only covered race in Scotland.

The Scottish Government commissioned retired judge Lord Bracadale to conduct a review of hate crime legislation. He reported in 2018. After consulting on its implementation of Lord Bracadale's recommendations, the Scottish Government brought forward the Hate Crime and Public Order (Scotland) Bill in April 2020.

Part 2 of the Bill created incitement to hatred offences on various protected characteristics: race, sexual orientation, transgender identity, religion, disability, age and variations in sex characteristics (known as 'intersex'). The original Bill covered abusive behaviour deemed 'likely' to stir up hatred. It included free speech clauses on religion and sexual orientation, but not the controversial issue of transgender identity.

Significant and sustained objections to the Bill as drafted led to a series of concessions during the parliamentary process. On most protected characteristics – including the contentious issues of religion, sexual orientation and transgender identity – intent to stir up hatred will have to be shown for an offence to be committed. A free speech clause was added that covers transgender identity and strengthens

protection for religious debate. Additional amendments to further strengthen the free speech safeguards and create an exception for conversations in the home were rejected. The final Bill was passed by 82 votes to 32 in March 2021.

Offensive Behaviour at Football and Threatening Communications Act 2012 ('Sectarianism Bill')

In June 2011 the Scottish Government brought forward a Bill aimed at tackling sectarian violence in Scotland, particularly in relation to football matches. The Offensive Behaviour at Football and Threatening Communications (Scotland) Bill sought to outlaw various types of threatening behaviour, but it also sought to criminalise communications intended to stir up religious hatred. This raised significant religious liberty and free speech concerns. The Christian Institute lobbied for the inclusion of a free speech clause in the offence.

The Scottish Government introduced a free speech clause through an amendment. This ensured that evangelism, discussions about faith and criticism of other religions would not be caught within the remit of the Bill. In December 2011, the Bill was passed into law by 64 votes to 57 – all the opposition parties opposed the legislation.

After implementation, the Act remained controversial. It was criticised by sheriffs and a large proportion of cases brought under it led to acquittals. In 2017, Labour MSP James Kelly introduced a Member's Bill to repeal the 2012 Act. This was passed by 62 votes to 60 in March 2018 – all the opposition parties supported repeal.

The Criminal Justice and Licensing (Scotland) Act 2010

The Criminal Justice and Licensing (Scotland) Bill was introduced by the SNP minority Government in March 2009.

At Stage 2 the Government tabled an amendment aimed at prosecuting stalking and domestic abuse, but which was more akin to a general public order offence. The wording would have caught a huge range of conduct and gave rise to serious free speech concerns. At its worst, the draft offence would have criminalised private behaviour which was not intended to cause fear, alarm or distress, and caused no one fear, alarm or distress.

In the face of concerns, the Scottish Government brought forward an alternative, narrower proposal that omitted reference to distressing behaviour. At its lowest threshold, it catches 'abusive' speech which is likely to cause 'alarm' to a reasonable person. It became Section 38 of the Criminal Justice and Licensing (Scotland) Act, which received Royal Assent on 6 August 2010.

Offences (Aggravation by Prejudice) (Scotland) Act 2009

Patrick Harvie introduced the Offences (Aggravation by Prejudice) (Scotland) Bill on 19 May 2008 as a 'Handout Bill' – a Member's Bill which is sponsored and supported by the Government.¹⁴⁷ It introduced stronger sentences for crimes committed against homosexuals and transsexuals, where it was shown that the offence was motivated by malice and ill-will based on sexual orientation or transgender identity. The Bill did not introduce any new offences. There were concerns that the proposals could undermine free speech and religious liberty by giving LGBT groups a legal mechanism for targeting those who disagree with them. The Bill received Royal Assent on 8 July 2009. It was replaced by the Hate

Crime and Public Order (Scotland) Bill 2021 as part of consolidating hate crime legislation.

LGBT 'conversion therapy'

The Westminster Government has promised to ban LGBT 'conversion therapy'. At the time of writing, the Government has not been clear about what the proposed ban will cover. The Westminster ban is expected to extend to Scotland. The Scottish Government has said it "fully supports moves by the UK Government to end conversion therapy" and that "officials here are engaging with the UK Government as they develop proposals".¹⁴⁸

The 'End Conversion Therapy Scotland' campaign is inviting Scottish political parties and candidates to sign up to their pledge to introduce a criminal ban on conversion therapy.¹⁴⁹ It says: "Conversion therapy aims to change or suppress an individual's sexual orientation, to repress or reduce their sexual attraction or behaviours, or to change an individual's gender identity to match the sex they were assigned at birth."¹⁵⁰ Scottish LGBT activists say that: "Legislation should ban conversion therapy practices that take place in both the public and private sphere, including those performed by healthcare professionals and within faith communities... There should be no restrictions on who is protected by the ban. Children and adults, deemed vulnerable or not, must be protected, including those who 'consented'."¹⁵¹

Many of those calling for a ban have been clear that it should cover prayer, preaching and pastoral conversations that disagree with LGBT theology. Everyday church life would be beset by the risk of prosecution.

Islamophobia

The All-Party Parliamentary Group on British Muslims published a definition of 'Islamophobia' in November 2018: "Islamophobia is rooted in racism and is a type of racism that targets expressions of

Muslimness or perceived Muslimness”,¹⁵² This definition was adopted by several political parties but was rejected by the Westminster Government. An open letter to the Home Secretary criticised the definition as not being fit for purpose and carrying the danger of being used to “shut down legitimate criticism and investigation”. The letter had more than 40 signatories, including the National Secular Society, Richard Dawkins, Peter Tatchell, Bishop Michael Nazir-Ali and Baroness Cox.¹⁵³

Employment laws

In 2003 the Labour Government introduced special employment rights for homosexuals, having agreed to an EU Directive in this area. After a long campaign by church schools, churches and Christian organisations, the Government gave an exemption in the UK laws so that such bodies are not forced to employ practising homosexuals. Nevertheless, the legislation makes it more difficult for church schools, churches and Christian organisations to refuse to employ staff whose conduct does not match their Christian profession.

Also in 2003, the Government introduced similar regulations covering ‘religion or belief’, removing the absolute discretion of churches to employ believers in whatever posts they see fit. In theory the regulations give employment protection for religious believers in secular workplaces, but the greatest concern has been the potential to restrict the freedom of Christian organisations to employ believers.

Sexual Orientation Regulations 2007 (SORs)

The Labour Government introduced the Sexual Orientation Regulations in April 2007. The SORs outlaw discrimination on the ground of sexual orientation in the provision of goods, facilities and services. Although religious exemptions were included

to protect the core activities of churches, it is now unlawful in some circumstances for Christians to act according to their religious belief that homosexual practice is morally wrong. The SORs have been used to sue Christian owners of a bed and breakfast for operating a ‘married couples only’ policy for double rooms. The 2006 Northern Ireland SORs led to the court case against Ashers Baking Company for declining to produce a cake with the slogan ‘Support Gay Marriage’. The SORs have also forced almost all the faith-based adoption agencies in Great Britain to either close or secularise.

Equality Act 2010

The Equality Bill debated by Parliament in 2009-10 sought to consolidate all discrimination laws, including the SORs, into a single Act. Yet the Labour Government’s Bill as introduced would have narrowed the employment freedom of churches and religious organisations even further than the 2003 employment laws (see above). The Government was defeated three times in the House of Lords, preventing any narrowing of the 2003 laws.

MARRIAGE AND THE FAMILY

Same-sex marriage

The Marriage and Civil Partnership (Scotland) Act 2014 introduced marriage for same-sex couples in Scotland and the first ceremonies took place on 31 December 2014.

The Scottish Government’s Bill was published at the end of June 2013 with few protections for those who disagree with the redefinition of marriage. The Scottish Parliament’s Equal Opportunities Committee published its Stage 1 report on 8 November, stating that a “minority of the committee does not support the Bill because they disagree in principle

or because they are not convinced that adequate protections are in place".¹⁵⁴

The Stage 1 debate took place on 20 November 2013. 15 MSPs voted against the Bill, including three Government ministers. Five MSPs abstained and 98 voted in favour. The Equal Opportunities Committee considered amendments at Stage 2 but all amendments seeking protections for those who support traditional marriage were lost.

The final stage of the Bill, Stage 3, took place on 4 February 2014. Various amendments were lodged aiming to protect the civil liberties of people who believe in traditional marriage, but all were voted down. The final vote was 105 in favour of same-sex marriage and 18 against. All five party leaders at the time voted to redefine marriage.

Marriage tax breaks

In April 2014 Westminster MPs voted 279 to 214 in favour of a tax break for married couples and civil partners throughout the UK. The transferable tax allowance, which became available on 6 April 2015, was worth up to £250 in 2020-21.¹⁵⁵

Parental smacking

Parents throughout the UK have been able to use a loving smack under the defence of 'reasonable chastisement' or 'reasonable punishment'. John Finnie MSP brought forward the Children (Equal Protection from Assault) (Scotland) Bill, a Member's Bill, in September 2018. This abolished the defence. It was passed by 84 votes to 29 in October 2019. All parental smacking in Scotland was criminalised when the Act came into force on 7 November 2020.

Transgenderism

The UK's Gender Recognition Act 2004 allows an adult who has been diagnosed with "gender dysphoria"¹⁵⁶ by two doctors and has lived for two years in the opposite

sex to change legal sex, including on their birth certificate.

There have been increasing calls to liberalise the 2004 Act, in particular so people can change their legal sex without any need for a medical diagnosis ('self-declaration'). There are also calls for the minimum age for changing legal sex to be reduced from 18 to 16, and for legal recognition for those who say they are neither male nor female ('non-binary').

In 2017 the Scottish Government launched a consultation on a proposal to allow self-declaration of legal sex. There were over 15,000 responses. Of those answering the relevant question, 60 per cent were in favour of the plans.¹⁵⁷ In late 2019, the Scottish Government launched a further consultation on a Bill to allow anyone to change legal sex by self-declaration within just six months and remove the need for a medical diagnosis of gender dysphoria. It also asked for views on lowering the minimum age for changing legal sex from 18 to 16. In April 2020, the Scottish Government announced that the plans were being put on hold due to Covid-19.¹⁵⁸

Named Person

The Children and Young People (Scotland) Act was passed on 19 February 2014. Part 4 of the Act introduced the Named Person scheme, under which every child in Scotland was to be assigned a state-employed official responsible for monitoring their "wellbeing". The named person was to be a health visitor or senior teacher and the proposal covered children from birth to the age of 18. Their functions cut across the proper role of parents and were not subject to parental consent or even knowledge.

Concerns were expressed about the Named Person proposals by several key groups, including the Law Society of Scotland and the Faculty of Advocates,

and opposition to the plans continued to emerge.¹⁵⁹ Following legal advice that the Named Person scheme might be unlawful under Article 8 of the European Convention on Human Rights, The Christian Institute and others launched a judicial review of the legislation. We argued that the blanket nature of the scheme constituted a disproportionate and unjustified interference with the right to a private and family life and with freedom of thought, conscience and religion. The case also highlighted the problem of the extremely low threshold for sharing of personal data.

The judicial review of the legislation was dismissed twice in the Scottish courts: by Lord Pentland in January 2015, then by Lords Carloway, Malcolm and Bracadale in September 2015.

But in July 2016 five UK Supreme Court judges unanimously struck down the central provisions of the scheme. The Court stated that the data sharing provisions in the Children and Young People (Scotland) Act were in breach of the right to a private and family life under Article 8 of the European Convention on Human Rights. It also ruled that it had to be made clear that any advice offered by a named person is entirely optional.

The Scottish Government brought forward the Children and Young People (Information Sharing) (Scotland) Bill in June 2017 in an attempt to make the original Act compliant with the Supreme Court ruling. The Bill was scrutinised by the Scottish Parliament's Education and Skills Committee, which refused to allow it to proceed until there was greater clarity around how the scheme would work.

In September 2019, Education Secretary John Swinney said the Scottish Government would repeal parts of the Children and Young People (Scotland) Act 2014, bringing a formal end to the statutory scheme.

Sexual Offences (Scotland) Act 2009

In December 2007 the Scottish Law Commission recommended lowering the age of consent for full sexual activity to 13 where the parties were both under 16.¹⁶⁰

The Scottish Government consulted on the Law Commission recommendations in early 2008 and published its Sexual Offences (Scotland) Bill in June 2008.

The Bill kept the age of consent at 16. However, the Bill legalised oral sex and other sexual activity for teenagers. The Bill would have allowed a 16-year-old and 14-year-old, or 15-year-old and 13-year-old, to engage in sexual activity short of full vaginal or anal intercourse.

The Scottish Government tabled amendments to include oral sex in the scope of the offences and remove the two-year age gap defence with regard to oral sex. The Scottish Parliament passed the Sexual Offences (Scotland) Bill on 10 June 2009 and it received Royal Assent on 14 July 2009.

Under the Act oral sex remained an offence for under-16s but masturbation and groping were legalised for children aged 13 or over where there are no more than two years between the participants.

MEDICAL ETHICS

Abortion

Abortion law was devolved to the Scottish Parliament by the Scotland Act 2016.

The present law allows abortion up to 24 weeks' gestation, but permits abortion up to birth where the child may have 'a serious handicap'. What constitutes a serious handicap has not been defined. The diagnosis of a comparatively trivial deformity, such as a cleft palate, has been used as a ground for an abortion.¹⁶¹ Overall in 2019 in Great Britain, 98 per cent of the 223,102 legal abortions were carried out for social reasons.¹⁶²

In 2008 during the passage of the Human Fertilisation and Embryology Bill (see below), pro-life MPs sought a reduction in the upper gestational time limit for abortion from the current limit of 24 weeks. Several votes to lower this were sadly lost.

In July 2019, MPs at Westminster voted to liberalise abortion law in Northern Ireland, if the Stormont institutions were not restored by 21 October 2019. This led to the most liberal abortion regime in the UK being imposed on the Province.

From October 2018, the Scottish Government began permitting pregnant women to take the second of two pills for a chemical abortion at home. The first was still administered in a clinical setting. This change was unsuccessfully challenged in the courts. During the Covid-19 outbreak, the Scottish Government changed the law to allow *both* pills for a chemical abortion to be taken at home if the woman was less than twelve weeks pregnant. This was said to be a temporary, emergency measure. However, in September 2020 the Scottish Government launched a consultation on making the change permanent. At the time of writing, no final decision has been announced.

Human Fertilisation and Embryology (HFE) Act 2008

This became law in November 2008, liberalising UK law covering the use of embryos. The most controversial elements included allowing scientists to create animal-human hybrid embryos, permitting the selection of embryos to be born as ‘saviour siblings’ for a child with a serious medical condition, and abolishing ‘the need of a child for a father’ requirement in IVF.¹⁶³ The work on animal-human hybrids was abandoned as a failure a year after the Act was passed.¹⁶⁴

GM babies

The HFE Act permitted future regulations allowing scientists to create genetically modified children for women who have mitochondrial disease. In February 2015 the UK became the first country in the world to legislate for techniques to create GM children with three or four parents.¹⁶⁵ The procedures involve germline modification which will affect future generations in unknown ways. The first licence to create three and four-parent babies was granted by the Human Fertilisation and Embryology Authority in March 2017.¹⁶⁶

Assisted suicide/euthanasia

Euthanasia by acts of commission, such as by administering a lethal injection, is illegal in the UK, as is assisting someone to commit suicide. Pro-euthanasia campaigners have made repeated attempts to change the law.

In January 2010 the late Independent MSP Margo MacDonald proposed the End of Life Assistance (Scotland) Bill which sought to allow the terminally ill or people who are permanently incapacitated to seek assistance in ending their lives. MSPs voted 85 to 16 against the Bill in a free vote at Stage 1. There were two abstentions but all the main party leaders at the time voted against the Bill, which then fell.

On 13 November 2013, Margo MacDonald introduced the Assisted Suicide (Scotland) Bill. Following her death, the Bill was taken over by Green MSP Patrick Harvie. The Bill proposed allowing licensed ‘facilitators’ to give lethal drugs to people as young as 16 whose quality of life is “unacceptable” because of a terminal illness or progressive life-shortening condition.

The Bill faced criticism from leading medical professionals. Dr Gordon Macdonald from Care Not Killing warned the Bill was “unnecessary, unethical and

dangerous”,¹⁶⁷ and a petition opposing legalising assisted suicide in Scotland reached over 15,000 signatures.

MSPs were allowed a free vote and on 27 May 2015 the Scottish Parliament resoundingly rejected the Assisted Suicide (Scotland) Bill by 82 votes to 36.¹⁶⁸ The Scottish leaders at the time of the SNP, Conservatives, Labour and Lib Dems all voted against the Bill.

Organ donation

On 11 June 2019 the Scottish Parliament passed the Human Tissue (Authorisation) (Scotland) Act 2019. This creates a presumed consent system for organ donation, also known as an ‘opt-out’ system. It replaced the previous ‘opt-in’ framework and came into force in March 2021. It means that when a competent adult has not recorded an opt-in or opt-out decision, they may be deemed to have authorised donation of their organs and tissue after their death for transplantation. The Scottish Government states that: “Under the opt out system, families of potential donors will always be consulted to check what their loved one’s latest views on donation were.”¹⁶⁹

Some argue that presumed consent systems increase organ donation rates. Others believe that this is doubtful and that improving staff training and infrastructure, and increasing public awareness, are more effective. Under the former opt-in system, there was a seven per cent rise in the proportion of the Scottish population on the Organ Donation Register between 2016 and 2020.¹⁷⁰ ‘Opt-out’ systems can be seen as increasing the power of the state at the expense of individuals and families.

‘Do Not Resuscitate’ orders

DNRs are also commonly called a DNAR or DNACPR – ‘Do not attempt resuscitation’ or ‘Do not attempt CPR’. They refer only to

CPR – not any other medical procedure – and reflect either: a) a patient’s preference not to have it performed; or b) a senior clinician’s opinion that CPR would not be appropriate in the patient’s case. They can be used legitimately to prevent overzealous intervention that is unlikely to succeed.

DNRs should always be made on an individual basis and never due to a blanket policy.¹⁷¹

During the Covid-19 outbreak, evidence emerged of blanket use of DNRs for elderly and disabled patients. The Westminster Government requested the Care Quality Commission to undertake a review, and a final report outlining a number of failures was released in March 2021. The majority of concerns relate to DNRs put in place without full consultation with the patient or their family. There were also a number of cases where DNRs appear to have been applied to cohorts of people, for example all the residents of some care homes.¹⁷²

PUBLIC MORALITY

Prostitution

The Human Trafficking and Exploitation (Scotland) Act was passed by Parliament on 1 October 2015. The Bill was introduced to strengthen the existing criminal law against human trafficking and exploitation and enhance the status of and support for its victims. The Bill provided that a person should not be compelled into prostitution, and Rhoda Grant MSP (Labour) attempted to amend the Bill in order to criminalise the purchase of sex. However, the amendment did not pass and the Act did not outlaw prostitution.

In September 2020, the Scottish Government launched a consultation entitled ‘Equally Safe - challenging men’s demand for prostitution’. It stated the Government’s aims

to “challenge men’s demand for prostitution, work to reduce the harms associated with prostitution and support women to exit”. It described prostitution as “a form of commercial sexual exploitation” and as violence against women.¹⁷³ No analysis of the consultation responses has been published at the time of writing.

Drugs

i *Legislation on ‘controlled drugs’ is reserved to Westminster.*

The law categorises illegal drugs as either class A, B or C according to their harmfulness. The classification determines the criminal penalties for possession and supply. The most harmful drugs, such as cocaine and heroin, are class A. Class B includes cannabis and speed (amphetamines) and class C includes sleeping pills.

In November 2003 Parliament approved the reclassification of cannabis from class B to class C. This came into force in 2004 across the whole of the UK. However, the drug was restored to class B in 2009 due to overwhelming evidence of cannabis damaging mental health.

There is a concerted campaign under way to dismantle the UK’s drugs legislation. Two House of Commons committees – the Health and Social Care Committee and the Scottish Affairs Committee – have called for possession of drugs for personal use to be decriminalised.¹⁷⁴

Significant attention has focused on ‘medical cannabis’, after high-profile cases of sick children seemingly benefiting from using cannabis oils. From 1 November 2018 the law was changed to permit specialist doctors to prescribe unlicensed cannabis-derived products. Access to cannabis-derived medicinal products has so far been limited, with campaigners arguing that further

change is necessary.¹⁷⁵ Doctors and the Department of Health have been reluctant to prescribe cannabis without more evidence that it is safe.¹⁷⁶

In Scotland, there were more than 1,200 drug-related deaths in 2019, double the number in 2014. Scotland had 295 drug deaths per million of the population aged between 15 and 64 in 2018, the highest in Europe.¹⁷⁷ This has been described as a public health crisis, and in December 2020 Public Health Minister Joe FitzPatrick resigned from the Scottish Government over the issue. Nicola Sturgeon appointed a full-time drugs minister to take charge of the Government’s response.

‘Drug consumption rooms’ or ‘safe consumption facilities’ are settings that allow addicts to bring their own drugs and take them under supervision. Westminster has not agreed to devolve the necessary power to create such facilities in Scotland.¹⁷⁸

In March 2021, MSPs unanimously agreed a motion that said the drug deaths in Scotland in recent years are a “public health emergency”, supported the use of “safe consumption facilities” and agreed to “work towards diverting people caught in possession of drugs for personal use into treatment and ceasing imprisonment in these cases”.¹⁷⁹

Alcohol pricing

The Alcohol (Minimum Pricing) (Scotland) Act 2012 was passed at Holyrood by 86 votes to 1 and received Royal Assent in June 2012. There were 32 abstentions, all Labour. Labour had tabled an amendment calling for a levy targeted at large retailers “to eliminate the windfall to large retailers arising from the minimum unit price”.¹⁸⁰ This was defeated by 82 votes to 37.

The Act allows ministers to set a minimum price per unit of alcohol, which the Government set at 50p from 1 May 2018.

The Scottish Government stated that it “will save lives, reduce hospital admissions and, ultimately, have positive impacts across the whole health system in Scotland and for wider society”.¹⁸¹

Arguments for minimum pricing include that it reduces consumption and therefore alcohol-related harm, and that it is a targeted measure that mainly affects the cheaper drinks more likely to be bought by heavier drinkers. Critics of the policy claim it does not affect heavy and harmful drinkers as they are less sensitive to price, but that it disproportionately affects low income groups and increases the profits of major retailers at the expense of the majority of moderate drinkers.¹⁸² An evaluation, led by Public Health Scotland, is under way to look at both the intended and unintended consequences of minimum pricing. Its final report is expected in 2023.¹⁸³

Gambling

In 2005 the Westminster Labour Government passed the Gambling Act. The Act removed restrictions controlling the worst excesses of casinos, betting shops and slot machines. It greatly reduced restrictions on new casinos opening, repealed the 24-hour membership requirement and lifted the general ban on all gambling advertising. The Act also formally legalised ‘virtual casino’ machines in betting shops and elsewhere. These machines, known as fixed-odds betting terminals (FOBTs), have been called the ‘crack cocaine’ of gambling. FOBTs allowed gamblers to stake up to £18,000 an hour. The Westminster Government announced in May 2018 that the maximum stake on FOBTs would be reduced to £2 throughout Great Britain. This was implemented from April 2019.

The Westminster Government launched a review of the Gambling Act in late 2020.

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- 183 'Overview of Evaluation of MUP', *Public Health Scotland*, see <http://www.healthscotland.scot/health-topics/alcohol/evaluation-of-minimum-unit-pricing-mup/overview-of-evaluation-of-mup/timeline-of-evaluation-of-mup> as at 18 March 2021

Scottish Election Briefing 2021

AN ANALYSIS OF PARTY POLICIES ON ISSUES OF IMPORTANCE TO CHRISTIANS

Elections for the Scottish Parliament take place on 6 May 2021.

As Christian citizens, we should think carefully about how we vote in the elections. The Christian Institute is a registered charity and we cannot tell you how to vote. What we can do in this briefing is address:

- why should you vote?
- biblical priorities
- issues on the horizon
- two key factors in voting
- speaking to candidates
- party policies on key issues
- background information on legislation and public policy

Questions for your candidates

Ask your candidates where they stand

1. Do you believe the law should allow assisted suicide?
2. Should it be made easier for a person to change legal sex?
3. Are you concerned that an LGBT conversion therapy ban could inadvertently restrict the everyday work of churches?
4. Do you believe the law on abortion is too lax, too restrictive or about right?
5. Do you believe recreational use of drugs should be legal?
6. Are you concerned that new hate crime laws could be wrongly used to restrict free speech and freedom of belief?

KEY RESOURCES TO INFORM YOUR VOTE

christian.org.uk/scottishelection



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