



Cayman Islands Human Rights Commission

promoting, protecting and preserving human rights

For Immediate Release
23 June 2016

Statement on European Law, Human Rights and Same Sex Unions

Over the last few days the Human Rights Commission has read commentary in the press and reports of debate in the Legislative Assembly dealing, again, with the issue of equal rights for LGBT+ individuals and in particular regarding same-sex unions. Much of what has been said is not novel and the Commission's position on these topics is well known, however, a number of commentators seem to be under a misapprehension of the current state of the law in this regard.

It appears there may be a perception that, as a result of the 9 June 2016 decision of the European Court of Human Rights ("the Court") in *Chapin and Charpentier v France* (application no. 40183/07), the Court's position on same-sex unions has changed. It has not.

The Commission is unsure whether those commenting have read the judgment in *Chapin*, which is, unfortunately, only available in French. As ever, when interpreting legal rulings it is important to read the materials issued by the Court and not merely rely on press reports; not all reporting is unbiased and not all journalists commenting on legal matters are legally qualified.

To clarify the position: the *Chapin* case has not changed the law on this point which remains as stated by the Commission in our press release of 27 July 2015 dealing with the case of *Oliari* (see <http://www.humanrightscommission.ky/portal/pls/portal/docs/1/12320915.PDF>). Indeed, in the *Chapin* judgment the Court specifically referred to *Oliari* and reiterated the decision in that case as binding.

For the avoidance of doubt: States are required, by law, to make provision for same-sex couples to have their relationships legally recognised (although that recognition does not have to be by 'marriage'). Any suggestion that Cayman's current legal framework is sufficient to survive a legal challenge in the Court on same-sex unions is wrong as a matter of law.

A copy of the press release issued by the Court (in English) summarising the *Chapin* ruling is attached.

Ends.

.....
2nd Floor Artemis House, Fort Street, George Town, Grand Cayman
P.O. Box 391 | Grand Cayman KY1-1106 | CAYMAN ISLANDS
Telephone: 1.345.244.3685 Facsimile: 1.345.945.8649
Website: www.humanrightscommission.ky