



December 2020

# Getting Married: A Consultation Paper on Weddings Law NSS response

Submitted by email to: [weddings@lawcommission.gov.uk](mailto:weddings@lawcommission.gov.uk)

## Introduction

This submission is made by the National Secular Society (NSS). The NSS is a not-for-profit non-governmental organisation founded in 1866, funded by its members and by donations. We advocate for separation of religion and state and promote secularism as the best means of creating a society in which people of all religions and none can live together fairly and cohesively. We seek a diverse society where all are free to practise their faith, change it, or to have no faith at all. We uphold the universality of individual human rights, which should never be overridden on the grounds of religion, tradition or culture.

We welcome this opportunity to respond to the Law Commission's consultation on wedding law. We are broadly supportive of the Commission's proposals. We think they offer a balanced, practical and sensible model for more equal and inclusive weddings for people of all religions and none. We particularly welcome the following proposals:

- We greatly support the shift away from a 'buildings-based' approach to marriage law to an 'officiant-based' approach. This is a reform we have also called for.<sup>1</sup> It is in line with the law in Scotland and with existing provisions for Jewish and Quaker weddings in England and Wales, all of which are working well. This reform, perhaps more than any other in the proposals, will significantly increase freedom and fairness for all couples to marry how they want, and where they want – including outdoors.
- We also support the introduction of universal civil preliminaries. This will give much needed clarity to the law so all couples fully understand the process, in addition to providing equality for all couples regardless of religion or belief.
- We also greatly support the proposal to relax the prohibitions of religious content in civil weddings. We have also called for this reform in our campaigning work. We think that the current restrictions on religious prayers, blessings, songs and other content in civil weddings too greatly restricts the freedom of couples to have a wedding that is meaningful to them.

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<sup>1</sup> For more information, please see our 'Reform Wedding Laws' campaign page: <https://www.secularism.org.uk/marriage-equality/>

Since this content has no legal significance on the wedding, we do not see any conflict with secular principles of separating religion and state in this regard.

- We welcome the more inclusive approach to authorising what religious groups can officiate legally-recognised weddings, including removing the requirement for religious groups to have a physical place of worship in order to conduct weddings. We also welcome the consideration to include “non-religious belief groups” into the sphere of groups that can nominate an officiant.
- We welcome the consideration to enable independent officiants to hold legally-recognised weddings. We think this will add to couples’ freedom of choice. However, we question the recommendation to limit independent officiants to civil weddings only. Many independent celebrants already conduct religious and Humanist wedding ceremonies, and we think enabling them to continue to do so, and for those weddings to have legal recognition, should be considered.
- We welcome the solutions proposed to the issue of religious ‘marriages’ that are not legally recognised – in particular, the issue of Muslim women entering *nikah* unions that are not subject to courts of law, and find themselves disadvantaged when subject to sharia councils if disputes arise. We agree it should be an offence for an officiant, or a person who purports to be an officiant, to deliberately to mislead a couple about the legal effect of their ceremony.

We have concerns regarding some of the details of the Law Commission’s proposals, which we have expressed in our answers to the consultation questions. We have omitted any questions that are not applicable to the NSS or that are beyond our organisation’s remit.

Finally, we ask the Law Commission to be aware that many groups consulted will, quite understandably, have vested interests in improving things for their specific group in particular – in some cases even to the detriment of other groups or the marrying couple. We ask the government to put individuals at the centre of their decision-making in this process. Individual rights and fairness must come first. And in the case of weddings, the most important people are the marrying couple. Their rights, freedoms and needs should be at the very centre of policy-making in this area.

## NSS’s responses to the consultation questions

### **Consultation Question 5.**

14.5 We provisionally propose that it should be possible to start the notice period by giving notice online, by post or in person at any registration district, and that any person giving notice online or by post would be required to attend a separate in-person interview at a later date.

Do consultees agree?

We agree with this proposal. This will make the process more accessible and suitable for our times.

**Consultation Question 7.**

14.7 We invite consultees' views as to whether it should be possible for interviews to take place remotely, in the future, with the possibility of an in-person interview being required where concerns arise about sham or forced marriages or the capacity of either party to consent.

We think in-person interviews should remain the default, in order to safeguard against forced marriages or sham marriages. Remote interviews should only be permitted under extraordinary circumstances.

**Consultation Question 9.**

14.9 We provisionally propose that notices of marriage should be publicly displayed online, save where this would expose either of the couple to a risk of harm.

Do consultees agree?

We agree with this proposal. We think this strikes a balance between the need for a process for anyone who knows of any legal reason why the wedding should not go ahead to make that known, and protecting the safety and privacy of the couple.

**Consultation Question 11.**

14.11 We provisionally propose that:

- (1) the schedule should identify the officiant who will officiate at the wedding; and
- (2) at the parties' request, the registration service should issue an amended schedule with a substitute officiant.

Do consultees agree?

We agree with this proposal.

**Consultation Question 12.**

14.12 We provisionally propose that a substitute officiant should be able to officiate at the wedding if the officiant named in the schedule is unexpectedly unable to act because of death, sudden illness or unavoidable delay.

Do consultees agree?

We agree with this proposal.

**Consultation Question 13.**

14.14 We provisionally propose that banns published in Scotland, Northern Ireland or Ireland should no longer authorise an Anglican wedding in England or Wales.

Do consultees agree?

We agree with this proposal. Removing redundant provisions will help to streamline and simplify the law.

**Consultation Question 14.**

14.15 We provisionally propose that the rules about where banns can be published to authorise an Anglican wedding if a church is injured by war damage should be repealed.

Do consultees agree?

We agree with this proposal. Removing redundant provisions will help to streamline and simplify the law.

**Consultation Question 15.**

14.16 We invite consultees' views as to whether banns to authorise an Anglican wedding should be required to be published only in the church where the wedding is to take place.

We think the legal effect of Anglican preliminaries should be abolished. If Anglican preliminaries cease to have legal effect, it should be solely a decision for the Church of England and Church in Wales as to whether they wish to continue requiring banns to be called for their wedding rites.

**Consultation Question 16.**

14.17 We invite consultees' views as to whether to authorise an Anglican wedding clergy should: (1) have the power to call for documentary evidence and be required to check such evidence; and (2) be required to meet with each of the couple separately, before banns are published.

If Anglican clergy are authorised to serve as officiants by virtue of their status, they should have identical powers and identical responsibilities duties as other officiants.

**Consultation Question 17.**

14.18 We invite consultees' views as to whether both of the couple should be required to attend and make separate declarations that there is no impediment to their marriage in order for a common licence to be granted to authorise an Anglican wedding.

The process for preliminaries should be identical for all couples regardless of whether the wedding is Anglican, civil or conducted according to another religion or belief.

**Consultation Question 18.**

14.19 We invite consultees' views as to whether:

- (1) Anglican preliminaries should continue to be recognised as legal preliminaries to weddings officiated by the Church of England and the Church in Wales; or
- (2) all weddings should be preceded by civil preliminaries.

We strongly agree with (2): all weddings should be preceded by civil preliminaries. This option is most compatible with the aim to make wedding law simpler and fairer for all, regardless of religion or belief.

We do not agree with (1). This exceptionalises Anglican weddings and undermines the equality and simplicity in wedding law that the Law Commission aims to achieve.

**Consultation Question 19.**

14.20 We provisionally propose that all weddings should be attended by an officiant who should have a legal duty to:

- (1) ensure that the parties freely express consent to marry each other;
- (2) ensure that the other requirements of the ceremony are met; and
- (3) ensure that the schedule or (if Anglican preliminaries are retained) marriage document is signed.

Do consultees agree?

We agree with this proposal and all the legal duties set out.

**Consultation Question 20.**

14.21 We provisionally propose that registration officers should only be able to officiate at civil weddings.

Do consultees agree?

We agree with this proposal. This will avoid a conflict of interest in the registration officers' duties.

**Consultation Question 21.**

14.22 We provisionally propose that only one registration officer should need to officiate at a civil wedding.

Do consultees agree?

We agree with this proposal.

**Consultation Question 22.**

14.23 We provisionally propose that clerks in Holy Orders within the Church of England and the Church in Wales should be recognised as officiants by virtue of their office.

Do consultees agree?

We disagree with this proposal. We think clerks in Holy Orders within the Church of England and the Church in Wales should follow the same 'nominated officiant' route in the same way as other religious groups, as proposed by the Law Commission. To exceptionalise Anglican clergy in this way undermines the principles of equality, consistency and simplicity that the Law Commission wishes to achieve in its reforms to wedding law.

**Consultation Question 23.**

14.24 We provisionally propose that:

- (1) for religious organisations other than the Church of England or the Church in Wales, the relevant governing authority of the organisation should be responsible for nominating officiants to officiate at weddings; and
- (2) (if Government enables non-religious belief organisations to officiate at weddings) the relevant governing authority of the non-religious belief organisation should be responsible for nominating officiants to officiate at weddings.

Do consultees agree?

We agree with this proposal.

#### **Consultation Question 24.**

14.25 We provisionally propose that, if Government enables non-religious belief organisations to officiate at weddings, such organisations should be defined (to mirror the description of religion in *R (Hodkin) v Registrar General of Births, Deaths and Marriages*<sup>2</sup>) as

An organisation that professes a secular belief system that claims to explain humanity's nature and relationship to the universe, and to teach its adherents how they are to live their lives in conformity with the understanding associated with the belief system.

Do consultees agree?

14.26 We invite consultees' views as to whether there should be a list of types of organisations that should not amount to a non-religious belief organisation for the purpose of officiating at weddings, and if so, what types of organisations should be listed.

We agree that the definition of non-religious belief organisations proposed by the Law Commission to align with the description in *R (Hodkin) v Registrar General of Births, Deaths and Marriages* is a useful guideline for determining which non-religious belief organisations can officiate weddings.

#### **Consultation Question 25.**

14.27 We provisionally propose that religious organisations and (if enabled by Government to officiate at weddings) non-religious belief organisations should be able to nominate officiants if the body has:

- (1) at least 20 members who meet regularly for worship or in furtherance of their beliefs, and
- (2) a wedding service or a sincerely held belief about marriage.

Do consultees agree?

We agree with this proposal. We are satisfied following discussions with the Law Commission that point (2) would not bar those organisations that are newly established, or have recently adopted a wedding service or a sincerely held belief about marriage.

We would like to comment on para. 5.131 in relation to the requirements for non-religious belief organisations to nominate officiants:

*"This requirement reflects the importance of the community element that we note above. However, we appreciate that non-religious belief groups may not congregate in the same way that many religious groups do. The requirement could be satisfied by remote meetings amongst celebrants or the executive of the organisation in relation to community outreach and training of celebrants, which in our view would amount to meetings in furtherance of the group's beliefs: there would be no need for a public service each week. We therefore think that Humanists UK will have no difficulty in meeting this requirement."*

We think that the same stipulation that the requirement can be satisfied by remote meetings should apply to religious groups too. Some religions like Paganism operate in a similar manner to Humanism in that many do not congregate in person in the same way more mainstream religions like Christianity, Islam or Judaism may do. We anticipate this will

become more common following the outbreak of Covid-19, as more religious groups have switched to online congregations.

We also think there is a strong case for independent officiates to be enabled to conduct religious and Humanist (and other non-religious belief) wedding ceremonies. Many people who do not belong to a specific religious or non-religious belief institution nevertheless have spiritual, religious or philosophical beliefs that are important to them. Currently, some independent celebrants do hold religious and Humanist wedding ceremonies on request of the couple.<sup>2</sup> Some religious traditions like Paganism do not have a formalised institution that determines how their weddings should be conducted, or who should conduct them. For this reason, many people who identify with these religions do not need an official institution to recognise the authority of a celebrant to conduct a wedding. Marrying couples who want their wedding to reflect their religious or philosophical beliefs but who do not recognise the authority of a particular religious institution will not be well-served if their only option for a religious or non-religious belief wedding is to have it held by an institution recognised by the state.

#### **Consultation Question 26.**

14.28 We invite consultees' views as to whether the law should expressly exclude religious organisations and (if enabled by Government to officiate at weddings) non-religious belief organisations from nominating officiants if the organisation promotes purposes that are unlawful or contrary to public policy or morality.

While we agree with this proposal in principle, we are concerned that defining what purposes are "contrary to public policy or morality" is very difficult to define, and changes over time. Even within living memory, same-sex weddings and same-sex relationships were once deemed contrary to both public policy and morality; this is clearly no longer the case in 21<sup>st</sup> century UK.

Additionally, common practices in some religious groups may be considered to be contrary to public morality by some. For example, discrimination against LGBT+ people in most organised religions; subordination of women in most organised religions, notably Catholicism and Islam; the strict rules enforced by Jehovah's Witnesses prohibiting their members from receiving life-saving blood transfusions; and the treatment of dissenters or 'apostates' by some more insular religious communities including Charedi Jewish communities and the Church of Scientology. As more members of the public oppose these practices, the appropriateness of these groups being able to hold weddings may be called into question.

Any determination of what groups should be excluded from nominating officials should be

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<sup>2</sup> A search in the Association of Independent Celebrants' directory on 15 December 2020 found two celebrants who say they hold Humanist weddings, two who hold Pagan weddings, and seven who make reference to including religious elements in their ceremonies. Many more emphasise that they will personalise their weddings according to the couples' wishes, which would probably include accommodating religious or philosophical content. <https://independentcelebrants.com/directory/>

as ‘future-proof’ as possible.

**Consultation Question 28.**

14.30 We provisionally propose that nominations of officiants by religious and (if enabled by Government to officiate at weddings) non-religious belief organisations should be made to the General Register Office, which should be responsible for keeping a public list of all nominated officiants.

Do consultees agree?

We agree with this proposal.

**Consultation Question 29.**

14.31 We provisionally propose that (if enabled by Government to officiate at weddings) independent officiants should be able to apply to the General Register Office to be authorised and included on the public list of officiants.

Do consultees agree?

We agree with this proposal, and we support independent officiants to be enabled by government.

**Consultation Question 30.**

14.32 We provisionally propose that religious organisations and (if enabled by Government to officiate at weddings) non-religious belief organisations should be responsible for ensuring that the persons they nominate as officiants are “fit and proper” persons.

Do consultees agree?

We are somewhat concerned that this could mean the standards for persons nominated as officiants by religious and non-religious belief organisations will potentially be lower than that set for registration officers and independent officiants. We think the General Register Office needs to play a significant role in monitoring religious and non-religious belief organisations that nominate wedding officiants to ensure they are meeting standards, including consistently nominating “fit and proper” persons. This is not only a matter of equality and fairness – it is also an important matter of safeguarding.

We note that the recent Independent Inquiry into Child Sexual Abuse (IICSA) identified severe safeguarding failings within key religious organisations that are currently able to hold weddings according to their religious rites. These include the Church of England,<sup>3</sup> the Roman Catholic Church,<sup>4</sup> and Jehovah’s Witnesses, in addition to a number of other

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<sup>3</sup> Jay, Alexis et. al. ‘The Anglican Church: Investigation Report’. Independent Inquiry into Child Sexual Abuse, October 2020. <https://www.iicsa.org.uk/publications/investigation/anglican-church> Accessed 8 December 2020.

<sup>4</sup> Jay, Alexis et. al. ‘The Roman Catholic Church: Investigation Report’. Independent Inquiry into Child Sexual Abuse, November 2020. <https://www.iicsa.org.uk/publications/investigation/roman-catholic-church> Accessed 8 December 2020



religions and denominations.<sup>5</sup> We therefore lack confidence that religious organisations can be trusted to nominate “fit and proper” persons without some external oversight.

**Consultation Question 31.**

14.33 We provisionally propose that (if enabled by Government to officiate at weddings) independent officiants applying to be authorised should be required to demonstrate that they are “fit and proper” persons by proving that they:

- (1) are aged at least 18;
- (2) understand the legal requirements for being an officiant and performing the role; and
- (3) have undergone mandatory training and continuing professional development in the legal aspects of being an officiant, with the content to be determined by the Registrar General.

Do consultees agree?

We agree with all of these proposals.

**Consultation Question 33.**

14.35 We provisionally propose that (if enabled by Government to officiate at weddings) independent officiants should be prohibited from acting with a conflict of interest but that there should not otherwise be limits on the fees that they can charge for officiating at a wedding.

Do consultees agree?

We agree with this proposal.

**Consultation Question 35.**

14.37 We provisionally propose that officiants should have a responsibility to uphold the dignity and solemnity of marriage.

Do consultees agree?

We agree in principle. Marriage is an institution with serious legal implications, and we appreciate the need to uphold its dignity and solemnity in order to emphasise its significance. However, we caution that opinions on what upholds the “dignity and solemnity of marriage” will vary from person to person. For example, to some people, a marriage in a fast-food restaurant may not be considered dignified or solemn. But this venue may have particular significance to the couple – it may be the place where they met, for example. We trust a balance can be struck between upholding the dignity and solemnity of marriage, and respecting the wishes of the couple to celebrate their union in a way that is meaningful to them.

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<sup>5</sup> Hurcombe, Rachel et. al. ‘Truth Project Thematic Report: Child sexual abuse in the context of religious institutions’. Independent Inquiry into Child Sexual Abuse, May 2019. <https://www.iicsa.org.uk/key-documents/11687/view/truth-project-thematic-report%3A-child-sexual-abuse-context-religious-institutions-full-report.pdf> Accessed 8 December 2020

**Consultation Question 36.**

14.38 We provisionally propose that the General Register Office should issue guidance to all officiants on how weddings should be conducted.

Do consultees agree?

We agree with this proposal.

**Consultation Question 37.**

14.39 We provisionally propose that the primary responsibility for monitoring officiants and requesting withdrawal of authorisation if they fail to comply with the fit and proper person standard or their duties or responsibilities should lie with the organisation that nominated them.

Do consultees agree?

We agree in principle, but we are somewhat concerned this could mean the standards for persons nominated as officiants by religious and non-religious belief organisations will potentially be lower than that set for registration officers and independent officiants. We think the General Register Office needs to play a significant role in monitoring religious and non-religious belief organisations that nominate wedding officiants to ensure they are meeting standards, including consistently nominating “fit and proper” persons and their compliance with their duties.

We note that the recent Independent Inquiry into Child Sexual Abuse (IICSA) identified severe safeguarding failings within key religious organisations that are currently able to hold weddings according to their religious rites. These include the Church of England,<sup>6</sup> the Roman Catholic Church,<sup>7</sup> and Jehovah’s Witnesses, in addition to a number of other religions and denominations.<sup>8</sup> We therefore lack confidence that religious organisations can be trusted to nominate “fit and proper” persons without considerable external oversight.

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<sup>6</sup> Jay, Alexis et. al. ‘The Anglican Church: Investigation Report’. Independent Inquiry into Child Sexual Abuse, October 2020. <https://www.iicsa.org.uk/publications/investigation/anglican-church> Accessed 8 December 2020.

<sup>7</sup> Jay, Alexis et. al. ‘The Roman Catholic Church: Investigation Report’. Independent Inquiry into Child Sexual Abuse, November 2020. <https://www.iicsa.org.uk/publications/investigation/roman-catholic-church> Accessed 8 December 2020

<sup>8</sup> Hurcombe, Rachel et. al. ‘Truth Project Thematic Report: Child sexual abuse in the context of religious institutions’. Independent Inquiry into Child Sexual Abuse, May 2019. <https://www.iicsa.org.uk/key-documents/11687/view/truth-project-thematic-report%3A-child-sexual-abuse-context-religious-institutions-full-report.pdf> Accessed 8 December 2020

**Consultation Question 38.**

14.40 We provisionally propose that the General Register Office should have the power to de-authorise nominated officiants if they fail to comply with the fit and proper person standard or their duties or responsibilities, and if the body who nominated them fails to act. Do consultees agree?

We agree with this proposal.

**Consultation Question 39.**

14.41 We provisionally propose that the General Register Office should be responsible for monitoring independent officiants and de-authorising those who fail to comply with the fit and proper person standard or their duties and responsibilities, including conducting investigations necessary to exercise its powers.

Do consultees agree?

We agree with this proposal. We also think nominated officiants for religious and non-religious belief groups should be monitored and held to the same standards.

**Consultation Question 41.**

14.43 We provisionally propose that an independent officiant's authorisation would lapse if they failed to comply with the obligation to engage in continuing professional development.

Do consultees agree?

We agree to this proposal. We also think nominated officiants for religious and non-religious belief groups should be held to these same standards.

**Consultation Question 42.**

14.44 We provisionally propose that:

(1) during every wedding ceremony, the parties:

(a) should be required to express their consent to be married to each other, whether orally or otherwise, but

(b) should not be required to express that there is no impediment to their marrying each other (with the issue of impediments being addressed during the preliminaries);

(2) religious organisations and (if enabled by Government to officiate at weddings) non-religious belief organisations should be able to submit details of their wedding ceremonies to the General Register Office, to identify the way(s) each party expresses consent in accordance with their beliefs;

(3) the schedule (or marriage document) should contain a declaration to be signed by each party that they had during the ceremony expressed consent to be married to the other, or they were now consenting to be legally married to the other, the signing of which would itself be an expression of consent if the ceremony did not contain an expression of consent; and

(4) the marriage should be formed at the point when both parties have expressed consent to be married to each other, whether during the ceremony or when signing the declaration

in the schedule (or marriage document).

Do consultees agree?

We think the signing of the schedule should be key and the part that essentially expresses consent. This is in line with the process of entering other important legal contracts.

In its proposed reforms, the Law Commission has said it is aiming to provide greater certainty and simplicity in the area of weddings. We are concerned that allowing for broad flexibility in how couples “express consent” will undermine this intention.

**Consultation Question 43.**

14.45 We provisionally propose that all weddings should take place according to the form and ceremony chosen by the parties and agreed to by the officiant.

Do consultees agree?

We have a number of concerns relating to this question and what constitutes a legally-recognised marriage. We think the components of the wedding that lend it legal significance should be standardised for all couples, and couples should have broad freedom to determine for themselves any other religious, spiritual, or cultural rites that may be incorporated into the ceremony that have no legal bearing.

**1. On signing the schedule**

We would like to comment on paragraph 6.28 in relation to the issue of signing the schedule being key to recognition of a legally-binding wedding:

*“Primarily, this solution may not in substance promote either choice or equality, if it meant that a marriage could only be legally formed when the schedule is signed. This moment might not be the point at which the parties view themselves as being married, particularly if they have had a religious (or non-religious belief) wedding ceremony or another form of meaningful ceremony.”* (underline added)

We disagree that requiring the schedule to be signed in order for a wedding to be legally recognised is somehow not promoting “choice” or “equality”. We note that the schedule must be signed for civil weddings under the Law Commission’s proposals, and we believe it would create inequality and confusion if the same duty to sign the schedule was not required for other types of weddings. Making the signing of the schedule a key component of a legally-binding wedding is the best way of ensuring clarity, brings the wedding contract in line with other contracts, and does not prevent other ceremonies and rites from taking place that have religious or cultural significance for the couple.

If a couple is marrying according to religious rites (or indeed the customs of non-religious belief groups), it is not in the interest of the state for the state to decide whether or not those rites should represent an intention to create legal relations. Good law requires clearly-defined specifics to ensure fairness and justice. The simplest and clearest way to make that intention clear is to sign the schedule.

## **2. On the necessity for both parties to be present**

We are concerned about the implications of paragraph 6.62:

*“We think this option provides the flexibility necessary to accommodate the variety of beliefs about weddings in England and Wales today. For example, we understand that in some Muslim nikah ceremonies, the bride is not physically present for the ceremony itself (having given consent earlier). The Muslim Council of Britain agreed that the law should require both parties to be present at the point at which they express consent for the purpose of the law. Therefore, for wedding ceremonies in which the bride is not present, the Council agreed that the point at which the law would recognise the couple as expressing their consent could be at the point they sign the schedule (in the presence of two witnesses and the officiant).” (underline added)*

We asked the Law Commission during a meeting in October if signing the schedule in these circumstances still meant a ceremony would still have to take place for the wedding to be legally recognised. The Commission’s answer appeared to confirm that the ceremony would still be required.

We are very concerned that a ceremony with legal implications could take place without both parties being present. We believe this is out of step with legal principles; when two parties form a significant legal contract of this kind, the same terms should apply to them equally. That only one party may be present at a ceremony with legal significance for both parties breaks this parity.

We are also concerned that by bestowing a ceremony where only the groom is present legal significance, the state is upholding religious ideology that is sexist, discriminatory and inappropriate in the context of the law in 21<sup>st</sup> century Britain. We noted that the above paragraph only refers to the bride being omitted from the ceremony, not the groom. Not requiring the bride’s presence at a ceremony that has legal bearings on her future removes her of agency and subordinates her role in the marriage.

Religious groups should have the freedom to hold whatever religious union rites they wish. However, the state should not support wedding ceremonies that reinforce sexism by declaring such ceremonies have legal significance in their own right. If a wedding ceremony is to have any legal significance, it should be a basic requirement that both parties be present. Exceptions should not be made simply to accommodate the demands of religious leaders.

## **3. On the issue of inadvertent ‘opt out’ marriages**

We are concerned by the implications of paragraphs 6.64 and 6.65:

*“6.64 In assessing whether a couple have consented to be legally married, we do not think that it should be necessary for them to make explicit reference to the law or legal recognition. This would be contrary to our aim of ensuring that couples can express their consent in a way that is meaningful to them. We also note that one form of the current prescribed words does not explicitly state that the person is consenting to legal marriage.*

*The fact that a couple are consenting to be legally married will usually be clear from the fact that they have given notice of their intention to marry and are exchanging consent in front of an officiant.*

*6.65 However, we know that some couples wish to have a ceremony that does not have legal recognition. Under our proposed scheme, it would remain open to either of the couple to prove that that they made it clear that they were not expressing consent to be legally married. In such cases they would not have given an expression of consent as required by the law. In the vast majority of cases in which the couple wishes to have a ceremony that is not recognised by the law, no notice will have been given.”*

We are concerned that this may have a peculiar effect of couples, in effect, having to declare that they have no intention to create legal relations, rather than declare that intention. In other words, it suggests that religious legally-binding weddings are ‘opt out’ rather than ‘opt in’; i.e. there is no burden on the couple or officiant to make explicit reference to law or legal recognition during a legally-binding wedding, but there is a burden on the couple or officiant to make explicit reference to the fact that their wedding is *not* legally recognised if they want a religion-only ceremony.

This strikes us as contrary to usual legal sense. Usually if one enters into a contract with another, the burden is on the parties to prove an intention to create legal relations (hence the necessity of a written contract in most cases). It is not usually the case that parties are required to prove the reverse, i.e. *no* intention to create legal relations. Law usually requires one to explicitly state that one is entering a contract, rather than an explicitly stating that one is *not* entering a contract.

This could have implications for freedom of religion or belief. As the Law Commission itself recognises, some couples want to have a union ceremony according to the traditions of a religion or belief without it being recognised as legally-binding by the courts. Muslims, Pagans and Humanists are among the groups that currently practice such rites. There is a risk that, under the Law Commission’s proposals, these groups would be put under a burden to say a “disclaimer” amid their rites that the ceremony has no legal significance which would unnecessarily interfere with those rites.

If clarity is needed as to whether or not a ceremony has legal implications, the burden of proof needs to be on the parties that intend to create legal relations rather than those that do not.

We should add that this should not apply to any officiants or other parties who intentionally set out to deceive one or both of a couple that a ceremony is legally binding when in fact it is not. We agree with the Law Commission’s proposals to criminalise such deception.

#### **Consultation Question 44.**

14.46 We provisionally propose that there should be no special rules about the form of Anglican, Jewish or Quaker weddings, and that there should be no legal limitations on who can have those types of wedding (but like all religious groups, Anglican Jewish and Quaker

groups will continue to be able to impose their own requirements as a matter of their own practice).

Do consultees agree?

We strongly agree with this proposal. As far as possible, all couples, regardless of religion or belief, should be subject to the same legal requirements with regards to weddings.

**Consultation Question 45.**

14.47 We provisionally propose that religious content should be permitted in civil wedding ceremonies, provided that the ceremony remains identifiable as a civil ceremony rather than a religious service.

Do consultees agree?

14.48 We invite consultees' views as to whether specific examples of religious content should be expressly allowed at civil weddings, and, if so, what those examples should be.

We strongly agree with the proposal that religious content should be permitted in civil wedding ceremonies, provided that the ceremony remains identifiable as a civil ceremony rather than a religious service.

We do not view the permitting of religious content in civil weddings as incompatible with a secular state, because this content has no legal significance (and therefore no significance to the state).

We are aware that many nonreligious people, or people who do not want a religious wedding, find special meaning in songs, poems, prayers and other expressions that happen to be religious in origin and theme. We consider civil ceremonies that prohibit such content to be too restrictive. The Law Commission's proposals will significantly enhance the freedom of couples to have a wedding that suits them.

Furthermore, in many cases one couple may be religious and the other not religious, or they may be of different religions. In such cases, they may consider a civil ceremony to be the most suited to them, but inclusion of some religious content can help to personalise the ceremony and express their religious and cultural background.

We are therefore supportive of the Law Commission's proposals here and think they are reasonable and proportionate.

We do not think that specific examples of religious content that is expressly allowed are necessary. We think the registrar or officiant can be trusted to make a reasoned judgement call as to what degree of religious material can be permitted without undermining the nature of the wedding as a civil ceremony.

**Consultation Question 46.**

14.49 We provisionally propose that the provision to permit a religious service to be conducted after a civil wedding ceremony (section 46 of the Marriage Act 1949) should be repealed.

Do consultees agree?

We agree with this proposal.

**Consultation Question 47.**

14.50 We provisionally propose that the existing requirements for a wedding to take place with open doors, or otherwise for public access to be allowed, should be repealed.

Do consultees agree?

We agree with this proposal.

**Consultation Question 48.**

14.51 We provisionally propose that all weddings should be legally permitted to take place anywhere.

Do consultees agree?

We agree with this proposal. This will significantly enhance freedom and fairness for all couples, regardless of religion or belief.

14.52 We invite consultees' views as to whether the law should limit weddings in any particular venues, including:

- (1) outdoors,
- (2) on inland waters such as lakes or rivers,
- (3) in the air, and / or
- (4) in private homes.

We think that weddings should in theory be permissible in all four of these locations, provided consideration is given to practicalities including safety, potential impact on the public, ensuring the duty that the “dignity and solemnity” of weddings is preserved, etc. We think the responsibility to ensure the venue is suitable should lie with the officiant, and that the officiant should have the right to deny holding a wedding if he or she is uncomfortable with the venue due to reasonable concerns.

**Consultation Question 49.**

14.53 We provisionally propose that civil wedding locations should not have to be publicly accessible or regularly available to the public for the solemnization of civil marriages.

Do consultees agree?

We agree with this proposal.

**Consultation Question 50.**

14.54 We invite consultees' views as to whether the law should prohibit:

- (1) civil weddings from taking place in religious venues and (if non-religious belief organisations are enabled by Government to officiate at weddings) non-religious belief venues?



- (2) (if non-religious belief organisations are enabled by Government to officiate at weddings) religious weddings from taking place in non-religious belief venues?  
(3) (if non-religious belief organisations are enabled by Government to officiate at weddings) non-religious belief weddings from taking place in religious venues?

We do not think any of these three circumstances should be prohibited. We see no reason in law why civil or non-religious weddings should be barred from taking place in a religious venue (and vice versa), provided the owner or authority in charge of the venue permits this and the officiant is satisfied that the venue is suitable. The abolition of laws determining the legal status of a wedding to the venue in which it is held mean that everyone is given the freedom to marry where they wish; these kinds of prohibitions would significantly undermine this.

**Consultation Question 51.**

14.55 We provisionally propose that it should be the responsibility of the officiant to decide whether the location for the wedding should be approved.

Do consultees agree?

We agree with this proposal. It is already the case that independent celebrants and others who perform weddings and other ceremonies take considerable responsibility in ensuring the location is suitable.

**Consultation Question 52.**

14.56 We provisionally propose that, as a part of their responsibilities, officiants should ensure that the wedding location is:

- (1) safe, and
- (2) dignified.

Do consultees agree?

We agree with this proposal. However, we caution that the word “dignified” may be somewhat open to interpretation; please see our answer to Consultation Question 35 for further discussion.

14.57 We provisionally propose that guidance should be produced by the General Register Office to provide advice to officiants on how to assess whether a location is safe and dignified for a wedding.

Do consultees agree?

We strongly agree with this proposal. This is a sensible step and would provide clarity on issues that may be subjective; for example, the meaning of “dignified”.

**Consultation Question 53.**

14.58 We invite consultees’ views as to whether there should be an optional pre-approval process available for locations that frequently host weddings, that operates alongside the

general rule that the officiant must agree to the location.

We agree with this proposal.

**Consultation Question 54.**

14.60 We provisionally propose that after a wedding ceremony, the schedule or (if Anglican preliminaries are retained) marriage document should be able to have added to it:

- (1) the date of the wedding;
- (2) the location of the wedding; and
- (3) the names and occupations of the parties' parents, each of whom the parties should be able to identify as "mother", "father", or "parent".

Do consultees agree?

We agree in principle with this proposal. However, we think consideration should be given to less common family set-ups where there is no clear parent, or where the parents have not been the primary caregivers.

**Consultation Question 55.**

14.61 We provisionally propose that couples should have the choice of registering their marriage in English only, in Welsh only, or in both English and Welsh.

Do consultees agree?

We agree with this proposal.

**Consultation Question 56.**

14.62 We provisionally propose that an option for electronic registration should be introduced at a later date when infrastructure is in place to provide a high level of security.

Do consultees agree?

We agree with this proposal.

**Consultation Question 57.**

14.63 We provisionally propose that any one of the following factors on its own should render a marriage void:

- (1) the failure of both or either party to give notice of the intended marriage to the registration service, or (if Anglican preliminaries are retained) the relevant Church authority;
- (2) the wedding taking place after authority to marry had lapsed;
- (3) the knowledge of both parties that the ceremony was not officiated by an authorised officiant; or
- (4) the knowledge of both parties that the necessary opt into same-sex marriage had not been given by the relevant religious governing authority, in the case of same-sex marriages.

Do consultees agree?

We agree with these proposals.

**Consultation Question 58.**

14.65 We provisionally propose that the following factors should result in a non-qualifying ceremony:

(1) both:

(a) failure of one or both parties to the marriage to give notice of the intended marriage, and

(b) either:

(i) the knowledge of both parties that the ceremony was not officiated by an authorised officiant, or

(ii) in the case of same-sex marriages the knowledge of both parties that the necessary opt into same-sex marriage had not been given by the relevant religious governing authority; or

(2) failure of one or both parties to express consent to the marriage.

Do consultees agree?

We agree with these proposals.

**Consultation Question 60.**

14.68 We provisionally propose that the three-year time limit on petitioning for nullity on the basis of lack of consent should be abolished.

Do consultees agree?

We agree with this proposal.

**Consultation Question 61.**

14.69 We provisionally propose that it should be an offence:

(1) for any person to purport to be an officiant and deliberately or recklessly mislead either of the couple about their status or the effect of the ceremony; or

(2) for an officiant deliberately or recklessly to mislead either of the couple about the effect of the ceremony.

Do consultees agree?

We strongly agree with this proposal. We think this is one of the best ways to protect people from entering into unions they believe have legal significance, when in fact they do not. As highlighted by the Law Commission, there is a specific issue of Muslim women entering into *nikah* unions without realising they do not offer the same legal protections as a legally-binding marriage.

This proposed offence would help to combat the issue without resorting to banning *nikah*

or any other religious unions that are not legally-binding, which we think would amount to an undesirable restriction on religious freedom. Anyone should be free to willingly enter a religious union that has no legal effect, but every effort must be made to ensure those who do enter such unions do so in the full knowledge that they offer none of the legal protections of a legally-recognised marriage.

**Consultation Question 64.**

14.72 We provisionally propose that the Registrar General’s licence should be abolished, and that there should be a single form of civil authority to marry – a schedule – issued by registration officers.

Do consultees agree?

We agree with this proposal.

14.76 We provisionally propose that the emergency provisions should be able to apply to all couples, depending on the nature and length of the emergency.

Do consultees agree?

We agree with this proposal.

**Consultation Question 68.**

14.78 We provisionally propose that weddings should be able to take place in the territorial sea, and in bays and other coastal waters, adjacent to England and Wales.

Do consultees agree?

We agree with this proposal.

**Consultation Question 69.**

14.79 We provisionally propose that weddings should be able to take place in international waters under the law of England and Wales, on board cruise ships registered in the United Kingdom with a port of choice in England or Wales.

Do consultees agree?

We agree with this proposal.

**Consultation Question 70.**

14.80 We invite consultees’ views as to whether weddings should be able to take place in international waters under the law of England and Wales, on board vessels other than cruise ships, and if so, which types of vessel.

We agree with this proposal in principle, but realise there are considerations of safety and practicality that would not apply to other types of weddings.

**Consultation Question 71.**

14.81 We provisionally propose that couples should be required to give the name and registration number of the ship on which they intend to marry in international waters, when giving notice of their intention to marry, but should not be required to give the name of the officiant.

Do consultees agree?

We agree with this proposal.

**Consultation Question 72.**

14.82 We provisionally propose that weddings on ships in international waters should be officiated by:

(1) deck officers who have been authorised by the Registrar General as maritime officiants; and

(2) (if independent officiants are enabled by Government to officiate at weddings) other members of the ship's crew who have been authorised as independent officiants.

Do consultees agree?

We do not understand why nominated officiants for religious or non-religious belief groups are excluded from these proposals. These proposals would mean those who want civil wedding have the freedom to marry in international waters, but those who want any kind of religious or non-religious belief wedding (assuming independent officiants can only hold civil weddings) do not. This leads to inequality.

14.83 We provisionally propose that maritime officiants should be subject to the same rules as we have provisionally proposed should apply to independent officiants.

Do consultees agree?

We agree with this proposal.

**Consultation Question 73.**

14.85 We invite consultees' views about whether there is any demand for religious or non-religious belief weddings in international waters.

As explained in Consultation Question 72, it seems correct as a matter of principle to permit religious and non-religious belief weddings in international waters in order to ensure equality. Conceivably any member of a religious or non-religious belief group could be interested, especially if they have maritime connections.

**Consultation Question 77.**

14.89 We provisionally propose that it should continue to be possible for couples to have a civil wedding in a register office, for a fee prescribed by regulation.

Do consultees agree?

We agree with this proposal. Some people prefer to have a 'no frills' wedding ceremony, which a register office provides.

**Consultation Question 78.**

14.90 We provisionally propose that if any fee is charged for registration officers to ensure that a location is safe and dignified, that fee should be set by the local authority on a cost-recovery basis.

Do consultees agree?

We agree with this proposal.

**Consultation Question 79.**

14.91 We provisionally propose that if there is an optional pre-approval process for wedding locations that regularly host weddings, any fee for pre-approval should be set by the local authority or Government body responsible for it, on a cost-recovery basis.

Do consultees agree?

We agree with this proposal.

**Consultation Question 80.**

14.92 We provisionally propose that there should be an additional fee for a registration officer to officiate at a civil wedding outside the register office, which should be a standardised hourly rate to reflect the cost of the registration officer's time in travelling to and from the wedding, prescribed by regulations to apply across England and Wales.

Do consultees agree?

We agree with this proposal. We add that this strengthens the case for enabling independent officiants to conduct weddings, otherwise the process may be unfair for same-sex couples.

Out of 39,302 places of worship (including Church in England and Church in Wales churches) registered for marriage, only 267 (0.7%) are registered to hold same-sex weddings.<sup>9</sup> We can therefore assume that the majority of religious groups who nominate an officiant will not conduct same-sex marriages. Although non-religious belief groups are far more likely to hold same-sex weddings, their exclusion from current marriage laws means the number of non-religious belief nominated officiants will be much lower than those for religious groups initially. This will mean same-sex couples will still have considerably fewer wedding options than opposite-sex couples for the foreseeable future. Therefore, most same-sex couples will have no practical option except a civil wedding or civil partnership, so they are more likely to have to pay an additional fee to have a wedding outside the registry office. Opposite-sex couples are more likely to have the option to marry in a place of worship by a nominated officiant, so they are less likely to have to pay the additional fee.

Enabling independent officiants will mitigate this inequality, as it will give same-sex couples more routes into marriage. Many independent celebrants have long offered same-sex unions; often, independent celebrants are motivated to do this work because they want couples to have more freedom in how they marry – including who they marry.

It is possible that an independent officiant will charge a lower fee for his or her services than that for a registration officer to conduct the wedding outside a registry office. This means that same-sex couples are not forced by default to either have a wedding within a registry office, or pay the fee to have the registration officer conduct the wedding in a

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<sup>9</sup> See Appendix 1.

different venue.

**Consultation Question 81.**

14.93 We provisionally propose that the principle that fees for discretionary services should be determined on a cost-recovery basis should continue to apply to additional services that local authorities provide, including for services registration officers provide beyond officiating at a civil ceremony.

Do consultees agree?

We agree with this proposal.

**Consultation Question 84.**

14.96 We provisionally propose that the Registrar General should be able to prescribe a fee for an application to authorise an officiant, set at a level to recover any costs incurred in assessing the application.

Do consultees agree?

We agree with this proposal.

**Consultation Question 85.**

14.97 We invite consultees' views on:

- (1) whether the current law discourages or prevents couples from getting married; and
- (2) whether our provisional proposals would facilitate couples getting married leading to an increase in the number of couples who are legally married.

Please provide us with any evidence you have of the scale of the impact of the law or any benefits.

We think that fewer people may be getting married, and getting married later in life, because the current law has resulted in additional bureaucracy and expenses for civil marriage venues, when compared with places of worship.

The Law Commission has recognised that it is considerably more costly for venues to become approved for civil marriages and civil partnerships than it is for a place of worship to register for marriage. Places of worship only need to pay a one-off fee of £123 to register for marriage.<sup>10</sup> The cost for approved premises varies according to local authority but is considerably higher. For example Manchester City Council charges £900 for an approved premises certificate, which must be renewed every three years.<sup>11</sup>

It should be noted that many, if not most, places of worship are registered charities. It is

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<sup>10</sup> HM Passport Office, 'How to Certify a Building for Religious Worship and Register for the Solemnization of Marriages' (Form 78L). Last updated 2 September 2015. [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/783379/How\\_to\\_certify\\_a\\_building\\_for\\_religious\\_D0550\\_F78L.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/783379/How_to_certify_a_building_for_religious_D0550_F78L.pdf) Accessed 2 December 2020.

<sup>11</sup> Manchester City Council, 'Marriage & civil partnership - venue approval (new and renewal)'. [https://www.manchester.gov.uk/directory\\_record/287398/marriage\\_and\\_civil\\_partnership\\_-\\_venue\\_approval\\_new\\_and\\_renewal/category/358/marriage\\_and\\_civil\\_partnerships](https://www.manchester.gov.uk/directory_record/287398/marriage_and_civil_partnership_-_venue_approval_new_and_renewal/category/358/marriage_and_civil_partnerships) Accessed 2 December 2020.

easy for a place of worship to become a registered charity because “the advancement of religion” is recognised as a charitable purpose in law. There is no equivalent charitable purpose for non-religious belief organisations.<sup>12</sup> This means places of worship can receive tax breaks and other financial benefits that are not possible for many non-religious venues to obtain.

The process for becoming an approved premises is also more bureaucratic than registering a place of worship for marriage. Places of worship need to complete a two-sided form giving details of 20 householders confirming that they attend the place of worship and wish to see it registered for marriage.<sup>13</sup> In contrast, the manual that needs to be followed and signed by venues seeking approval for civil marriages and partnerships is 37 pages.<sup>14</sup>

Church of England and Church in Wales churches do not need to go through this process, while Jewish and Quaker ceremonies can take place anywhere.

The more difficult and costly method of registration for approved premises may account for the considerable disparity between the numbers of places of worship registered for marriage, and the number of approved premises for civil marriage and civil partnerships. There are 22,500 places of worship registered for marriage; when Church of England and Church in Wales churches are included, this figure rises to 39,302 (see Appendix 1).

In contrast, there are only 7,516 approved premises for civil weddings and civil partnerships, according to our findings. We note that this number is considerably smaller than that given by the Law Commission at para. 2.36 in the consultation document (“around 11,000”). We think this is an error arising from the presentation of data from HM Passport Office on approved premises; see Appendix 1 for more information.

This means only 16% of wedding venues are for civil marriages and partnerships, despite the fact that most marriages are now civil: in 2016, 78% of weddings were civil weddings and 92% of civil weddings were on approved premises, as the Law Commission itself highlights in its consultation. The UK’s population is also growing steadily more irreligious, with British Social Attitudes surveys consistently finding that over 50% of the population have no religion.<sup>15</sup>

This mismatch of supply and demand no doubt adds pressure to civil marriage venues, adding to their costs which in turn are passed on to their clients – the marrying couple.

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<sup>12</sup> For more information, see the NSS’s 2018 report ‘*For the public benefit? The case for removing ‘the advancement of religion’ as a charitable purpose*’ [https://www.secularism.org.uk/uploads/nss-advancement-of-religion-charity-report-\(electronic\).pdf](https://www.secularism.org.uk/uploads/nss-advancement-of-religion-charity-report-(electronic).pdf)

<sup>13</sup> HM Passport Office, ‘Certificate and application for the registration of a place of religious worship for the solemnisation of marriages’ (form 78). Last updated 18 March 2014, <https://www.gov.uk/government/publications/certificate-and-application-for-the-registration-of-a-place-of-religious-worship-for-the-solemnisation-of-marriages-form-78> Accessed 3 December 2020.

<sup>14</sup> HM Passport Office, ‘Guidance on approving premises as venues for civil marriages and partnerships.’ Last updated 2 December 2019. [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/848875/registering\\_a\\_venue.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/848875/registering_a_venue.pdf) Accessed 3 December 2020.

<sup>15</sup> NatCen Social Research, ‘British Social Attitudes’ <https://www.bsa.natcen.ac.uk/>



Add to this the fee for registrars – described as “extortionate” in one quote in the consultation document – and the expenses of civil marriage become extreme. This may explain why people in England and Wales are marrying increasingly later in life (when they may be in a better financial position), or not marrying at all.<sup>16</sup>

As the Law Commission recognises, the law has created inequalities that mean certain groups of people face barriers to marriage that other groups do not. For example:

### **1. Nonreligious people, or people who do not want religious weddings**

Only 16% of wedding venues are non-religious, compared with over 50% of people who do not have a religion, and 78% of couples who want a civil wedding.

### **2. Same-sex couples**

While opposite-sex marriages are declining, the number of same-sex marriages is holding steady.<sup>17</sup> This may increase: in 2017, a record one million people in the UK were openly gay, lesbian or bisexual. The age group most likely to identify as LGB were 16-24 year olds.<sup>18</sup> The increase in openly-LGB young people is also likely to fuel the rise in same-sex marriage.

However, only 267 places of worship (less than 1%) will hold same-sex marriages. This means that the only practical option for most same-sex couples is to have a civil marriage - where they must compete for venues with the majority of opposite-sex couples who also want a civil marriage.

### **3. Members of minority religions**

Many members of minority religious organisations, especially those that are not Christian or Jewish, find that the current system does not work for their religion. The current system is based heavily on Christian perspectives of religion: that weddings should take place within a consecrated building, that priests should conduct weddings, etc. As the Law Commission has found, many in many non-Christian religions there is no special emphasis placed on sacred buildings, and marriage rites do not have to be performed by an ordained priest or equivalent. The building-based system is therefore a barrier to people from these religions.

For example, as also identified by the Law Commission, the emphasis on buildings in wedding law is ill-suited to Muslim weddings, as there is no particular tradition of weddings being held in mosques. This may contribute to the number of Muslims who have *nikah* unions that are not legally-binding.

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<sup>16</sup> Office for National Statistics, ‘Marriages in England and Wales: 2017’. April 2020. <https://www.ons.gov.uk/peoplepopulationandcommunity/birthsdeathsandmarriages/marriagecohabitationandcivilpartnerships/bulletins/marriagesinenglandandwalesprovisional/2017> Accessed 3 December 2020.

<sup>17</sup> *ibid.*

<sup>18</sup> Bulman, May. ‘Number of lesbian, gay and bisexual people in UK reaches 1 million for first time since records began’. The Independent, 4 October 2017. <https://www.independent.co.uk/news/uk/home-news/lgbt-people-uk-gay-lesbian-numbers-figures-record-high-a7982571.html> Accessed 3 December 2020.

#### **4. Interfaith couples**

Couples of different religions, or a couple where only one member is religious, are ill-served by the current law. As the Law Commission has identified, the prohibition of any religious content in civil weddings does not serve those where one of the couple would like their religion reflected in some way. Additionally, because religious weddings must take place in a specific place of worship according to the rites of its religion, it is very difficult to have a truly 'interfaith' wedding.

#### **5. Those on low incomes**

The high expense of weddings, fuelled by the fees for civil marriage registration, may account for the disparity seen marriage rates according to social class. Almost 90% of middle earners get married, compared with only a quarter of couples on low incomes.<sup>19</sup>

We think that the Law Commissions proposals will eliminate many of the problems outlined above. Switching from a buildings-based system to an officiant-based one will solve the problems of inequality in venue costs for both providers and marrying couples. It is likely to lead to greater choice for same-sex couples. And it will better accommodate the needs of couples from minority religions, or couples from different religion or belief backgrounds who would prefer an interfaith wedding. These better conditions can only be conducive to an increase in weddings.

#### **Consultation Question 86.**

14.98 We invite consultees' views on the impact of the current law on couples including in relation to:

- (1) the availability and costs of register office weddings;
- (2) the costs of marrying on approved premises;
- (3) the costs of marrying in registered places of worship;
- (4) the costs of marrying in locations that are not authorised for weddings under the current law; and
- (5) the necessity and costs of a having a separate, legally recognised wedding.

We have addressed points (1)-(3) in our answer to Consultation Question 85.

Regarding points (4) and (5), we think the current law adds to the necessity, and therefore cost, of having two separate weddings – one that is not legally recognised but more tailored to the couple's wishes, and one that is legally recognised but does not accommodate the couple's wishes. Those who want Humanist weddings, or weddings according to a religious group that has few or no places of worship registered for marriage, have no choice but to have two separate weddings.

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<sup>19</sup> HC Deb (30 January 2018) Volume 635 <https://hansard.parliament.uk/Commons/2018-01-30/debates/F6F9D785-B389-45BF-BE31-F07C45BAD7B6/MarriageInGovernmentPolicy> Accessed 3 December 2020

14.99 We invite consultees' views on the potential benefits to couples of our proposed scheme, including benefits relating to:

- (1) the availability of register office weddings and any savings in relation to them;
  - (2) savings from being able to marry in locations without the need for a pre-approval process, including places of worship, locations that could currently be approved premises, and locations that could not be approved under the current law, such as outdoors or in private homes; and
  - (3) the necessity of a separate, legally recognised wedding and any consequent savings.
- If you have any evidence to support your answers, or which might help us assess the extent of possible benefits, please provide it.

As expressed in our answer to Consultation Question 85, we think the Law Commission's proposed scheme will benefit all areas outlined above:

- (1) We think that the proposals will lead to lower costs for civil wedding venues, as much of the 'red tape' and approval fee will be eliminated. As a result, the demand for register office weddings is likely to decrease, which in turn should reduce the costs.
- (2) This will allow for many more venues to host weddings, increasing competition on the market which will lower costs; currently, venues that can afford the high registration fee and other expenses have a monopoly on the market. It will also no doubt create a considerable number of jobs and business opportunities for entrepreneurs.
- (3) Because this is unlikely to be necessary for most couples under the proposals, the cost of two separate ceremonies will be eliminated in most cases.

14.101 We invite consultees' views on the potential benefits to venues of our proposed scheme, including benefits relating to:

- (1) hosting weddings without requiring Government pre-approval;
- (2) the availability of registration officers for civil weddings;
- (3) the ability of venues to host weddings officiated by religious officiants, and (if enabled by Government to officiate at weddings) non-religious belief organisations and independent officiants; and
- (4) the business opportunities arising from an increase in the number of weddings in England and Wales.

If you have any evidence to support your answers, or which might help us assess the extent of possible benefits, please provide it. We would also welcome any data on the size of businesses that are affected by the law or will be impacted under our proposed reforms.

- (1) We think the proposal to allow venues to host weddings without Government pre-approval will benefit both the venues and the marrying couple. Cutting out this 'red tape' will lead to cost savings, a wider market for wedding venues (which would further result in other economic benefits including job creation) and greater freedom for the couple to marry where they wish.

(2) By enabling a greater number of people to officiate at weddings (nominated officiants and independent officiants), the availability of registration officers is likely to increase due to a decreased demand. This too is likely to lead to a decreased cost in weddings.

(3) Allowing more venues to host different types of weddings will be beneficial for both the venue and the marrying couple. It will generate more revenue for venues and will give the couple greater freedom of choice.

(4) An increase in the number of weddings in England and Wales is likely to increase business opportunities. The wedding industry is a significant part of our economy, worth £14.7 billion a year.<sup>20</sup> We cannot see how increasing the number of weddings can do anything but increase this figure.

### **Consultation Question 88.**

14.102 We invite consultees' views on the impact of the current law on local authorities.

We think that the current law may mean local authorities are over-burdened, especially as the demand for civil rather than religious weddings continues to increase.

14.103 We invite consultees' views on the potential benefits to local authorities of our proposed scheme.

If you have any evidence to support your answers, or which might help us assess the extent of possible benefits, please provide it.

We think that enabling nominated officiants and independent officiants to hold weddings will help to ease pressure on local authorities, saving money, time and resources. This is especially important at time time when local authorities are under huge financial pressure and are trying to find ways to make cuts while minimising adverse impacts of those cuts on the local community. 'Out-sourcing' more weddings to nominated officiants and independent officiants is one way to do this.

### **Consultation Question 89.**

14.104 We invite consultees' views on the impact of the current law on:

- (1) residents of England and Wales travelling to other jurisdictions to get married; and
- (2) residents of overseas jurisdictions travelling to England and Wales to get married.

We note that Scotland's celebrant-based system has resulted in greater freedoms for couples to marry how they wish – for example, legally-recognised Pagan and Humanist weddings are possible in Scotland, but are virtually impossible in England and Wales. We think that some couples may choose to may in Scotland rather than England or Wales for

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<sup>20</sup> Young, Sarah. 'Brides and prejudice: How the wedding industry is struggling under strict coronavirus restrictions'. The Independent, 11 October 2020. <https://www.independent.co.uk/life-style/coronavirus-wedding-industry-suppliers-impact-uk-government-support-alok-sharma-b904374.html> Accessed 7 December 2020.

this reason.

14.105 We invite consultees' views on the potential benefits of our proposed scheme relating to:

- (1) residents of England and Wales travelling to other jurisdictions to get married; and
- (2) residents of overseas jurisdictions travelling to England and Wales to get married.

If you have any evidence to support your answers, or which might help us assess the extent of possible benefits, please provide it.

We think that the proposed scheme would encourage more couples to marry in England and Wales, rather than travel to Scotland or other jurisdictions where there is greater freedom to marry as they wish.

#### **Consultation Question 91.**

14.108 We invite consultees to tell us their views on the potential costs of our provisional proposals, including costs to:

- (1) Government and local authorities;
- (2) businesses;
- (3) religious (and non-religious belief) organisations;
- (4) independent officiants; and / or
- (5) couples.

We think that the Law Commission's proposals are likely to reduce costs for all 5 of these parties in the long term.

(1) While establishing a new system for nominated officiants and independent officiants may involve some initial investment for government and local authorities in the short term, we think long term savings can be made by essentially 'out sourcing' these roles, reducing the demand for registration officers and registry office weddings.

(2) Businesses are likely to see immediate savings as well as long-term savings. They will have less 'red tape' and will not have to pay the three-yearly license fee for being an approved premise.

(3) Religious and non-religious belief organisations may need a small initial investment in nominating a person to oversee their weddings. However, the cost of this is likely to be small, particularly as most religious groups will already have a priest or other celebrant experienced in holding weddings. In the long term we think there are large savings to be made from eliminating the need for the religious or non-religious belief organisation to have a specific building, which is a significant cost that will only grow as real estate and land costs increase.

(4) Independent officiants may need a small initial investment in the registration and training process with the local authority. However, because they are likely to see a significant rise in demand due to their new power of being able to officiate legally-recognised weddings, they are likely to see a significant and rapid return on this

investment.

(5) All the above parties will be able to pass on their cost savings to their clients, i.e. the marrying couple. This is likely to significantly reduce the cost of weddings due to an increase in choice of wedding venue.

## APPENDICES

### Appendix 1: Wedding venues in England and Wales

With the exception of the number of Church in Wales churches, all figures are correct as of 3 December 2020. Church in Wales figures are correct as of 7 August 2019; more recent figures are not available.

Our figure for civil marriages and partnerships approved premises differs considerably from that given by the Law Commission in the consultation document (“around 11,000”). We believe the Law Commission’s figure may be due to an error resulting from the tabulation method used in the file provided by HM Passport Office. After removing the blank cells that we believe caused this error, the NSS has found the figure to be 7,034. The NSS is happy to supply our data for the number of approved premises and provide further explanations on request.

Type of venue	No.	Data source
Church of England churches	15,496	The Church of England, ‘Statistics for Mission 2019’. Research and Statistics 2020, p. 23 <a href="https://www.churchofengland.org/sites/default/files/2020-10/2019StatisticsForMission.pdf">https://www.churchofengland.org/sites/default/files/2020-10/2019StatisticsForMission.pdf</a>
Church in Wales churches	1,306	Church in Wales website (no longer available). <a href="https://www.churchinwales.org.uk/structure/places/churches">https://www.churchinwales.org.uk/structure/places/churches</a>
Other places of worship registered for opposite sex marriage only	22,233	HM Passport office, ‘Places of worship registered for marriage’. <a href="https://www.gov.uk/government/publications/places-of-worship-registered-for-marriage">https://www.gov.uk/government/publications/places-of-worship-registered-for-marriage</a>
Other places of worship registered for same sex and opposite sex marriage	267	See above.
Other places of worship not registered for marriage	7,034	See above.
Civil marriages and partnerships approved premises	7,516	HM Passport office, ‘Civil marriages and partnerships: approved premises list’ <a href="https://www.gov.uk/government/publications/civil-marriages-and-partnerships-approved-premises-list">https://www.gov.uk/government/publications/civil-marriages-and-partnerships-approved-premises-list</a>
<b>TOTAL: Places of worship registered for marriage</b>	<b>39,302</b>	
<b>TOTAL: Places registered for marriage (religious &amp; civil)</b>	<b>46,818</b>	
<b>% Marriage venues that are for civil marriages</b>	<b>16.1</b>	
<b>% Places of worship that can hold same sex marriages</b>	<b>0.7</b>	
<b>% venues that can hold same sex marriages</b>	<b>16.6</b>	