



All-Party Parliamentary Humanist Group

NO LAWFUL IMPEDIMENT

A second report of the All-Party Parliamentary Humanist Group
into humanist marriages in England and Wales



All-Party Parliamentary
Humanist Group

The All-Party Parliamentary Humanist Group acts to bring together non-religious MPs and peers to discuss matters of shared interests. The Group is chaired by Tommy Sheppard MP and its Co-Chair is Baroness Bakewell.

More details of the group can be found at: <https://publications.parliament.uk/pa/cm/smallparty/220907/humanist.htm>.

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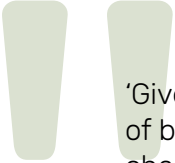
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CONTENTS


FOREWORD	6
1. EXECUTIVE SUMMARY	8
Recap of 2018's Any Lawful Impediment?	9
What are humanist marriages?	13
2. DEVELOPMENTS IN THE REST OF THE UK AND CROWN DEPENDENCIES	14
2.1 Northern Ireland	14
Legislative background	15
Judicial review: the <i>Smyth</i> case	16
Court of Appeal	17
Marriage law consultation	19
2.2 Guernsey	20
2.3 Wales' commitment to legal recognition	21
2.4 Developments in Scotland	21
3. DEVELOPMENTS IN ENGLAND AND WALES SINCE 2018	23
3.1 The impact of the pandemic on humanist weddings	23
Restrictions on numbers able to attend humanist wedding ceremonies	23
England	23
Wales	26
Backlog in civil marriages impacting humanist couples	27
3.2 The Law Commission launches its review of weddings law	29
Previous reviews of humanist marriages in England and Wales	29
Launch of the Law Commission's review	30
3.3 The England and Wales High Court case	31
Legislative background	31
Judicial review	32
Piecemeal reforms	34
Implications for the Law Commission's Terms of Reference	38
4. THE LAW COMMISSION'S RECOMMENDATIONS: OUR THOUGHTS	39
4.1 Authorisation of religion or belief officiants	39
4.2 Independent celebrants	43
How many independent wedding ceremonies are conducted a year?	47
4.3 Religion or belief content in civil ceremonies	49
4.4 Timescale	52
5. RECOMMENDATIONS	55
Annex 1. Draft of The Marriage (Same Sex Couples) Act 2013 (Marriage According to the Usages of Belief Organisations) Order 2022	57





‘Given the importance of humanism, in terms of both western civilisation and the British character, it would make enormous sense to end this rather silly discrimination and give humanists the right to get married in a ceremony and location of their choice.’


LORD PICKLES PC, 25 April 2022



‘Marriage will always be one of our most important institutions, and the Government want to encourage the stability and commitment in family life that marriage and civil partnership provides. A wedding day is one of the most important days of a couple’s lives, and I understand that [humanists] want it to be personal and to reflect their beliefs and preferences—that will make their day all the more memorable. I have heard, and I recognise, the depth of feeling on the issue.

...

‘As I said at the outset, I am mindful of the strength of feeling in the House on this issue, as well as the strength of feeling among individuals in all our constituencies. My own constituents have written to me about this issue over the last week or so, in advance of the debate, and I am grateful to them for contacting me as their local MP. I am mindful of their strength of feeling. I give the House the undertaking that when the Law Commission produces its report, as the Minister responsible, I will of course want to take a look at it in very short order, progress with these reforms, see what the Commission recommends and make informed decisions about how best to proceed.’



TOM PURSGLOVE MP,
then-Minister of State responsible for
marriage law, responding to a debate
in the House of Commons,
27 January 2022

FOREWORD



It has been four years since the All-Party Parliamentary Humanist Group (APPHG) published the report on our inquiry into the legal recognition of humanist marriages in England and Wales.¹ This report has shaped the conversation on humanist marriages ever since, landing in the hands of parliamentarians of all major parties and raised many times in both Houses of Parliament. It was also referenced by the Law Commission in its most recent review of weddings law.

In the time since our report was released, the case for legal recognition has only grown stronger. In this update, we highlight the developments that have underlined the need for legal recognition and renew our call for this to be done immediately using the order-making power granted to the UK Government by the Marriage (Same Sex Couples) Act 2013.

Since our 2018 inquiry, humanist marriages have been subjected to yet another review in England and Wales, this time by the Law Commission. This is by far the widest in scope, covering the breadth of weddings law from preliminaries to how couples register their marriages. But it does not recommend whether humanist marriages should be legally recognised – this is said to be a decision for the Government alone to make.

¹ *Any Lawful Impediment? A report of the All-Party Parliamentary Humanist Group's inquiry into the legal recognition of humanist marriages in England and Wales, 2018: <https://humanists.uk/wp-content/uploads/APPHG-report-on-humanist-marriage.pdf>*

Our inquiry was instrumental in pointing out that previous reviews in England and Wales had ignored the human rights case for legal recognition, and the Law Commission's most recent review is no improvement in this regard. But the impact of the law on human rights is now indisputable, following a landmark case taken by six humanist couples in 2020.² The High Court ruled that the lack of legal recognition for humanist marriages in England and Wales is potentially unlawful discrimination. But it also ruled that the Government's failure to act was justified for the time being given the Law Commission's ongoing review. Once its report was published in July this year, there were no more excuses for inaction. This is particularly true given that the Government has, in the meantime, continued to make other, piecemeal, changes to marriage law – such as allowing civil and soon religious marriages to take place outdoors.

We are close to clocking up a decade of reviews of humanist marriages in England and Wales. Meanwhile, nearly every other part of the UK, Ireland, and Crown dependencies has made progress on this issue. Humanist marriages now have legal recognition in Northern Ireland (since 2018) and Guernsey (since 2021), joining Scotland (since 2005), Jersey (since 2018), and the Republic of Ireland (since 2012), in affording tens of thousands of couples the freedom to choose a marriage that is most meaningful to them.

And since our last report was released, the world has changed in a way that none of us could have expected at the time. The coronavirus pandemic has laid bare the disadvantages faced by humanist couples due to a lack of legal recognition of their marriages, with legislation allowing civil and religious marriages to carry on during lockdowns in ways that humanist weddings could not, and with humanists struggling to secure the civil marriages they needed in order to be married in the eyes of the law post-lockdown.

According to a recent YouGov survey, one in five of those who do not want to get married cite the religious connotations of marriage.³ Legal recognition could well prove vital to revitalising the institution of marriage in England and Wales. Evidence from Scotland indicates as much. We see no new reasons why humanists should not be afforded the same responsibility to conduct their own marriages as religious groups have long enjoyed. With the release of this update, we are once again calling for the immediate legal recognition of humanist marriages under the Marriage Act 2013.



Baroness Bakewell DBE

Co-Chair of the All-Party Parliamentary Humanist Group

² *R (Harrison and others) v Secretary of State for Justice* [2020] EWHC 2096 (Admin): <https://www.bailii.org/ew/cases/EWHC/Admin/2020/2096.pdf>

³ 'Do Britons still want to get married?'; YouGov, 28 June 2022: <https://yougov.co.uk/topics/society/articles-reports/2022/06/28/do-britons-still-want-get-married>

1. EXECUTIVE SUMMARY

Since the All-Party Parliamentary Humanist Group published its report on humanist marriages in England and Wales in 2018, major developments have strengthened the case for their legal recognition, if not hastened their inevitability.

England and Wales has been left an outlier among its neighbours in the UK, Ireland, and Crown dependencies. Humanist marriages gained legal recognition in Northern Ireland in 2018 and in Guernsey in 2021, joining Scotland (2005), Jersey (2018), and the Republic of Ireland (2012) in doing so. And in Wales, the Welsh Government has confirmed that it would give legal recognition to humanist marriages immediately if the matter was devolved.

The coronavirus pandemic has laid bare the problems faced by couples as a result of the lack of legal recognition for humanist marriages. It did so, firstly, through unequal restrictions on humanist weddings compared to civil and religious marriages. These restrictions limited the number of guests allowed at humanist weddings below that allowed at civil and religious marriages in England, and at times prevented humanist weddings from taking place in Wales at all. Secondly, humanist couples were impacted by a civil marriage backlog during the pandemic because they needed an additional and entirely unwanted civil ceremony in order to be married in the eyes of the law. More than half of Humanists UK's celebrants reported that their couples had faced difficulties securing a civil marriage in 2021. These problems could plainly have been avoided if humanist marriages had legal recognition.

Our 2018 inquiry was significant in identifying that the human rights implications of humanist marriages had been ignored by previous reviews of the law. There is no longer any dispute that humanist marriages are a matter of human rights, following the 2020 High Court ruling *Harrison*.⁴ It found their lack of legal recognition to be discriminatory – the first time that humanist marriages had been taken to court in England and Wales. The judge nonetheless stopped short of issuing a formal declaration of incompatibility because of the Law Commission's then ongoing review of weddings law, accepting the Government's argument that it had a legitimate aim in pursuing a wholesale reform of the law in this area. However, we provide evidence that this argument has been undermined by the Government's introduction of at least seven other piecemeal reforms to weddings law while the review was still ongoing – and the review is, at any rate, now completed.

⁴ *R (Harrison and others) v Secretary of State for Justice* [2020] EWHC 2096 (Admin): <https://www.bailii.org/ew/cases/EWHC/Admin/2020/2096.pdf>

RECOMMENDATION: We urge the Government to acknowledge that, now it has received the Law Commission’s review of marriage law in England and Wales, it is legally obliged, given the High Court’s ruling in *Harrison*, to prepare legislation to provide humanist marriages with legal recognition. It would preferably act without delay by using the powers Parliament gave it in the 2013 Act to introduce by Order marriages ‘according to the usages of belief organisations’.⁵

The Law Commission’s report was the third review that humanist marriage has been subjected to in the past decade. Several of its recommendations cause us serious concern, particularly in light of worrying evidence of some independent celebrants purporting to provide humanist (and indeed religious) ceremonies without any guarantee of relevant training or of the celebrant even holding the relevant beliefs. This must be a matter of concern for anyone wanting to uphold the dignity and integrity of marriage. But such abuses are difficult to legislate against.

RECOMMENDATION: We recommend that the Government carefully considers whether to allow independent celebrants to conduct legally recognised marriages. We question the need for it. Moreover, for the reasons we cite below, we recommend that the Law Commission’s proposals on the authorisation of religion or belief groups, and the inclusion of religion or belief content in civil marriages, are not implemented without serious revision.

However, as shown by our previous inquiry and developments since, we do not believe that the legal recognition of humanist marriages requires a wholesale reform of marriage law.

RECOMMENDATION: We renew our recommendation (from our previous report) that the Government lay an Order under section 14 of the Marriage (Same Sex Couples) Act 2013 for legally recognised marriages conducted by Humanists UK. If necessary this could be regarded as an interim reform pending the inevitably drawn out process of a wholesale rewriting of weddings law.

RECAP OF 2018’S ANY LAWFUL IMPEDIMENT?

Our 2018 inquiry explored the concerns surrounding legal recognition of humanist marriages in England and Wales. It sought to determine how justified these concerns were, and to explain how they could be mitigated. Our findings were supported at meetings of the APPHG on 21 February and 28 March 2018 by oral evidence from representatives from Jewish, Quaker, and humanist groups, politicians, and other experts in the field.

⁵ Section 14(7) of the Marriage Act 2013 defines these as ‘organisations whose principal or sole purpose is the advancement of a system of non-religious beliefs which relate to morality or ethics’: <https://www.legislation.gov.uk/ukpga/2013/30/section/14/enacted>

At the time of our inquiry, the Ministry of Justice⁶ and the Law Commission⁷ had already completed two separate reviews of humanist marriages. Our inquiry uncovered that both had ignored (a) the implications of the law on human rights, and (b) the Secretary of State's power to make multiple Orders under the Marriage (Same Sex Couples) Act 2013.

On the first point, we found that neither the Ministry of Justice nor the Law Commission had considered the possibility that the Human Rights Act might bear on the lack of legal recognition of humanist marriages – despite their legal recognition in Scotland having resulted directly from the Scottish Registrar General's finding that the previous law was in breach of human rights legislation.

On the second point, correspondence with a counsel for domestic legislation also revealed that multiple Orders could be laid under section 14 of the Marriage Act 2013, to give separate legal recognition to more than one belief organisation. This immediately resolved the concerns some had advanced about a generally worded Order applying not only to Humanists UK but also to other (questionable but hypothetical) belief groups. (Although there is in fact no evidence of any such group demanding the ability to conduct marriages.)

Our inquiry also investigated the most common arguments advanced against granting legal recognition to humanist marriages. These were as follows:

- **Inconsistencies around venues:** It was argued that granting legal recognition to humanist marriages conducted outdoors (in accordance with common humanist beliefs) would be unfair on religious groups that cannot conduct their marriages outdoors. But four religious groups are already able to marry outdoors, in the exact same manner that humanists are asking for.⁸ As to those religious groups that can't, they are still able to marry with legal recognition in a place of worship, which is all that many of them want. Meanwhile, humanist marriages are unable to take place with any form of legal recognition, whether outdoors or not.

Since our previous report was published, the Government has now enabled outdoor civil marriages to occur, and is planning to soon do the same for those religious groups that cannot currently conduct outdoor marriages. These reforms further undermine any arguments advanced against humanist marriages on this point.

- **Who might perform belief-based marriages:** We know of no other non-religious belief group in England or Wales that is asking for the right to perform marriages. In all five local jurisdictions that recognise belief-based marriages, only humanist groups have asked for or been granted the right to perform belief-based marriages since the law was changed. In any case, as shown above, the Secretary of State of Justice can limit legal recognition to Humanists UK when laying an Order under the Marriage Act 2013.
- **Forced and sham marriages:** Where they have arisen, concerns about forced and sham marriages have not been aimed at Humanists UK, but at a few religious ministers and at

⁶ *Marriages by Non-Religious Belief Organisations: Summary of Written Responses to the Government Consultation and Written Response*, Ministry of Justice, 18 December 2014: https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/388986/marriages-by-non-religious-belief-organisations.pdf

⁷ *Getting Married: A Scoping Paper*, Law Commission, 17 December 2015: https://www.lawcom.gov.uk/app/uploads/2015/12/Getting_Married_scoping_paper.pdf

⁸ These are the Church of England, Church in Wales, Jewish congregations, and the Society of Friends.

other, hypothetical belief groups. These concerns can be resolved by limiting an Order laid under the Marriage Act 2013 to Humanists UK.

- **Religious groups performing same-sex marriages:** We saw no evidence that legal recognition for humanist marriages would threaten the safeguards in place to prevent religious groups from performing same-sex marriages if they do not wish to.
- **Undesirability of piecemeal reform:** At the time of our previous inquiry, with no wholesale reform of marriage law on the table, we pointed out that any major reform would take many years. Meanwhile, the breach of humanists' human rights could easily be resolved by an Order under the Marriage Act 2013, even if this was regarded as an interim measure. Piecemeal reform, we said, had after all been the predominant pattern since 1753 – the first marriage legislation in England and Wales.

Since our previous inquiry, the Government has of course embarked upon an exercise that may lead to wholesale reform, but this is still years away from implementation – if it is implemented at all. Meanwhile it has also undertaken several piecemeal reforms, such as those related to outdoor marriages mentioned above, undermining any objection to piecemeal reform.

From this, we concluded that the most desirable option was to grant legal recognition to humanist marriages by laying an Order under the Marriage Act 2013, limiting this to marriages conducted by Humanists UK. This Order has been drafted, and updated over the years to reflect the Government's continuing, defiantly piecemeal changes to the Marriage Act 1949. The latest version can be found as an annex to this report.

Evidence from humanist celebrants cited in our report also uncovered widespread concern about the practices of some registrars, including the advertisement of non-statutory ceremonies and couples being informed that their civil and humanist weddings could not take place on the same day, despite General Register Office guidance to the contrary.

Finally, a survey of local authorities revealed commonplace limitations on the availability of statutory 'no frills' civil marriages. This included limitations on the dates and times of the week that these ceremonies could take place, their location, and the number of attendees allowed at the ceremony, as well as higher prices than the statutory £46 limit required by law. In light of these revelations, we recommended that in the absence of legal recognition for humanist marriages, local authorities take steps to ensure that statutory ceremonies were made more readily available to humanist couples.

These difficulties have only been compounded since by the shortage of civil registrars caused by the backlog in demand for marriages brought on by the pandemic. This has been a source of huge frustration to thousands of humanist couples: they have been unable to legally marry in a timely fashion due to the lack of people who can conduct a ceremony they don't even want and shouldn't even need.





WHAT ARE HUMANIST MARRIAGES?

According to Humanists UK, a humanist wedding is 'a non-religious ceremony that is deeply personal and conducted by a humanist celebrant. It differs from a civil wedding in that it is entirely hand-crafted and reflective of the humanist beliefs and values of the couple, conducted by a celebrant who shares their beliefs and values, and can take place in any venue that is special to them.' Humanist marriages have been legally recognised in Scotland since 2005, Northern Ireland and Jersey since 2018, Guernsey since 2021, and the Republic of Ireland since 2012.

They are distinct from other forms of wedding in a number of ways. One is the hand-crafted nature of the script that is specific to the couple, including the fact that it reflects their humanist beliefs. Another is that the celebrant shares those beliefs – just as it is important to many religious couples to have a religious ceremony conducted by someone who shares their beliefs, so it is important to many humanists to have the same. Finally, humanists see it as essential for the ceremony to take place in a location that is most meaningful to them. This includes locations where civil marriages are not generally currently permitted, but is again analogous to most religious marriages, which take place in places of worship. Most religions hold that this is the place in which marriages must occur.

Humanists UK has a network of 200 trained and accredited wedding celebrants, that operate throughout England, Wales, Northern Ireland, and the Channel Islands. In Scotland, humanist marriages are provided by Humanists UK's sister charity, Humanist Society Scotland.

In England and Wales, humanist marriages are not legally recognised. Couples wishing to have a humanist ceremony must also have a separate civil ceremony. This is costly and an administrative burden, but it also means that many couples feel aggrieved that what they see as their 'real' wedding is not recognised as such in the eyes of the law. This is particularly so given that religious marriages are legally recognised.

All humanist celebrants perform same-sex weddings. Humanists have a history of performing same-sex weddings long before they were legally recognised in any part of the United Kingdom, and were at the forefront of the campaign for this change to the law. In Scotland, the first legally recognised same-sex marriages were humanist.⁹

⁹ 'Humanists conducting first ever same-sex marriage in Scotland', Humanists UK, 30 December 2014: <https://humanists.uk/2014/12/30/humanists-conducting-first-ever-sex-marriage-scotland/>

2. DEVELOPMENTS IN THE REST OF THE UK AND CROWN DEPENDENCIES

Since our inquiry four years ago, Northern Ireland and Guernsey have joined Scotland, Jersey, and the Republic of Ireland in granting legal recognition to humanist marriages. In Northern Ireland, this followed a successful court case taken on human rights grounds, confirming our previous inquiry's conclusion that the legal recognition of humanist marriages engages human rights law. In that time, the Welsh Government has also confirmed its support for humanist marriages, and that it would grant legal recognition now if the matter were devolved to Wales. New statistics from Scotland, meanwhile, demonstrate the strength of humanist marriages as an institution in that jurisdiction. Taken together, these developments have left the UK Government's position on humanist marriages at odds with nearly every other jurisdiction in the UK, Ireland, and Crown dependencies.

2.1 NORTHERN IRELAND

'Under the existing arrangements, which have now been in place for more than five years, belief marriage has become commonplace in this jurisdiction.'¹⁰

Those were the words of Northern Ireland's Finance Minister, Conor Murphy MLA, following his announcement in July 2022 that humanist marriages would be placed on a permanent, equal statutory footing to religious marriages in Northern Ireland. The first humanist marriage to happen there was in 2017, that of Laura Lacle and Eunan O'Kane. Laura took a successful High Court on human rights grounds, seeking a legally recognised humanist marriage to her partner.¹¹ However, after their marriage, further ceremonies were put on hold while the subject was appealed by the Northern Ireland Attorney General. But a further ruling from the Court of Appeal cleared the way for humanist marriages to become generally available, which they did in August 2018.¹²

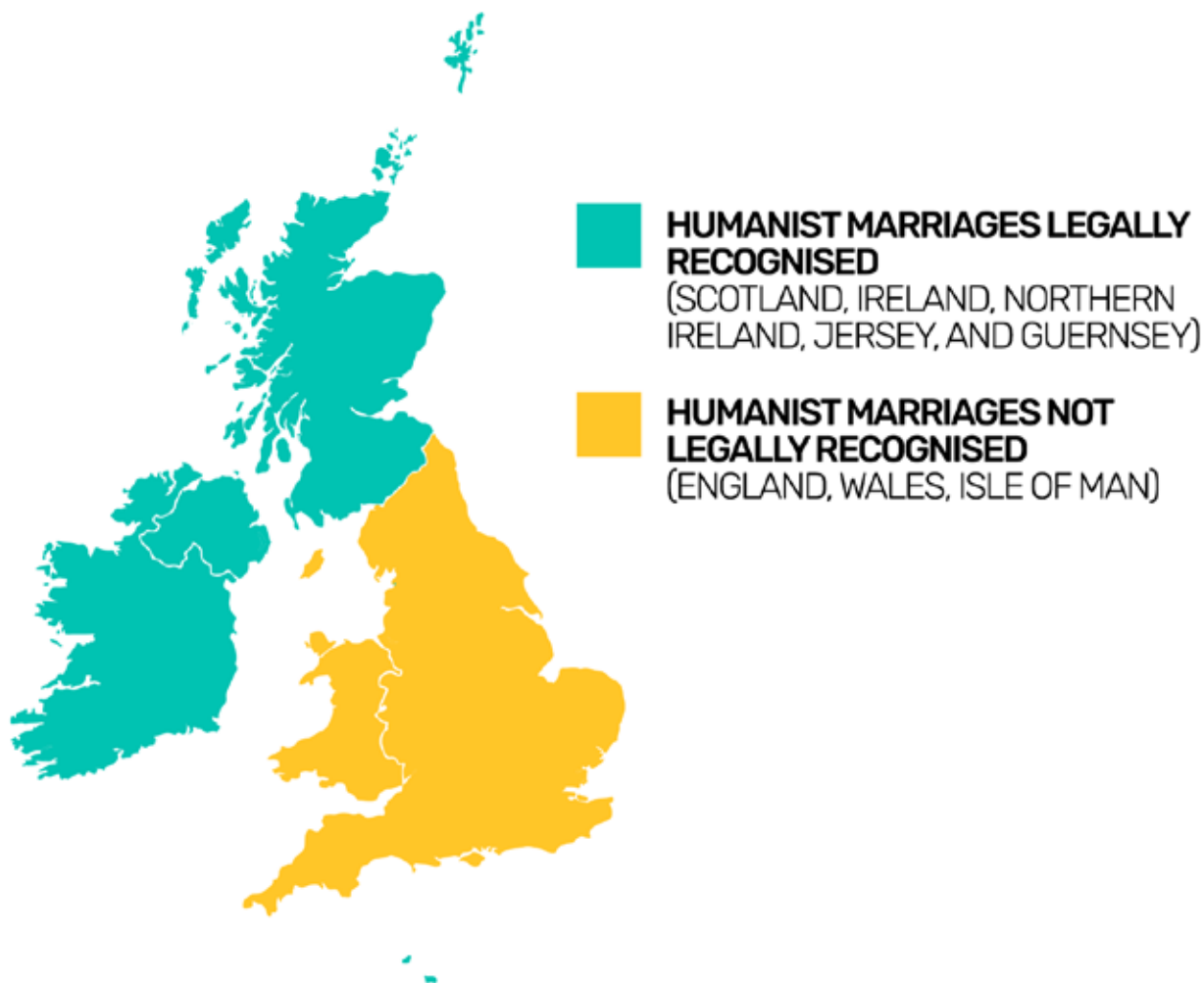
¹⁰ 'Marriage Law: Written Ministerial Statement', Conor Murphy MLA, 1 July 2022: <https://www.finance-ni.gov.uk/sites/default/files/publications/dfp/Marriage%20Law%20Consultation%20-%20Ministerial%20Statement.pdf>

¹¹ Smyth, *Re Judicial Review [2017] NIQB 55*: [https://www.judiciaryni.uk/sites/judiciary/files/decisions/Smyth's%20\(Laura\)%20Application.pdf](https://www.judiciaryni.uk/sites/judiciary/files/decisions/Smyth's%20(Laura)%20Application.pdf)

¹² *Smyth's (Laura) Application [2018] NICA 25*: [https://www.judiciaryni.uk/sites/judiciary/files/decisions/Smyth's%20\(Laura\)%20Application_1.pdf](https://www.judiciaryni.uk/sites/judiciary/files/decisions/Smyth's%20(Laura)%20Application_1.pdf)

HUMANIST MARRIAGES

IN THE UK, IRELAND, AND CROWN DEPENDENCIES



LEGISLATIVE BACKGROUND

In Northern Ireland, marriage law is devolved to the Northern Ireland Assembly and is governed by the Marriage Order (Northern Ireland) 2003.¹³ This is drafted in almost identical terms to the law in Scotland that in 2005 was interpreted as needing to be read as inclusive of humanists. On the face of it, the law extends legal recognition to civil and religious marriages only, with Article 14 allowing religious bodies to apply to the General Register Office to allow a named member to perform legally recognised marriages. But the Human Rights Act and European Convention on Human Rights require a more inclusive approach.

¹³ The Marriage (Northern Ireland) Order 2003: <https://www.legislation.gov.uk/nisi/2003/413/contents>

JUDICIAL REVIEW: THE SMYTH CASE

In 2016, Laura Lacole and Eunan O’Kane engaged Humanists UK-accredited celebrant Isabel Russo to conduct their wedding ceremony in Northern Ireland. With the couple’s permission, Russo applied to the General Register Office on 12 December 2016 for temporary authorisation under Article 14 of the Marriage Order to perform the marriage with legal recognition. The application was refused on 14 February 2017, on the grounds that the British Humanist Association – as Humanists UK was then known – was not a religious body.¹⁴

In April 2017, Lacole sought leave to apply for judicial review of the General Register Office’s decision. Lacole also sought a declaration that by preventing her from having a legally recognised humanist marriage, the law was in breach of the European Convention on Human Rights, namely the Article 9 right to manifest one’s religion or belief, taken together with Article 14, which prohibits discrimination in the enjoyment of the rights and freedoms as set out in the Convention.

Article 9 of the ECHR reads as follows:

Article 9 – Freedom of thought, conscience and religion

1. Everyone has the right to freedom of thought, conscience and religion; this right includes freedom to change his religion or belief and freedom, either alone or in community with others and in public or private, to manifest his religion or belief, in worship, teaching, practice and observance.
2. Freedom to manifest one’s religion or beliefs shall be subject only to such limitations as are prescribed by law and are necessary in a democratic society in the interests of public safety, for the protection of public order, health or morals, or for the protection of the rights and freedoms of others.

Article 14 reads:

Article 14 – Prohibition of discrimination

The enjoyment of the rights and freedoms set forth in this Convention shall be secured without discrimination on any ground such as sex, race, colour, language, religion, political or other opinion, national or social origin, association with a national minority, property, birth or other status.

The defendants in the case were the Department of Finance, the ministry responsible for marriage law in Northern Ireland, and the General Register Office. The case was heard on 23 May 2017. In her affidavit, Lacole wrote:

‘I am a person that acts on my beliefs and values. It is only natural then, for me to seek to have those beliefs and values, expressed through my marriage ceremony... My desire to have a legally valid humanist marriage is central to my own humanist identity. The act of getting married is, of course, deeply personal and is bound up with my humanist beliefs, values, and aspirations.’

¹⁴ Letter from the Principal Legal Officer at the Departmental Solicitor’s Office, Department of Finance, to McLernon Moynagh Solicitors, 14 February 2017, seen by the APPHG.

Lacole also highlighted the importance to humanists of manifesting their beliefs through life events such as weddings, saying:

'Humanists do not, in general, have weekly communal gatherings (like a church might) and so my marriage ceremony provides me with a rare, communal, event at which I can express and celebrate my humanism with my husband to be and our family and friends.'

The High Court ruled in the couple's favour just two weeks after the case was heard, thereby extending legal recognition to humanist marriages in Northern Ireland. The judge had determined that, in turn:

- Humanism was a belief that engaged Lacole's Article 9 rights;
- Humanist marriages are a manifestation of that belief;
- There had been a breach of Article 14 rights, taken with Article 9;
- There was no justification for this breach.

As the judge ruled, 'I have come to the conclusion that there has been an unlawful interference with the Convention rights of the applicant, with no objective justification in law.' Section 3 of the Human Rights Act 1998 allows the courts to read in words to legislation to make it human rights compliant. In this case, the judge did so

'...by reading in the words "or belief" in Articles 14, 15, 16 and 17 [of the Marriage Order] in each reference to "religious marriage" and "religious body" so that the Articles read "religious or belief marriage" and "religious or belief body".'

The Department of Finance was now required to direct the General Register Office to grant Russo authorisation to conduct the couple's marriage with legal recognition.

COURT OF APPEAL

On the same day as the ruling was given, the Attorney General – who had intervened in the case – appealed against the High Court's decision, shortly followed by the Department of Finance and the General Register Office.

The first hearing took place on 19 June 2017, three days before Lacole and O'Kane's planned marriage on 22 June. The Court found a loophole in the law that allowed them to marry with legal recognition before the case was heard, without allowing other couples to do the same or prejudicing the outcome of the case. The final of four hearings was heard on 16 January 2018.

The Court of Appeal upheld the decision of the High Court that the law would be discriminatory, were it not to permit humanist marriages. However, without prompting from the engaged parties, it adopted a device whereby humanist celebrants had to be recognised as temporary civil registrars under Article 31 of the Marriage Order 2003, believing – erroneously, as it would later prove – that this would resolve the discrimination identified without the need to engage section 3 of the Human Rights Act. Article 31 (3) of the Marriage Order 2003 reads as follows:

'(3) A local registration authority shall, at the direction of the Registrar General, appoint additional persons to solemnise civil marriages and carry out other functions for the purposes of this Order...'

The Court of Appeal saw this route as desirable because it meant a human rights breach could be avoided. But it meant that humanist marriages would now be treated differently from religious marriages, with humanist celebrants required to be appointed by the local registration authority in the same manner as civil registrars. As the judges concluded:

*'Having examined the statute we consider that Article 31 of the 2003 Order provides a basis for avoiding such discrimination by enabling the appointment of Ms Russo without having to utilise the interpretive tool provided by section 3 of the Human Rights Act 1998 to alter the wording of Article 14 of the 2003 Order. The fact that the person solemnising the marriage is appointed pursuant to Article 31 of the 2003 Order rather than Article 14 of the said Order does not in our view give rise to any difference of treatment.'*¹⁵

However, the Registrar General remained required to address discriminatory treatment in the best way fit, with the judge finding:

'It is undoubtedly the case that it was never contemplated that this power [under Article 31] might be used in order to avoid discriminatory treatment in respect of the background of a marriage celebrant but in our view where such discriminatory treatment arises it is the responsibility of the Registrar General to act in a way which avoids the discrimination.'

The first legally recognised humanist marriages in Northern Ireland since the Court of Appeal's ruling took place in August 2018.¹⁶ But Humanists UK tells us that, in practice, the Court of Appeal's decision did not work in the non-discriminatory way that the judges had intended, for several reasons, three of which we will focus on here.

Firstly, while religious marriages in Northern Ireland can take place in any location free of any need for that venue to be first approved by the state, civil marriages are restricted to a set of approved venues. Any venue can be approved, but gaining approval for a venue costs £400, or £450 if offering civil partnerships as well.¹⁷ This meant that humanist couples wanting to get married in the place most meaningful to them (e.g. a family back garden) often faced an additional fee and administrative burden not required of religious couples – or else their choice of venue was limited to those already approved.

Secondly, humanist celebrants were the only celebrants required to notify the General Register Office of every individual wedding they planned to conduct by completing a paper form. During the pandemic, a large number of rescheduled marriages prompted a query to the General Register Office as to whether it was possible for humanist celebrants to notify local authorities of any changes by email, rather than via additional paperwork. This request was rejected, and humanist celebrants were required to submit a new form for every rescheduled wedding they conducted. No other officiant, civil or religious, was required to undergo a similar process.

¹⁵ Smyth's (Laura) Application [2018] NICA 25: [https://www.judiciaryni.uk/sites/judiciary/files/decisions/Smyth's%20\(Laura\)%20Application_1.pdf](https://www.judiciaryni.uk/sites/judiciary/files/decisions/Smyth's%20(Laura)%20Application_1.pdf)

¹⁶ 'First legal marriages in Northern Ireland to occur this weekend', Humanists UK, 22 August 2018: <https://humanists.uk/2018/08/22/first-legal-humanist-marriages-in-northern-ireland-since-court-ruling-to-occur-this-weekend/>

¹⁷ This fee is charged by the local authority. See as an example: 'Premises Approval for Civil Marriages and Civil Partnerships', Causeway Coast & Glens Borough Council: <https://www.causewaycoastandglens.gov.uk/live/health-and-built-environment/licensing/premises-approval-for-civil-marrages-civilpartnerships>

And finally, the process by which humanist celebrants were authorised did not allow for an emergency change of celebrant, should (for example) a celebrant fall ill on the day of a wedding. The rules for both religious officiants and (actual) civil registrars did allow for such registration. This led to a risk that some humanist marriages might not be able to be legally recognised, with couples finding out on the day of their wedding.

In a meeting with the Finance Minister, Conor Murphy, Humanists UK outlined the problems it had experienced as a result of the Court of Appeal's decision to authorise humanist celebrants under Article 31. In a response dated 26 June 2020, the minister acknowledged these issues,¹⁸ and subsequently decided to revert back to the High Court's original ruling to read belief marriages into Article 14 of the Order. This was what the Court of Appeal had intended, if its scheme proved unworkable in practice. Furthermore, Murphy also asked his Department to embark on a process of legislation to put belief marriages on a proper statutory footing.

The change to the reading-in approach (and, therefore, to properly recognising humanist marriages as belief marriages) came into force on 1 November 2020. The General Register Office now authorises Humanists UK's celebrants in the same manner as religious celebrants. Just like religious marriages, humanist marriages can now be conducted in any location in Northern Ireland, except for premises used solely for civil marriages – and emergency substitution of celebrants is possible.

At this juncture it is worth pausing and noting a striking difference taken by the Northern Ireland Executive, compared to that taken by the UK Government. The Executive pursued an approach of recognising humanist marriages as soon as possible, in the best way available given the desire to act with speed. It has since pursued a longer-term reform approach, to sort out the details later. This was also the approach pursued in Scotland, where humanist marriages gained recognition through a reading-in in 2005, and then were put on a proper statutory footing in 2014. Such an approach is surely far better than forcing humanist couples to wait (nine years and counting, in England and Wales) for a perfect scheme to be devised and legislated before any recognition can take place.

MARRIAGE LAW CONSULTATION

On 15 November 2021, the Department of Finance launched its promised review of marriage law in Northern Ireland.¹⁹ Its consultation paper asked not only whether the Marriage Order 2003 should be amended to place humanist marriages on a permanent, equal legislative footing as religious marriages – that, it noted, was a change already necessitated by the High Court's ruling – but how this could be best achieved. This included asking whether qualifying criteria should be put in place for belief groups to conduct legally recognised marriages, and whether any such criteria should similarly apply to religious groups.

¹⁸ Letter from Finance Minister Conor Murphy to Humanists UK's Director of Public Affairs and Policy Richy Thompson, 26 June 2020, seen by the APPHG.

¹⁹ *Belief Marriage and Minimum Age for Marriage or Civil Partnership – a public consultation*, Department of Finance, November 2021: <https://www.finance-ni.gov.uk/sites/default/files/consultations/dfp/Marriage%20Law%20Consultation%20Document%20Department%20of%20Finance%20NOVEMBER%202021.pdf>

The consultation's outcome was published on 1 July 2022.²⁰ The Department of Finance confirmed that it would bring forward permanent legislation to place humanist marriages on the same footing as religious marriages, following a strong majority in favour of doing so. None of the written submissions to the consultation opposed this change, and more than 70% of online submissions were supportive. The three major churches in Northern Ireland that responded to the consultation – the Catholic Church, the Church of Ireland, and the Presbyterian Church – did not oppose the change.

This legislation will be brought forward once a functioning Assembly and Executive are formed. Though a majority of consultees were in favour of a qualifying criteria for belief groups similar to those used in the Republic of Ireland – and the Department of Finance noted in its response the clear value in using such criteria to prevent the authorisation of bogus belief groups – the specific contents of this legislation has yet to be decided.

Though not its main focus, the consultation also included a question on whether independent celebrants should be permitted to conduct legally recognised marriages for profit, which is not currently permissible for any already recognised officiant under Northern Irish law (or indeed anywhere else in the United Kingdom). We return to its conclusion later in this report.

2.2 GUERNSEY

Humanist marriages gained legal recognition in Guernsey in 2021, following a public consultation that found overwhelming support for this change. As a result, England and Wales and the Isle of Man are now the only jurisdictions in the UK, Ireland, and Crown dependencies that have failed to grant legal recognition to humanist marriages.

The States of Guernsey launched its public consultation on marriage law reform in June 2018.²¹ Question 13 of this consultation asked, 'Do you agree that non-religious belief celebrants should be authorised to conduct legally recognised marriages?'

The consultation's outcome was published on 11 September 2018, returning 94% support for legally recognised humanist marriages.²² This was one of the highest levels of support for any of the 19 changes proposed by the consultation. In response, a draft marriage law was first presented to Guernsey's legislature, the States of Deliberation, in April 2020.²³ Channel Islands Humanists worked with Guernsey officials to shape this legislation, which completed its legislative passage on 2 November 2020.²⁴

The new law came into force on 1 March 2021, giving humanist marriages legal recognition across Guernsey, Alderney, and Sark. The first humanist marriage happened in June of that year.

²⁰ *Marriage Law Consultation: Results and Analysis*, Department of Finance, July 2022: <https://www.finance-ni.gov.uk/sites/default/files/publications/dfp/Marriage%20Law%20Consultation%20-%20Report%20and%20Analysis.pdf>

²¹ 'Reform of Marriage Law – Public Consultation', States of Guernsey, 2018: <https://www.gov.gg/marriagelaw>

²² *Marriage Law: Public consultation Summary of Findings*, States of Guernsey, September 2018: <https://gov.gg/CHttpHandler.ashx?id=115220&p=0>

²³ 'States of Deliberation to consider a new Marriage Law', States of Guernsey, 20 April 2020: <https://gov.gg/article/177156/States-of-Deliberation-to-consider-a-new-Marriage-Law>

²⁴ 'New Marriage Law Registered in the Royal Court', States of Guernsey, 2 November 2020: <https://gov.gg/article/179362/New-Marriage-Law-Registered-in-the-Royal-Court>

2.3 WALES' COMMITMENT TO LEGAL RECOGNITION

In 2021, the Welsh Government gave its support to legal recognition for humanist marriages, and that it would enact this change if marriage law was devolved to Wales.

On 20 October 2021, during Questions to the Minister of Social Justice in the Senedd (Welsh Parliament), Joyce Watson MS asked, 'What questions has the Counsel General had with other law officers regarding the campaign to grant humanist marriages legal recognition?' In response, Counsel General for Wales Mick Antoniw MS confirmed his intention to write to the UK Government to press for the legal recognition of humanist marriages, and for devolution of marriage law to Wales if the UK Government failed to enact this change. He responded:

*'I confirm that I will write... to give further support to the need for law reform in this area, and for, I believe, the devolution of this particular area to this Parliament. I think I can also mention that the Minister for Social Justice has... already confirmed that she will be writing again, and I'm more than happy to lend my support, if she thinks that's helpful, to that, and perhaps write jointly to the UK Government in respect of those two aspects: one, that reform needs to take place, but secondly, if the UK Government is unwilling to consider reform or to delay reform, despite the Law Commission work and the Court of Appeal judgment, that's a matter that could be devolved to us to take responsibility for.'*²⁵

Mick Antoniw MS wrote to the UK Government on 1 November 2021, asking it to give legal recognition to humanist marriages by Order under Section 14(4) of the Marriage Act 2013.²⁶ Minister of Social Justice Jane Hutt MS did the same on 4 November 2021.²⁷

2.4 DEVELOPMENTS IN SCOTLAND

Recent developments in Scotland, where humanist marriages first gained legal recognition in 2005, provide further incentive to change the law in England and Wales.

Humanist marriages became the most common form of religion or belief marriage in Scotland in 2019, overtaking the number of marriages conducted by all Christian denominations combined. According to statistics published by the National Records of Scotland, humanists conducted 5,879 (23% of the total) weddings in that year, compared to 5,812 (22% of the total) conducted by Christian organisations.²⁸

²⁵ Y Cyfarfod Llawn Plenary, Questions to the Minister for Social Justice, 20 October 2021: <https://record.senedd.wales/Plenary/12458?lang=en-GB>

²⁶ Letter from Mick Antoniw MS, Counsel General and Minister for the Constitution, to Liz Truss MP, Secretary of State for Foreign, Commonwealth & Development Affairs and Minister for Women and Equalities, 1 November 2021, seen by the APPHG.

²⁷ Letter from Jane Hutt MS, Minister for Social Justice, to Tom Pursglove MP, Minister for Justice and Tackling Illegal Immigration, 4 November 2021, seen by the APPHG.

²⁸ 'More humanist than Christian marriages in Scotland in 2019, new stats show', Humanists UK, 25 June 2020: <https://humanists.uk/2020/06/25/more-humanist-than-christian-marriages-in-scotland-in-2019-new-stats-show/>

Statistics obtained through a freedom of information request also showed that in Scotland in 2017-18, humanist marriages were **three and a half times less likely to end in divorce** than all other types of marriage.²⁹ Every year, National Records Scotland publishes the number of marriages that took place in the previous year, broken down by type of marriage. The statistics obtained on divorces in 2017-18 by type and duration of marriage revealed that for marriages entered into within the previous fifteen years – the period of time within which humanist marriages gained legal recognition – 0.25% of them had ended in divorce in 2017-18, compared to 0.84% of all other types of marriage. An identical pattern was found when controlling for length of marriage. In its briefing on these statistics, Humanists UK points to the length of time required in planning for a humanist wedding ceremony ‘...that leads to a much more personal and meaningful marriage ceremony that really provides a stable bedrock for continued married life’.

With the Scottish, Northern Irish, Welsh, and Channel Islands Governments now either recognising or in favour of immediately recognising humanist marriages within their jurisdictions, the UK Government’s failure to commit to legal recognition in England and Wales has left it an outlier within the UK and Crown Dependencies. Its arguments for caution are increasingly revealed as completely threadbare.



²⁹ ‘Briefing: Number of Divorces in Scotland by Type of Marriage’, Humanists UK, 10 March 2019: <https://humanists.uk/wp-content/uploads/Briefing-number-of-divorces-in-Scotland-by-type-of-marriage.pdf>

3. DEVELOPMENTS IN ENGLAND AND WALES SINCE 2018

3.1 THE IMPACT OF THE PANDEMIC ON HUMANIST WEDDINGS

The coronavirus pandemic has shone a light on the problems faced by humanist couples as a result of the lack of legal recognition for their marriages in England and Wales. It did so, firstly, through unequal restrictions in England on the number of guests allowed to attend legally recognised civil and religious weddings on the one hand, and humanist weddings on the other. In Wales, the situation was even more severe, with humanist weddings at times being prevented from taking place at all, at the same time as civil and religious marriages were permitted. And secondly, humanist couples were impacted by a backlog in civil marriages, a result of their need for a second (unwanted, civil) ceremony in order to be married in the eyes of the law.

RESTRICTIONS ON NUMBERS ABLE TO ATTEND HUMANIST WEDDING CEREMONIES

In England, coronavirus restrictions were a matter for the UK Government, while in Wales, these were devolved to the Welsh Government. The pandemic impacted all couples wishing to marry during this period, with many rescheduling their wedding day in order to have the ceremony of their choice, in their preferred location. But we provide evidence that humanist couples were impacted to a greater degree than most. The confusion and subsequent distress caused to couples would plainly have been avoided had humanist marriages been given legal recognition in England and Wales.

ENGLAND

Except for emergencies, weddings were banned during the first months of the pandemic. In England, they were re-permitted on 4 July 2020, at which stage restrictions on the number of people able to attend wedding ceremonies were first implemented.³⁰ This legislation regulated the number of people allowed to participate in gatherings, allowing the same number of people to attend a humanist wedding ceremony as a civil or religious marriage. The relevant sections read as follows:

³⁰ Health Protection (Coronavirus, Restrictions) (No. 2) (England) Regulations 2020: <https://www.legislation.gov.uk/uksi/2020/684/regulation/5/2020-09-15>

During the emergency period, no person may participate in a gathering which consists of more than six people unless— ...

(f) the gathering consists of no more than 30 persons and—

(i) it is for the purposes of the solemnisation of a marriage, formation of a civil partnership or conversion of a civil partnership,

(ii) it takes place on religious premises or premises which are approved for the purposes of the Marriage Act 1949 or the Civil Partnership Act 2004, and

...

(g) the gathering is a significant event gathering and—

(i) it consists of no more than 30 persons,

(ii) it takes place—

(aa) at premises (other than a private dwelling) which are operated by a business, a charitable, benevolent or philanthropic institution or a public body,

(bb) at premises (other than a private dwelling) which are part of premises used for the operation of a business, a charitable, benevolent or philanthropic institution or a public body, or

(cc) in a public outdoor space which does not fall within paragraph (aa) or (bb)

As humanist marriages are not legally recognised, they were provided for as 'significant event gatherings' by subsection 5(3)(g).³¹ Subsection 5(3)(f), meanwhile, provided for legally recognised civil and religious marriages. This meant that in England, up to 30 people could attend either a humanist wedding ceremony or a civil or religious marriage ceremony while these restrictions were in place.

However, on 24 September, these regulations were amended.³² This reduced the number of those able to attend legally recognised civil and religious marriages to 15 people.³³ But subsection 5(3)(g), while retaining a limit of 30 people, was changed to refer only to funerals, rather than the 'significant event gatherings' that had previously included humanist wedding ceremonies.³⁴ With this change, humanist weddings were no longer provided for at all by these regulations.

Instead, they now appeared to be subject to the 'rule of six' that had come into force on 14 September, which limited all other social gatherings to a maximum of six people. This was confirmed by guidance that accompanied the new regulations, which read that

31 Defined by subsection 5B as 'a gathering for the purposes of a ceremony, rite or ritual— (a) to mark or celebrate a significant milestone in a person's life, according to their religion or belief, such as events to celebrate a rite of passage or entry into a particular faith (other than a birthday) or coming of age, or (b) to mark a person's death or celebrate their life following their death, such as a funeral, according to the deceased person's religion or belief.'

32 Health Protection (Coronavirus, Restrictions) (No. 2) (England) (Amendment) (No. 5) Regulations 2020: <https://www.legislation.gov.uk/uksi/2020/1029/contents/made>

33 The legislation now read: 'During the emergency period, no person may participate in a gathering which consists of more than six people unless— ... (f) the gathering consists of no more than 15 persons— (i) it is for the purposes of the solemnisation of a marriage, formation of a civil partnership or conversion of a civil partnership, in accordance with the Marriage Act 1949(b), the Marriage (Registrar General's Licence) Act 1970(c) or the Civil Partnership Act 2004(d).'

34 Subsection (g) now read: 'the gathering is for the purposes of attending a funeral and— (i) it consists of no more than 30 persons'.



*'As of 28 September [the date the 24 September regulations came into force], the rule of six will apply to standalone religious and belief-based life cycle ceremonies... This means that these events must be limited to 6 attendees.'*³⁵

Following pressure from cross-party Parliamentarians, and after a couple due to have their humanist wedding on 30 October threatened legal action, the Government reversed its decision. On 29 September, a letter from the Government Legal Department stated that the Government's position was that the legislation did, in fact, provide for humanist weddings. It did so by reinterpreting the reference to wedding receptions in subsection (h) as inclusive of humanist weddings³⁶ – even though they are not receptions, and had not originally been provided for under this subsection. This statement also directly contradicted the guidance that had been previously issued, which required wedding receptions to include a sit-down meal.³⁷

³⁵ 'Coronavirus outbreak FAQs: what you can and can't do', Cabinet Office, 24 September 2020 (UK Government Web Archive): <https://webarchive.nationalarchives.gov.uk/ukgwa/20200924152918/https://www.gov.uk/government/publications/coronavirus-outbreak-faqs-what-you-can-and-cant-do/coronavirus-outbreak-faqs-what-you-can-and-cant-do>

³⁶ Subsection (h) read: 'the gathering is a wedding reception, reception following the formation of a civil partnership or reception following the conversion of civil partnership to a marriage and—(i) it consists of no more than 15 persons.'

³⁷ It read 'From 28 September, weddings, civil partnership ceremonies and wedding receptions are restricted to 15 people. Receptions must be sit down meals.' <https://webarchive.nationalarchives.gov.uk/ukgwa/20200924152918/https://www.gov.uk/government/publications/coronavirus-outbreak-faqs-what-you-can-and-cant-do/coronavirus-outbreak-faqs-what-you-can-and-cant-do>

This position survived barely a fortnight. On 14 October 2020, in response to the issues identified since the last regulations came into force, the problem was corrected through new legislation that provided for humanist weddings. Three pieces of regulation for areas at low, medium, and high alert levels regulated participation in gatherings, including a series of exceptions to these.³⁸ Exception 8 referred both to civil and religious marriages and to an 'alternative wedding ceremony', defined as a ceremony 'based on a person's faith or belief'.

Regulations permitting humanist weddings in this way remained in place for the remainder of the pandemic. This was the first time in which there had been some form of authorisation for humanist weddings in England and Wales law.

WALES

In Wales, the situation was more severe, with humanist weddings at times prevented from taking place at all while civil and religious marriages were permitted.

During the initial spring lockdown in 2020, all wedding ceremonies – legally recognised or not – were prohibited in Wales. In late June, the Welsh Government allowed register offices and places of worship to open for the purpose of legally recognised marriages, but not wedding ceremonies taking place in any other location.³⁹ This effectively banned humanist weddings from happening at all until July, when new legislation was introduced to allow people to gather for the purpose of worship. Guidance on the new legislation read as follows:

*'Worship includes gatherings for religious and belief ceremonies including funerals, the solemnisation of marriages, and the formation of civil partnerships, baptisms ... and other ceremonies that celebrate rites of passage. These may be part of a communal services [sic] or an event in their own right.'*⁴⁰

By defining worship so as to include belief gatherings celebrating rites of passage, the legislation provided for humanist weddings (despite humanists, as non-religious people, not gathering for the purpose of worship in any sense that the word is typically understood). In terms of location, the guidance defined a place of worship as follows:

'A confined or enclosed space, within buildings or outdoors, which is used for religious or belief ceremonies, collective prayer and worship or similar gatherings, such as a church, gurdwara, mosque, temple, synagogue, prayer rooms, meeting houses, vestries and halls where worship may be carried out.'

By allowing any enclosed space, outdoors or otherwise, to be used for belief ceremonies, humanist weddings could now take place anywhere. In practice, however, Humanists UK tells us that a number of venues remained unable to open in Wales, creating headaches for couples when determining where their humanist wedding ceremony was allowed to take place. The confusing approach of redefining (places of) worship was poorly understood by venues.

³⁸ These were the The Health Protection (Coronavirus, Local COVID-19 Alert Level) (Medium) (England) Regulations 2020, The Health Protection (Coronavirus, Local COVID-19 Alert Level) (High) (England) Regulations 2020, and The Health Protection (Coronavirus, Local COVID-19 Alert Level) (Very High) (England) Regulations 2020.

³⁹ The Health Protection (Coronavirus Restrictions) (Wales) (Amendment) (No. 6) Regulations 2020: <https://www.legislation.gov.uk/wsi/2020/619/contents/made>

⁴⁰ Guidance on reopening places of worship: coronavirus, Welsh Government, last updated 5 March 2021: <https://gov.wales/sites/default/files/pdf-versions/2021/3/5/1614960180/guidance-reopening-places-worship-coronavirus.pdf>

On 23 October 2020, the Welsh Government announced a firebreak lockdown that reverted to the legislation in place in June, once again allowing weddings to take place solely in register offices and places of worship. The Welsh Government confirmed to Humanists UK that this did not include humanist weddings, and so these were unable to take place for the duration of this period. After the firebreak lockdown was lifted 17 days later, Wales once again reverted to the legislation in place since July, but capped attendance at worship to 15 people, when no such limit on civil and religious marriages existed. It also prevented travel into Wales for the purpose of worship, but not for attendance at civil and religious marriages.

Finally, in December 2020, new regulations were introduced that allowed 'alternative wedding ceremonies' to take place, much like in England.⁴¹ These were defined as follows:

(i) based on a person's faith or belief or lack of belief, to mark the union of two people, other than a ceremony for the purposes of solemnising a marriage or forming a civil partnership,

(ii) held in regulated premises, and

(iii) organised by a charitable, benevolent or philanthropic institution.

This legislation allowed the same number of people to attend these ceremonies as civil and religious marriages. However, that these weddings had to be 'held in regulated premises' meant that humanists could no longer marry in outdoor locations (despite these locations, in theory, being safer from a public health perspective). These regulations stayed in place for the remainder of the pandemic.

When asked about why the problems outlined above had been allowed to arise, the Welsh Government told Humanists UK that they were reluctant to introduce regulations on matters not devolved to Wales, i.e. marriage law. (It was eventually persuaded to legislate for 'alternative wedding ceremonies' once it was convinced that it could safely follow the UK Government's approach in England.) These problems therefore could have been avoided had marriage law been devolved to Wales, or indeed had legal recognition been granted to humanist marriages in England and Wales by the UK Government.

BACKLOG IN CIVIL MARRIAGES IMPACTING HUMANIST COUPLES

Humanist couples in England and Wales were also disadvantaged by a backlog in available civil marriage ceremonies that built up during the pandemic. As humanist marriages are not legally recognised, couples wanting a humanist wedding ceremony must undergo an unwanted civil marriage so as to be married in the eyes of the law. Most opt for a 'no frills' statutory-only ceremony at a register office, the lowest-cost civil marriage available. Our 2018 inquiry uncovered that a significant number of local authorities were restricting the dates, times, and locations that these ceremonies can take place. New evidence from Humanists UK suggests that a backlog in civil marriages exacerbated this existing difficulty faced by couples in finding a ceremony during the pandemic at a suitable time and/or place, or indeed finding one at all.

⁴¹ The Health Protection (Coronavirus Restrictions) (No. 5) (Wales) Regulations 2020: <https://www.legislation.gov.uk/wsi/2020/1609/contents>

A survey conducted by Humanists UK in May 2021 asked humanist wedding celebrants, 'Have any of your couples had difficulties in securing a civil marriage ceremony for 2021, due to backlog in demand for a registrar?'

Of those who responded, **55% of wedding celebrants agreed** that their couples had experienced these difficulties. The survey also invited wedding celebrants to share their couples' experiences in securing a civil marriage ceremony in 2021. Responses included:

'One couple has been told that no new enquiries for [civil] weddings are being taken at all. They can't even get on a waiting list.'

'Many are postponing to 2022 or 2023 due to limited availability and stress linked to all the changes that keep happening. They have no confidence they can get the legal [civil marriage] part done at a good time for them so are choosing to postpone.'

'Most have found registrar dates this year but not on dates, at times, or at venues preferred by them. Some have been unable to get an appointment till 2022.'

'They seem to be very grateful to get any date/time/venue but I think it has taken time and work to sort.'

'I've emailed [local authority] registrars to help but no reply.'

'One couple wanted a no frills [civil marriage] but couldn't get a response and then were offered a full ceremony at the venue by a registrar, so cancelled the Humanist ceremony they had booked with me because they didn't want to pay twice.'

One celebrant pointed to an ongoing problem identified in our first report, that of a significant minority of local authorities failing to advertise the availability of statutory ceremonies at all. They wrote, '[Local authority] does not advertise statutory weddings at all. No info on their website. Couples have been told this is not offered/possible.'

Again, had humanist marriages been legally recognised, humanist couples would not require a civil marriage at all, allowing them to marry without the difficulties outlined above and reducing the backlog in the process.

When the Government legislated to allow outdoor civil marriages, it justified doing so on the basis that such a measure helped keep weddings safe during the pandemic. However, it failed to recognise the impact of the pandemic on the demand on registrars. It did nothing to address the backlog of demand the pandemic caused.

3.2 THE LAW COMMISSION LAUNCHES ITS REVIEW OF WEDDINGS LAW

Since the publication of our last report, humanist marriages have faced a third review, this time by the Law Commission.⁴² By far the widest in scope to date, the Law Commission's report on weddings law in England and Wales (*Celebrating Marriage: A New Weddings Law*) was published in July 2022, four years after it was first announced, and nine years after the Government first embarked on the series of reviews this is a part of. However, we have serious concerns about some of the Law Commission's recommendations, and instead renew the call made in our first report for humanist marriages to gain legal recognition immediately through the Order-making power found in the Marriage Act 2013. We suggest that this is done even if only on an interim basis in advance of any wider reform of weddings, as was the pattern in both Scotland and Northern Ireland.

PREVIOUS REVIEWS OF HUMANIST MARRIAGES IN ENGLAND AND WALES

The first review of humanist marriages took place in 2014. An amendment to the Marriage Act 2013 required the Ministry of Justice to consult on whether it should use its order-making power to give humanist marriages legal recognition, and if so, what the content of this Order should be.⁴³ Though this consultation returned a 95.4% majority in support of recognition, the Government decided to defer its decision by instructing the Law Commission to complete a review of the law on marriage ceremonies.⁴⁴ It did so citing concerns that allowing humanists to marry could create inequalities between groups regarding where couples could get married. We outlined our reflections on this decision in our previous report, and return to this later on.

In response, the Law Commission conducted a review over the next year, culminating in a 'scoping paper' on weddings law in 2015, which recommended that a third, even wider, review takes place. It suggested questions for any full-scale review of the law to address. As it acknowledged itself, this was the direct result of calls to give legal recognition to humanist marriages, stating:

*'The immediate catalyst for our current work was the debate during the passage of the Marriage (Same Sex Couples) Act 2013 on the possibility of non-religious belief organisations being able to conduct legally binding marriages.'*⁴⁵

The paper went on to recognise that the lack of legal recognition for humanist marriages was 'unfair', and that demands for this change had been ongoing for 'some time'. However, the Government did not respond to the Law Commission for two years. When it finally did respond, in

⁴² *Celebrating Marriage: A New Weddings Law*, Law Commission, 19 July 2022: <https://s3-eu-west-2.amazonaws.com/lawcom-prod-storage-11jsxou24uy7q/uploads/2022/07/A-new-weddings-law-LC-report.pdf>

⁴³ Marriage (Same Sex Couples) Act 2013, Article 14(1): <https://www.legislation.gov.uk/ukpga/2013/30/section/14/enacted>

⁴⁴ *Marriages by Non-Religious Belief Organisations: Summary of Written Responses to the Government Consultation and Written Response*, Ministry of Justice, 18 December 2014: https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/388986/marriages-by-non-religious-belief-organisations.pdf

⁴⁵ *Getting Married: A Scoping Paper*, Law Commission, 17 December 2015: https://www.lawcom.gov.uk/app/uploads/2015/12/Getting_Married_scoping_paper.pdf

September 2017, the then-minister responsible for marriage law Dominic Raab wrote to the Law Commission declining to pursue its recommended review, citing pressures on the family justice system.⁴⁶ Thus at the time of our previous report, the whole matter remained in limbo.

LAUNCH OF THE LAW COMMISSION'S REVIEW

We can now disclose that this state of affairs prompted a couple wanting a humanist marriage to threaten legal action against the Secretary of State for Justice, with correspondence commencing in June 2018. That case did not get past the pre-action protocol, for various fact-specific reasons. But, in November – in the midst of the correspondence – the Government changed its mind, and asked the Law Commission to proceed with its proposed review after all.⁴⁷ From there it took the Government and Commission a further seven months to agree what the two-page Terms of Reference for the project should be, meaning the project did not commence until June 2019. It was originally intended to take place over two years,⁴⁸ but was subject to further delays, which were attributed to the pandemic, meaning it did not report until July 2022.

Its Terms of Reference read as follows:

1.2 Five principles will underpin recommendations for reform:

1. Certainty and simplicity;
2. Fairness and equality;
3. Protecting the state's interest;
4. Respecting individuals' wishes and beliefs; and
5. Removing any unnecessary regulation, so as to increase the choice and lower the cost of wedding venues for couples.

1.3 To this end, the Law Commission will make recommendations regarding:

1. Whether the legal preliminaries that must take place before a wedding could be streamlined;
2. How the law should be reformed to enable marriage ceremonies to take place in a wider range of venues, including outdoor locations, at sea, and on military sites;
3. How the law should be reformed in relation to who can solemnize a marriage and how it could be reformed to enable a wider range of persons to solemnize a marriage. **This will include how marriage by humanist and other non-religious belief organisations could be incorporated into a revised or new scheme**, and how provision could be made for the use of independent celebrants, **but the Law Commission will not make recommendations as to whether the groups who can solemnize marriages should be expanded;**
4. What content is either required or prohibited as part of a wedding ceremony;
5. How marriages should be registered, and by whom;

⁴⁶ Letter from Minister of State for Justice Dominic Raab MP to Professor Nick Hopkins of the Law Commission, 11 September 2017: <https://s3-eu-west-2.amazonaws.com/lawcom-prod-storage-11jsxou24uy7q/uploads/2017/10/Response-from-Govenment-on-Marriage.pdf>

⁴⁷ 'Government asks Law Commission to conduct a full review of weddings law', Law Commission, 1 November 2018: <https://www.lawcom.gov.uk/government-asks-law-commission-to-conduct-a-full-review-of-weddings-law/>

⁴⁸ 'Law Commission begins work on weddings reform', Law Commission, 1 July 2019: <https://www.lawcom.gov.uk/law-commission-begins-work-on-weddings-reform/>

6. What the consequences of failing to comply with all or some of the requirements for a valid marriage should be; and
7. What offences are necessary to underpin the system governing weddings.⁴⁹

This meant that while the Law Commission was required to recommend a framework by which humanist marriages could gain legal recognition in England and Wales, it could not recommend whether they should. That was said to be a matter for the Government to decide.

This question – whether the Government should give legal recognition to humanist marriages – was, however, then the subject of a judicial review taken on human rights grounds by six humanist couples while the Law Commission’s project was ongoing, to which we now turn in more detail.

3.3 THE ENGLAND AND WALES HIGH COURT CASE

In our last report, we concluded that the two previous reviews of humanist marriages pursued by the Ministry of Justice and the Law Commission had failed to consider the impact of human rights. This impact is now indisputable, following a High Court case taken on human rights grounds by six humanist couples in 2020.⁵⁰

The High Court established that the lack of legal recognition for humanist marriages is discriminatory. However, it stopped short of issuing a formal declaration of incompatibility, accepting the Government’s argument that delay was justified by its stated desire to reform the law on a wholesale basis. But subsequent continued piecemeal marriage legislation has cast serious doubt on that excuse for inaction, as we explore in more detail below. Moreover, the Government has yet to acknowledge that the High Court ruling obliges it to legislate for humanist marriages.⁵¹

LEGISLATIVE BACKGROUND

In England and Wales, weddings law is governed by the Marriage Act 1949 – a consolidating piece of legislation that has been repeatedly amended – that provides for civil and religious marriages. Civil marriages must take place within either a register office or on approved premises. For most religious groups, their marriages must take place within a registered place of worship. The legislation provides separately for Anglican, Jewish, and Quaker weddings, which can take place in any location.

⁴⁹ ‘Terms of Reference – Wedding Project’, Law Commission, 26 June 2019: <https://s3-eu-west-2.amazonaws.com/law-com-prod-storage-11jsxou24uy7q/uploads/2019/07/Terms-of-reference-for-the-Law-Commission-review-of-weddings-FINAL.pdf>

⁵⁰ *R (Harrison and others) v Secretary of State for Justice* [2020] EWHC 2096 (Admin): <https://www.bailii.org/ew/cases/EWHC/Admin/2020/2096.pdf>

⁵¹ It is obliged to legislate provided that it does not propose to remove recognition from religious marriages. This is not something that has been considered – indeed, the Law Commission was specifically precluded from considering it.

JUDICIAL REVIEW

The claimants in the case were six humanist couples who either wanted, or had wanted, a legally recognised humanist marriage. In March 2020, three of the six couples wrote to their respective superintendent registrars to request a legally recognised humanist marriage. Each received a reply confirming that this request could not be fulfilled. As Lincolnshire County Council replied to one of the couples:

‘Current legislation, as you refer to in your letter, does not allow a couple to have a marriage ceremony recognised in law which is conducted solely in accordance with the usages of Humanists UK in the way you describe.’

Now joined by three further couples, the couples sought a judicial review of the Government’s failure to give legal recognition to humanist marriage under English law in July 2019. The couples claimed that the law discriminated against them by preventing them from a legally recognised humanist marriage. Specifically, they sought:

1. Declaratory relief to the effect that the impugned legislation (the 1949 Act) violates the Claimants’ Human Rights Act (HRA) rights, protected by article 14 of the European Convention on Human Rights (ECHR).
2. A declaration of incompatibility in respect of the 1949 Act pursuant to section 4 of the HRA, to the effect that the impugned legislation is not compatible with the Claimants’ rights under article 14 ECHR, taken together with articles 8 and 9.

Section 4 of the Human Rights Act 1998 allows a court to issue a declaration of incompatibility where it decides that a piece of legislation is incompatible with the ECHR. The six couples sought a declaration that, by preventing them from having a humanist marriage while providing for religious marriages, the law discriminated against them by treating them differently from their religious counterparts.⁵²

The case was heard in July 2020, with judgement given later that month. To determine the claim, the judge considered five questions identified by Lord Steyn in *R (S) v Chief Constable of South Yorkshire* [2004], as follows:

‘(1) Do the facts fall within the ambit of one or more of the Convention rights? (2) Was there a difference in treatment in respect of that right between the complainant and others put forward for comparison? (3) If so, was the difference in treatment on one or more of the prescribed grounds under article 14? (4) Were those others in an analogous situation? (5) Was the difference in treatment objectively justifiable in the sense that it had a legitimate aim and bore a reasonable relationship of proportionality to that aim?’

⁵² Given that the Marriage Act 1949 provides for different religious groups separately, requiring a place of worship for a majority of these, it was not possible to read ‘belief’ into the legislation as was achieved in Scotland and Northern Ireland.

As to question one, the judge found that humanist marriages were a manifestation of humanist beliefs that fell under the ambit of Article 9:

'I am satisfied that the evidence shows that, for many who hold those beliefs, the ceremonies that mark significant life events, such as marriage, provide a close and direct link to the beliefs of the participants such as to amount to a manifestation of those beliefs.'

Questions 2 and 4 were answered together. The judge found both that the law created a difference in treatment between religious and humanist couples by giving religious marriages legal recognition without doing the same for humanist marriages, and that humanists were in an analogous position to their religious counterparts. In doing so, she pointed to the inability of humanist celebrants to solemnise or register a marriage, and the lack of legal recognition for the humanist ceremony itself – both of which are enjoyed by religious couples seeking a religious marriage. She found:

'The state has chosen to make separate provision for the legal recognition of religious marriage ceremonies; in so doing, it places trust in those authorised by the religions in question to officiate over such ceremonies. While couples who hold humanist beliefs may be able to manifest those beliefs through a ceremony conducted by a humanist celebrant and according to the usages of Humanists UK (I am proceeding on the basis that the Defendant is correct in his characterisation of what is allowed in practical terms), that celebrant – who will, consistent with the emphasis humanism places on the individual person, have got to know the couple and devised a ceremony that is individual to them... – will not be an authorised person for the purposes of the solemnization of the marriage, or able to register the marriage, and that ceremony will not, of itself, be given legal recognition absent the presence of officials who need have no connection with humanism. Comparing like with like, the humanist couple who wish to have a marriage ceremony that manifests their belief, in the same way as a religious couple might do, are thus treated differently: unlike their religious comparators, the conduct of their marriage ceremony, according to their humanist beliefs will not be legally recognised absent the supervisory presence of state officials.'

In answer to question 3, the judge determined that belief fell under a prescribed ground under the ECHR (a position that the Government had itself accepted in its Detailed Grounds of Defence), finding that it was 'common ground that this question is to be answered in the affirmative'.

Although article 14 ECHR does not specifically identify "belief" as a prescribed ground, the Defendant accepts that it must fall under the category "other status". It is thus common ground that this question is to be answered in the affirmative. The judge was therefore satisfied that the lack of legal recognition for humanist marriages gave rise to discrimination in the enjoyment of the couples' rights under Article 14 of the ECHR, taken with Article 9, finding:

'The discrimination suffered by the Claimants is real: the difference of treatment they experience in seeking to manifest their humanist beliefs through the ceremony of marriage is a matter of substance, not merely one of form. The only question is whether that discriminatory treatment can be justified by the Defendant's stated concern to address this as part of a wider reform of the law of marriage in this country, albeit there remains no certainty as to when that law may be changed so as to remove the adverse impact of which the Claimants complain.'

However, in answer to question 5 – whether the difference in treatment was objectively justifiable – the judge accepted the Government’s defence that it had a legitimate aim in seeking to reform the law on a wholesale basis, rather than through piecemeal reform, pointing to the then-ongoing review of weddings law by the Law Commission:

‘Given, in particular, the recommendations made in the Law Commission’s Scoping Paper, I am prepared to accept that the Defendant has demonstrated a legitimate aim in seeking to address this issue as part of a wider reform. Moreover, the measure adopted – essentially to maintain the existing differences in treatment arising from the 1949 Act until that reform takes place – is rationally connected to that aim.’

In doing so, the judge stopped short of issuing the declaration of incompatibility sought by the couples, concluding:

‘I find: (1) that the facts of this case fall within the ambit of article 9 ECHR; (2) there is a difference of treatment in respect of that right between the Claimants and others put forward for comparison; (3) this difference is on a prescribed ground under article 14 ECHR; (4) the Claimants’ comparators are in an analogous situation; but (5) the Defendant has demonstrated a legitimate aim in seeking to address differences in treatment as part of a wholesale reform of the law of marriage and, given the on-going review, has – at this time – established that a fair balance has been struck between the individual rights of the Claimants and wider community interests.’

But the judge found that failing to act on the discrimination faced by humanists was not an option, ruling:

‘Acknowledging that the removal of discrimination may be complex cannot, of itself, make a failure to address that discrimination a legitimate aim; it cannot be open to the Defendant to simply sit on his hands because taking steps to address a discriminatory difference in treatment impacting upon one group may give rise to issues relating to others.’

While the High Court did, therefore, find that the lack of legal recognition for humanist marriages constituted potentially unlawful discrimination, it accepted the Government’s desire to reform the law on a wholesale basis. But the basis for this ruling is undermined by the Government’s pursuit of other piecemeal reforms to marriage law in England and Wales undertaken while the Law Commission’s project was still ongoing.

PIECEMEAL REFORMS

Accepting the Government’s defence that it could legitimately pursue humanist marriages as part of a wholesale reform of marriage law, the High Court concluded that:

‘There is evidence to support the Defendant’s position that this is not an area where reform can properly be undertaken in a piecemeal fashion. If legal recognition is to be afforded to marriages conducted according to the Usages for humanist marriages, that may well give rise to questions as to whether wider reforms are necessary (most obviously in relation to current requirements as to the place where a wedding may be solemnized)’.

However, the Government has undermined its own argument here by undertaking other piecemeal reforms of marriage law prior to the outcome of the Law Commission's review, including with regard to place. That the Government was open to piecemeal reforms of wedding law was confirmed by an answer to a written question tabled by Baroness Blackstone in 2020, the day after the High Court's judgement was given:

ASKED BY BARONESS BLACKSTONE, LABOUR, LIFE PEER.

To ask Her Majesty's Government what reforms to marriage law they are currently working on; whether they plan to bring forward proposals for legal recognition of humanist marriages; and if not, why not.

ANSWERED BY LORD KEEN OF ELIE, CONSERVATIVE ON 04/08/2020.

The Government announced in June 2019 that the Law Commission will conduct a fundamental review of the law on how and where people can legally marry in England and Wales. As part of that review, the Government invited the Law Commission to make recommendations about how marriage by humanist and other non-religious belief organisations could be incorporated into a revised or new scheme for all marriages that is simple, fair and consistent. The Government looks forward to publication of the Law Commission's consultation paper in September and, following the final report, will decide on provision on the basis of the Law Commission's recommendations.

Separately, the Government continues to explore both limited reform and non-legislative options relating to religious weddings, as well as to explore interim reform of the law governing approved premises for marriages and civil partnerships.⁵³

In fact we are aware of at least seven piecemeal reforms to marriage law in England and Wales that were ongoing at the time of the High Court case despite the Law Commission's review. These were:

1. Reform to allow civil and religious marriages to happen outdoors;
2. Reform relating to marriage and religious weddings, following on from the Sharia review;
3. Moving to an electronic system of marriage registration ;
4. Adding mothers' names to marriage certificates;
5. Ending conversions between civil partnerships and marriages;
6. Reform to divorce, dissolution and separation law;
7. And ongoing piecemeal and de facto 'reform' through new religious groups registering places of worship for the purposes of conducting marriages (including same-sex marriages).

A further question tabled by Baroness Blackstone on the same day confirmed that the Government was currently undertaking four of these piecemeal reforms to marriage law – electronic marriage registration, mothers' names on marriage certificates, conversion between opposite-sex marriages and civil partnerships, and reforms to divorce law:

⁵³ Baroness Blackstone, Marriage: Humanism – HL7031, asked 20 July 2020 and answered by Lord Whitaker on 4 August 2020: <https://questions-statements.parliament.uk/written-questions/detail/2020-07-20/HL7031/>

ASKED BY BARONESS BLACKSTONE, LABOUR, LIFE PEER.

To ask Her Majesty's Government what progress they have made on plans to (1) move to an electronic system of marriage registration, (2) add mothers' names to marriage certificates, (3) allow conversions between opposite-sex marriages and civil partnerships, and (4) bring into force reforms to divorce, dissolution, and separation.

ANSWERED BY BARONESS WILLIAMS OF TRAFFORD, CONSERVATIVE, ON 03/08/2020.

The Home Office is currently working on implementation plans to introduce the provisions in the Civil Partnership, Marriages and Deaths (Registration Etc) Act 2019. This will facilitate the move to an electronic system of marriage registration and the update of the marriage entry to include the names of both sets of parents of a couple.

The Government Equalities Office ran a six-week consultation on the future of conversion rights in summer 2019. We are analysing the responses and will publish the government response and bring forward any necessary legislation in 2020.

The Divorce, Dissolution and Separation Act received Royal Assent in June. The Government has been clear implementing its reforms will be a significant and complex task. Given the scale of the work needed, we are working to an indicative timetable of Autumn 2021.⁵⁴

The Government published an independent review into the application of sharia law in February 2018, including reform relating to marriage and religious weddings.⁵⁵ It confirmed it would not be taking forward the review's recommendations in February 2019,⁵⁶ but in October 2019 – after the Law Commission had commenced its work on weddings – confirmed that the matter of sharia marriages was still under review.⁵⁷

The Divorce, Dissolution and Separation Act was passed in 2020.⁵⁸ In May 2021, piecemeal legislation introduced an electronic marriage register and mothers' names on marriage certificates, including through amendments to the 1949 Act.⁵⁹ Outdoor civil marriages within the grounds of approved premises were first introduced on a temporary basis as a pandemic-related measure in July 2021. In March 2022, this change was made permanent for civil

54 Baroness Blackstone, Marriage – HL7029, asked 20 July 2020 and answered by Baroness Williams of Trafford on 3 August 2020: <https://questions-statements.parliament.uk/written-questions/detail/2020-07-20/HL7029/>

55 *The independent review of the application of sharia law in England and Wales*, Secretary of State for the Home Department, February 2018: https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/678478/6.4152_HO_CPGF_Report_into_Sharia_Law_in_the_UK_WEB.pdf

56 Watling MP, Giles, Sharia Law Independent Review, UIN214073 asked 29 January 2019 and answered by Victoria Atkins MP on 6 February 2019: <https://questions-statements.parliament.uk/written-questions/detail/2019-01-29/214073>

57 'We continue to explore across government the practicality of such an offence among other potential options and whether it would achieve the change of practice intended'. Sharia Law: Marriages Debate, House of Lords, 23 October 2019: <https://hansard.parliament.uk/lords/2019-10-23/debates/D7C380E1-3F77-4BE0-BF60-89B390587A7D/S>

58 Divorce, Dissolution and Separation Act 2020: <https://www.legislation.gov.uk/ukpga/2020/11/contents/enacted>

59 The Registration of Marriage Regulations 2021: <https://www.legislation.gov.uk/uksi/2021/411/contents/made>

marriages following public consultation,⁶⁰ despite other pandemic-related restrictions being left to expire, and are also set to be made permanent for religious marriages. These reforms directly undermined the rationale given by the judge for not issuing a declaration of incompatibility.

The seventh, de facto reform refers to the ongoing registration of places of worship to conduct marriages by new religious denominations. Comparison of the most recent⁶¹ and earlier⁶² registers available online reveal that at least 15 denominations have registered their places of worship for the first time since 2015.⁶³ And in 2014, the Supreme Court's ruling in *Hodkin* gave the Church of Scientology the right to register its places of worship for marriages, expanding the definition of religion to include any

*'spiritual or non-secular belief system, held by a group of adherents, which claims to explain mankind's place in the universe and relationship with the infinite, and to teach its adherents how they are to live their lives in conformity with the spiritual understanding associated with the belief system.'*⁶⁴

This suggests that in the same time that the Government has had the power to grant humanist marriages by Order, at least 16 religious groups could start conducting legally recognised marriages for the first time in England and Wales. 25 denominations have begun conducting same-sex marriages for the first time.

Since then, the Government has also undertaken an eighth piecemeal reform. With its support, Parliament has legislated to raise the minimum age of marriage to 18 – again amending the 1949 Act – which will come into force in February 2023.⁶⁵

The Government has thus undermined the alleged commitment to wholesale reform of marriage law that saved it from defeat at the High Court.

⁶⁰ The Marriages and Civil Partnerships (Approved Premises) (Amendment) Regulations 2022: <https://www.legislation.gov.uk/uksi/2022/295/contents/made>

⁶¹ 'Places of worship registered for marriage', HM Passport Office, 21 December 2021: <https://www.gov.uk/government/publications/places-of-worship-registered-for-marriage>

⁶² UK Government Web Archive, Archived instance of the above page from 17 March 2015: https://webarchive.nationalarchives.gov.uk/*/https://www.gov.uk/government/publications/places-of-worship-registered-for-marriage

⁶³ These are Catholics (Latin Rite), Druids, Independent Catholics, Odinists, Order of the Aviator (Aztec), Oriental Orthodox, Orthodox Roman Catholics, Radha Soami, Tenrikyo, Charismatic/Pentecostal, Hillsong Church, House of Refuge, Life Transformation Ministries, Syro-Malabar Catholics, and Ethiopian Orthodox Tewahedo Church.

⁶⁴ *R (on the application of Hodkin and another) (Appellants) v Registrar-General of Births, Deaths and Marriages (Respondent)* [2013] UKSC 77: <https://www.supremecourt.uk/cases/docs/uksc-2013-0030-judgment.pdf>

⁶⁵ Marriage and Civil Partnership (Minimum Age) Act 2022: <https://www.legislation.gov.uk/ukpga/2022/28/enacted>

IMPLICATIONS FOR THE LAW COMMISSION'S TERMS OF REFERENCE

After the High Court's ruling was given, Alex Cunningham MP, the shadow minister responsible for marriage law, wrote to the then-Minister for Justice, Alex Chalk MP, to ask that the Law Commission's Terms of Reference be amended to recognise that this ruling required provision for humanist marriages after the project had concluded.⁶⁶ The minister declined to do so, stating

'The Terms of Reference for the Law Commission review were carefully drawn up and reflect the position that certain matters of policy (such as whether the groups who can solemnise marriage should expand to include non-religious belief organisations and independent celebrants) are not matters for an expert law reform body.'

As of October 2022, the Law Commission report has been out for three months, but the Government has still yet to commit to giving humanist marriages legal recognition. And just as our previous inquiry noted the failure of both the Ministry of Justice and first Law Commission reviews to consider the impact of human rights laws on humanist marriages, the Law Commission, too, has continued to leave these considerations out of its most recent review. Clarifying this decision, it wrote in its final report:

'The High Court decision has not affected our review... as specified in our Terms of Reference, in this project we are not considering the question of whether non-religious belief organisations, including Humanists, should be able to conduct legally binding weddings. However, our Terms of Reference require that we consider how weddings by Humanist and other nonreligious belief organisations could be incorporated into a new scheme. Accordingly, we make recommendations which would allow weddings conducted by non-religious belief organisations to be legally recognised, should Government enable them to do so.'

The answer to whether the Government should recognise humanist marriages is now indisputable, following the High Court's ruling that the lack of legal recognition for humanist marriages would be a breach of human rights save for the Law Commission's then-ongoing project. But the Law Commission has now reported. **We therefore urge the Government to recognise that in accordance with the High Court's finding it is obliged to legislate for legal recognition of humanist marriages.**

⁶⁶ Letter from Shadow Minister for Courts and Sentencing Alex Cunningham MP to Parliamentary Under-Secretary of State for Justice, 6 August 2020, seen by the APPHG.

4. THE LAW COMMISSION'S RECOMMENDATIONS: OUR THOUGHTS

The Law Commission's recommendations were published on 19 July 2022. These propose a radical overhaul of weddings law in England and Wales. Its framework requires entirely new legislation, moving the weddings system from one that – in its view – regulates buildings (although, as noted, this is not how it works for four religious groups), to one that regulates either the organisation or the officiant responsible for the marriage ceremony. Though it includes a framework by which non-religious belief celebrants could gain legal recognition, it does not recommend whether or not they should. In accordance with the Terms of Reference, this is left for the Government alone to decide.

Marriage is an important and valued institution in our society and it is vital that any reform of the law should not risk demeaning its seriousness and high reputation. We see a risk that wider reform of the law may open the way to its exploitation for commercial reasons or in ways that trivialise the importance of getting married.

Sadly we believe the Law Commission's recommendations have been too loosely drawn and, in our assessment, risk seriously undermining the quality that couples should expect from their wedding ceremony. This could happen both through the creation of 'fake' non-religious belief organisations primarily interested in the business of offering wedding ceremonies, and by the recognition of independent commercial operators. We draw particular attention to evidence that some such operators are already purporting to perform humanist weddings without evidence of training to do so, who may well gain authorisation under the Law Commission's scheme. Instead, we propose alternative ways forward should the Government wish to pursue wider reform of weddings law. However, we do not believe that any such wider ambition should prevent humanist marriages being introduced in the meantime, and we outline our reasoning for this below.

4.1 AUTHORISATION OF RELIGION OR BELIEF OFFICIANTS

Under the Law Commission's scheme, all authorised religion or belief groups would be able to conduct marriages in any location, removing the current requirement for most of these groups to conduct marriages in a place of worship. Both religious and humanist groups would be required to nominate officiants to the General Register Office, so long as the group meets the following recommended set of criteria:

We recommend that the relevant governing authority of a religious organisation or (if enabled by Government to officiate at weddings) non-religious belief organisation should be able to nominate officiants if:

- 1. the organisation has been established for a minimum period, during which period it has had members from at least 20 households who meet regularly in person for worship or in furtherance of or to practise their beliefs (but the relevant governing authority need not have existed for any minimum period);*
- 2. it has a policy about nominating and monitoring officiants; and*
- 3. it would be a manifestation of an individual's religion or beliefs to have a wedding officiated at by an officiant nominated by that organisation.*

The evidence required to demonstrate the existence of the organisation could be (but is not limited to) a constitution or governing document or documents.

We recommend that the non-religious belief organisations able to nominate officiants should be limited to those whose sole or principal purpose is the advancement of a system of non-religious beliefs which have a level of cogency, seriousness, cohesion and importance that brings them within the meaning of article 9 of the European Convention on Human Rights.⁶⁷

We recommend that there should be a transitional provision, that would apply to all existing registered places of worship, which would deem them to meet the requirement for 20 individuals from separate households. It would allow such places to nominate officiants. It should expire one year after commencement of the new legislation.

This last recommendation in particular is apparently an attempt to ensure that all religious groups currently able to conduct marriages within a registered place of worship remain able to do so while preventing celebrants from groups that are not genuine religion or belief organisations from gaining authorisation. We fear there will be groups interested only in conducting weddings or other ceremonies for commercial or occupational reasons, even if restrictions on profit and gain are in place. In our assessment, the scheme falls short of doing so.

As the Law Commission itself states in its report:

'The proposed minimum of 20 was based on the current law, this being the number of householders required to certify that a particular building is their usual place of worship in order for it to be registered for weddings.'

But while 20 householders may be a significant number when it comes to a local place of worship or congregation, allowing any religion or belief group to conduct marriages across the nation so long as it has a mere twenty followers is an entirely different matter. We note that in the Republic of Ireland – a much smaller jurisdiction by population size – a minimum of 50 members is required for celebrants from non-religious belief organisations to conduct marriages.⁶⁸

⁶⁷ There is no similar provision for religious groups as the definition of a religion outlined in Hodkin [2013] is assumed.

⁶⁸ The Civil Registration (Amendment) Act 2012 requires, among others, that the body must have at least 50 members; members of the body meet regularly in relation to their beliefs; and that it has been in continuous existence for at least five years.

We note also that the Law Commission says nothing about the required ‘policy about nominating and monitoring officiants’. Without any further definition, this could feasibly allow an organisation to have a policy in place that allows anybody who applies to be authorised, with poorer outcomes for couples as a result.

To this end, we propose the following stricter set of criteria based on the model used in the Republic of Ireland.⁶⁹ In order to be authorised a religious or non-religious belief organisation must, in addition to what the Law Commission already proposes:

- i. principally be engaged in activity other than the provision of legally recognised marriages or other ceremonies and/or the training and accreditation of celebrants for conducting such marriages or other ceremonies;
- ii. have been in continuous existence as a religion or belief body operating in England and Wales for a set minimum period of time, e.g. five years, as is the case in the Republic of Ireland, or ten, as has previously been proposed in England and Wales (this criterion being crucial to prevent entryism);⁷⁰
- iii. have been performing weddings (with or without legal recognition) in England and Wales for its members for a set period of time, e.g. five years – as has previously been proposed in England and Wales (again this could help with entryism);⁷¹
- iv. have in place procedures for the selection, initial and continuing training, accreditation, discipline, and de-accreditation, of fit and proper persons to conduct the solemnisation of marriage, that are to the satisfaction of the Registrar General – as has previously been proposed in England and Wales,⁷² and is the case in the Republic of Ireland⁷³ and Australia – such training to include the legal aspects of conducting a recognised marriage;
- v. have a minimum number of members based in England and Wales who should sign a statement of support for such legal recognition being granted – we think this should be some way higher than 20.

Though it is possible that some groups authorised under the current scheme would not qualify under our alternative proposals, we do not see why these groups could not simply be ‘grandfathered’ into any new scheme. The current requirement for these groups to own a place of worship should have already ruled out the possibility that they are acting for purely commercial or otherwise improper reasons. Our proposals would also not prevent smaller congregations from applying to conduct marriages under an umbrella organisation that represents their beliefs at a higher level, nor would it prevent multiple groups of the same religion or belief from applying collectively. By doing so, Jewish groups and the Society of Friends – who are not required to have places of worship for marriages under the current law – could easily meet these requirements.

⁶⁹ We are glad that the Law Commission agrees with us in rejecting one criterion used in the Republic of Ireland, namely that non-religious belief organisations that conduct marriages should not participate in political causes. There is no similar prohibition on religious groups in Ireland or here.

⁷⁰ e.g. Marriage (Same Sex Couples) Bill Second Marshalled List of Amendments to be moved in Committee, House of Lords, 18 June 2013, amendments 22A and 27A: <https://publications.parliament.uk/pa/bills/lbill/2013-2014/0029/amend/ml029-ii.htm>

⁷¹ Ibid.

⁷² Ibid.

⁷³ Civil Registration Act 2004, section 45A(1)(e) <https://www.irishstatutebook.ie/eli/2004/act/3/enacted/en/html>

It is notable that the problems outlined above would not arise should humanist marriages be given legal recognition through the Marriage Act 2013. This allows the Secretary of State for Justice to limit legal recognition to specified organisations 'whose principal or sole purpose is the advancement of a system of non-religious beliefs which relate to morality or ethics'.⁷⁴ As we revealed in our previous report, laying an Order for Humanists UK would not prevent one being made for another non-religious belief organisation in the future – although we remain unaware of any other organisations that are calling for such recognition.

4.2 INDEPENDENT CELEBRANTS

The Law Commission's report as required by the Government sets out for the first time a scheme for independent celebrants to conduct legally recognised marriage ceremonies for profit. Surprisingly, this scheme now exists without there having been any public discussion or consultation on whether such celebrants should gain legal recognition at all. Humanist marriages, which are analogous to religious marriages in being based on the participants' beliefs, and are protected under human rights law as a result of that analogy, have gone through the hoops of the consultation required by the Marriage Act 2013 – where they gained 95.4% support – plus two Law Commission reports, and received extensive attention over more than a decade in Parliament. Now, detailed proposals for something radically different are being put forward without any of this.

What the Law Commission proposes is that independent celebrants acting for profit could be authorised as civil marriage officiants, should the Government so decide. The law would have exactly the same restrictions on content as would exist for civil registrars – the differences being the profit rule, the fact that they would not be employed by the state, and the route into authorisation.

But as argued above, independent celebrants are an entirely different case from humanist celebrants, despite being considered alongside them. We question the need for their legal recognition – certainly there is no human rights argument for doing so. We note that legal recognition of independent celebrants was not pursued after it was put to public consultation in Northern Ireland.

The Law Commission's framework would allow independent celebrants to apply directly to General Register Office to gain authorisation to conduct marriages as civil officiants, and reads as follows:

We recommend that, if enabled by Government to officiate at weddings, independent officiants should apply to the General Register Office to be authorised.

We recommend that individuals applying to be authorised as independent officiants should be required to demonstrate that they are "fit and proper" persons, by providing evidence that they:

- 1. are of good character;*
- 2. have not been convicted of any offence which the General Register Office has determined would preclude a person from being fit and proper, by disclosing to the General Register Office any unspent convictions;*

⁷⁴ Marriage (Same Sex Couples) Act 2013, Section 14(7): <https://www.legislation.gov.uk/ukpga/2013/30/section/14/enacted>

3. *have attained the age of 18;*
4. *have undertaken initial training in the legal aspects of being an officiant, the content of which is determined by the General Register Office and is provided by*
 - (a) the General Register Office, or*
 - (b) a provider approved by the Registrar General; and*
5. *understand the legal requirements for being an officiant and performing the role.*

We recommend that the General Register Office should hold a public list of independent officiants that includes officiants' names and the town or district in which they reside, but individuals should be able to opt out from having their area of residence included where the inclusion of such information would expose them to a risk of a specific and identifiable harm.

We recommend that independent officiants should be required to undertake ongoing training as prescribed by the General Register Office, and that they should be automatically de-authorised if they fail to comply with this obligation.

We recommend 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 standard or their duties and responsibilities.

Legal recognition of independent celebrants would constitute a radical departure from traditions not only in England and Wales, but also those other parts of the UK and Ireland that have already recognised humanist marriages. It is an entirely different proposition from humanist marriage, linked to it only by being coupled in the Government's terms of reference for the Law Commission inquiry. Legal recognition for humanist marriages would allow humanist couples to be married in a ceremony aligned with their beliefs, and by a celebrant sharing those beliefs, just like couples holding any religious belief. However, legal recognition for independent celebrants would create, for the first time, a commercial market for marriage ceremonies in England and Wales. We do not see what benefit there is to doing so if the Law Commission's other proposals to reform civil marriages (in particular, as to place and content) are taken forward. Such a reform is also unprecedented in Europe outside of the Channel Islands, and was rejected following consultation in Northern Ireland – an outcome which we turn to in more detail below.

We are particularly concerned that the Law Commission does not outline in any detail the kind of training that would be required of independent celebrants. It has left it entirely to the General Register Office to develop a scheme by which independent celebrants should receive training, and be regulated by more generally. No suggestions are offered for how independent celebrants should be required to maintain an ongoing level of quality for the ceremonies they perform, risking potentially detrimental outcomes for couples.

It is worth noting here that religious and humanist celebrants have an added layer of oversight as a result of belonging to a wider religion or belief group. This means they are incentivised to ensure quality for their couples, as failing to do so risks damaging the reputation of their belief group as a whole. But there is no such guarantee for celebrants acting independently. This is true because they could have no such affiliation; if they do have an affiliation, it would be to a group with no public profile, that their couples may be entirely unaware of; and if they do nonetheless manage to fall into disrepute with their group over the quality of their ceremonies, then they could simply leave and join another identical group.

Also alarming to us is evidence that suggests independent celebrants already market themselves as able to conduct religious or humanist ceremonies, despite no guarantee of relevant training or accreditation. Unlike humanist celebrants, who provide ceremonies in line with the belief system they share, a number of these celebrants suggest that they can perform ceremonies in line with any religion or belief on demand. Under the Law Commission's scheme, couples may well engage an independent celebrant on the promise of a humanist (or religious) ceremony conducted by someone they believe shares their beliefs, when it will in fact be conducted by someone that does not hold these beliefs at all, and who has no specific training in how to conduct them. These celebrants may well be relying on the reputation of established religious or humanist bodies, while in fact having no connection and providing inferior ceremonies compared to what these groups could offer. There is an ancillary risk that celebrants who are de-accredited by a religion or belief group for failing to meet their standards could simply set up as independent celebrants under this proposed scheme, undermining the standards set by the belief body.

To give some examples, all drawn from the website of a member of a Wedding Celebrancy Commission-affiliated organisation:

- 'Ceremonies offered: Weddings, Civil, Partnerships, Blessings, Renewal of Vows, Namings and Funerals (Semi religious and Humanist)'
- 'I am able to offer a wide range of ceremonies including non-religious, religious, Humanist, spiritualist, cultural or a "fusion" of inter-faith or multicultural beliefs and customs.'
- 'Each Funeral will be conducted to your wishes, whether you wish to have a semi-religious ceremony with psalms and hymns included in the ceremony, or a non religious or humanist ceremony.' – celebrant also offers weddings
- 'My ceremonies can be Non-Religious, Religious; including prayers and/or hymns, Humanist, Spiritualist or an eclectic blend... Your choice: Modern, Traditional, Humanist, Religious, Spiritual, Non-Religious, Blended.'
- 'Whether it's to be a traditional or less formal ceremony, large or small, indoors or out, conventional or quirky, non religious, spiritual, themed, atheist, pagan or humanist type celebration, we work with you closely and enthusiastically to help make your dreams come true.'
- 'Ceremonies offered: Weddings, Funerals, Naming Ceremonies, Renewal of Vows, Blessings, Civil Partnerships, Humanist Services'
- 'It is always your beliefs and outlooks that I embrace whatever religious, spiritual or humanist content you require.'
- 'As an independent celebrant I design and create bespoke ceremonies which can be humanist, non-religious, spiritual, religious or anywhere on the scale between.'
- 'We help to create a personalised wedding or vow renewal for you, based on your personal beliefs and requests. This can be a Humanist, Religious or part-religious ceremony.'

These offers are essentially unserious. They demean the institution of marriage. For them to be given legal recognition would be entirely deplorable.

It is worth considering an argument often advanced by independent celebrants – that the ability of independent celebrants to blend religious, non-religious, and secular content uniquely allows them to provide marriages for mixed-belief couples.

But as the Law Commission itself acknowledges, religious groups already conduct mixed-faith weddings in places of worship.⁷⁵ Some are willing to include content that reflects the faith backgrounds of both partners.⁷⁶ Humanists UK celebrants are often happy to accommodate this, albeit not lead any religious acts. Such a situation is preferable to it being done by independent celebrants because it means that all parties are completely clear about the knowledge/beliefs of the officiant involved, and that officiant is able to authentically reflect the beliefs of one of the couple. With that said, it is also not unheard of for religious officials from two faith groups to perform marriages jointly.⁷⁷

Where this is not sufficient for couples' needs, there are also other solutions. In Scotland, the OneSpirit Interfaith Foundation – a religious organisation primarily based in England – performs legally recognised mixed-faith marriages, dedicated to meeting this need.⁷⁸ Its officiants are trained specifically for that purpose, and again the knowledge/approach of the officiant is therefore clear. It also performs weddings without legal recognition in England and Wales. We think that allowing an organisation that specialises in these kinds of marriages to perform them is a way forward that would avoid the risks associated with authorising independent celebrants to do so.

Unlike in England and Wales, the question of whether independent celebrants should gain legal recognition has been put to consultation in Northern Ireland. There, the Department of Finance does not appear likely to pursue such recognition.⁷⁹ This consultation outcome is, we believe, instructive for England and Wales. Unlike humanist marriages, allowing marriages to be conducted for profit did not return a consensus. In its response, the Department of Finance noted that there are no human rights grounds requiring independent celebrants to gain legal recognition for their marriages, concluding

'Independent celebrants are not a group defined by religious belief or background, ethnicity, sexuality, or political alignment. There is therefore no case for enabling them to provide marriage ceremonies on grounds of equality.'

This is in stark contrast to humanist marriages, which gained legal recognition in Scotland and (following a successful court case) in Northern Ireland, in each case on human rights grounds. This is because humanist celebrants conduct their marriages in line with a belief that qualifies under Article 9 of the European Convention on Human Rights, while independent celebrants do not. And while the Law Commission suggests that, unlike any other kind of celebrant, independent celebrants could conduct marriages for profit, the Department of Finance concluded that to do so would require the same of religion or belief celebrants on the basis of equality.

⁷⁵ At paragraph 5.105, it says 'some religious groups already permit interfaith or mixed-faith weddings in their buildings.'

⁷⁶ As an example, the Methodist Church's Guidelines for Interfaith Marriages (2000) states that 'In order to affirm respect for the beliefs and commitment for the partner from another faith, a prayer, hymns and/or readings from the other faith can be included': <https://www.methodist.org.uk/media/2020/fo-statement-guidelines-for-inter-faith-marriages-2000.pdf>

⁷⁷ 'Church bells and a chuppah', Jewish Chronicle, 15 December 2011: <https://www.thejc.com/community/community-news/church-bells-and-a-chuppah-1.30466>

⁷⁸ OneSpirit Interfaith Foundation: <https://www.interfaithfoundation.org/>

⁷⁹ *Marriage Law Consultation: Results and Analysis*, Department of Finance, 1 July 2022: <https://www.finance-ni.gov.uk/sites/default/files/publications/dfp/Marriage%20Law%20Consultation%20-%20Report%20and%20Analysis.pdf>



'It would not be possible to allow independent celebrants to provide marriage ceremonies commercially without changing the current law that prevents marriage for profit, and without, on grounds of equality, extending the same opportunity to profit from marriage to religious and belief groups. If Government were to enable independent celebrant businesses to provide legally binding marriages, it would have to extend the same opportunity to all current providers of legally binding marriage ceremonies. The effect could be to create a substantial marriage market. It is unlikely, judging by consultation responses, that there is significant public or political support for such a change. There is sympathy for independent celebrants but no corresponding sympathy for marriage for profit or to its becoming widespread.'

We see no reason why either of these points would not be equally applicable to England and Wales. In Northern Ireland, the Department of Finance instead concluded that the correct approach was to reconsider the restrictions on civil marriages, which we believe is instructive for the course that is best taken in England and Wales. However, allowing greater personalisation of civil marriages should not, in our view, require delays to the legal recognition of humanist marriages. Humanist marriages have faced a decades-long campaign for legal recognition, with consultations on the matter spanning the last nine years. Legal recognition is already on the statute books, with a High Court case now confirming that the lack of provision is discriminatory. The same cannot be said of independent celebrants.

HOW MANY INDEPENDENT WEDDING CEREMONIES ARE CONDUCTED A YEAR?

As an aside, the APPHG is aware of a statistic that purports to estimate the number of wedding ceremonies conducted every year by independent celebrants in England and Wales. This statistic was cited by the Law Commission in its consultation paper, but was removed from its final report. In the former, the Law Commission wrote:

*'A recent large-scale study of independent celebrants has estimated that there are at least 1,000 independent wedding celebrants in England and Wales, performing over 10,000 wedding ceremonies each year.'*⁸⁰

These figures were derived from a 2020 survey conducted by an academic whose methodology and results are outlined in two papers.⁸¹ However, we are seriously concerned that the methodology has produced inflated estimates, which, furthermore, have then been cited in ways that fail to highlight the extent of the uncertainty given in the papers themselves. Our concerns with its methodology are as follows:

- The survey asked celebrants how many wedding ceremonies they conducted for each year between 2015 and 2019 in bands of ten (1-10, 11-20, 21-30 etc.). If a celebrant reported that they conducted between 1-10 ceremonies in a given year, there is no way to tell whether they conducted one, ten, or any other number in between. This leaves a wide range of potential overall numbers of ceremonies conducted each year. By contrast, humanist ceremonies are reported by wedding celebrants as they go along.
- The figure cited by the Law Commission is derived from a midpoint estimate of each band (e.g. 5.5 for 1-10) of 9,453 for 2019. It is unclear why this number was rounded up to 10,000, rather than down to 9,000. Furthermore, the reason for citing the midpoint estimate is not specified. Humanists UK tells us that when it applied the same bands to the precise number of ceremonies its own celebrants conducted in 2019, the midpoint estimate increased the actual number for that year by 27%. This may be due to a form of trailing-digit Benford's law.⁸²
- The survey assumed that the 287 celebrants who responded to it conducted the same number of ceremonies as those that didn't – an assumption acknowledged in the article, but in our view a very shaky one. A more reasonable one would be that respondents are more active than non-respondents. When the non-respondents are removed, it can only be said with any certainty that independent celebrants conducted around 1,500 wedding ceremonies in 2019. But even then, by asking celebrants to report the number of ceremonies they conducted retrospectively, rather than as they go along, the survey is subject to recall bias and as a result, overestimation.

⁸⁰ *Getting Married: A Consultation Paper on Weddings Law*, Law Commission, 3 September 2020: <https://s3-eu-west-2.amazonaws.com/lawcom-prod-storage-11jsxou24uy7q/uploads/2020/09/Getting-Married-A-Consultation-Paper-on-Wedding-Law-web.pdf>

⁸¹ 'An exploration of the work of wedding celebrants: summary of findings, including conclusions and recommendations', Stephanie Pywell, 26 April 2020: <https://www.weddingcelebrancycommission.uk/documents/Exploration-of-celebrancy---summary.pdf> and 'The day of their dreams: celebrant-led wedding celebration ceremonies', Pywell, Stephanie, *Child and Family Law Quarterly*, 32(2) pp. 177-199, June 2020: <http://oro.open.ac.uk/70734/>

⁸² Benford's Law is the observation that in numerical datasets, the leading digit is usually small.

- There is also good reason to believe that the number of independent celebrants cited is also an overestimate. The number was derived from the same survey, which was sent to celebrants across the UK and Ireland who conduct various ceremony types including weddings, funerals and namings. Despite this, it was only intended for those who took at least one wedding in England and Wales in 2019. The first question in the survey asks 'Did you conduct any wedding celebration ceremonies in England and/or Wales during 2019?'. Of the 517 celebrants who participated in the survey, 230 clicked 'No' while 287 clicked 'Yes'. From this, it was estimated that around half of the 2,000 celebrants who were emailed the survey were wedding celebrants. But the survey was advertised as being for wedding celebrants, making it likely that most of the 1,400+ who did not respond did not conduct any wedding ceremonies at all. There are also issues relating to the survey having been advertised outside of emails, e.g. on Facebook fora, meaning that more than 2,000 may have seen it, and with some celebrants possibly being sent the survey twice.

The author says in her acknowledgements, 'I would like to thank the Wedding Celebrancy Commission for its financial gift to The Open University, which enabled the research to be independent'. She also says 'This independent research would not have been possible without the Wedding Celebrancy Commission's generous gift of £6,000 to The Open University'.

The WCC is a coalition of independent celebrant groups. Humanists UK has repeated the methodology with its own celebrants, with the survey completed by 110 celebrants.⁸³ Taking the midpoint estimate from these new figures inflated the actual number of humanist wedding ceremonies conducted in 2019 by 161%. Revising the author's figure accordingly reduces the midpoint estimate of the number of independent ceremonies conducted in 2019 to 5,842. But this number uses the number of wedding celebrants estimated by the author. It is hard to know for sure how many such celebrants there are, as only four of the five WCC organisations that have members list them; the sixth WCC organisation purely provides training, but it doesn't list who it trained; and we don't know how many celebrants there are who are involved with no organisation. We are also unsure as to the overlap of membership (if any) between these organisations. But what can be said with confidence is that there were 535 celebrant profiles on the websites of the four groups that list their members (as of September 2020).⁸⁴ The unknowns described thus far suggest 535 is an underestimate of the number of celebrants, but on the other hand, 535 will be an overestimate in that some of these celebrants will not have actually done any ceremonies in the prior year. With all that said, using this as the number of celebrants further reduces the number of ceremonies to a mid-point estimate of 3,209 independent ceremonies a year.

Many of the issues discussed above appeared as caveats in the academic papers, while others didn't. But they all disappeared from the Law Commission's initial report. Since then we have seen some independent celebrant groups – including at least one who co-funded the research – cite the figures in question with attribution to the Law Commission. This is obviously not correct.

This matters because these figures are likely to have shaped – and will continue to shape – the conversation around marriage law reform. As a result, we think that it is extremely important that these issues are taken into account wherever the figures are considered.

⁸³ 'Survey on humanist wedding numbers', Humanists UK, distributed 24 March 2022. Results seen by the APPHG.

⁸⁴ 'UK Celebrants', Fellowship of Independent Celebrants: <http://ukcelebrants.org.uk/weddings/>; 'Search our Directory of Fantastic Wedding Celebrants', Fellowship of Professional Celebrants: <https://professionalcelebrants.org.uk/find-a-celebrant/wedding-celebrants/>; 'Find a Celebrant', Association of Independent Celebrants: <https://independentcelebrants.com/find-a-celebrant/>; 'Category: England', UK Society of Celebrants: <https://www.uksoc.com/category/civil-celebrant-directory/england/>.

4.3 RELIGION OR BELIEF CONTENT IN CIVIL CEREMONIES

The Law Commission recommends a radical overhaul of the restrictions on religious content in civil marriages. In our view, these recommendations fail to recognise what is distinctive about religious and humanist marriages on the one hand and civil marriages on the other, risking poorer ceremonies for couples as a result. These recommendations appear to have been made in response to overly narrow interpretations by some civil registrars of the kind of content that is already permissible in a civil marriage ceremony, given that the law already allows incidental references to religion. We recommend that such problems are instead dealt with through guidance that permits the inclusion of religion or belief content depending on the couple's intent for including it i.e. cultural or sentimental reasons, rather than religious ones.

The Law Commission recommends the following:

We recommend that a civil ceremony should be required to be identifiable as a civil ceremony.

1. *The civil officiant or another person leading the ceremony should identify the wedding as a civil ceremony (so they cannot identify it as a religious or nonreligious belief ceremony) or the civil officiant should identify themselves as a civil officiant, to the couple and two witnesses.*
2. *The couple's expression of consent, using the required words, should not include references to or elements of religious or non-religious beliefs or practices.*

5.184 We recommend that a religious or non-religious belief service should not be permitted in a civil ceremony; however, a civil ceremony should be able to incorporate religious or non-religious belief elements, including but not limited to:

- (1) music;*
- (2) readings;*
- (3) symbols, iconography and dress;*
- (4) rituals and symbolic acts;*
- (5) prayers;*
- (6) blessings; and*
- (7) vows and statements or expressions of commitment or consent by the persons to each other that make references of a religious or non-religious belief nature, provided that any such vow or statement does not replicate words or form of any ritual, vow, statement or expression of consent required of any couple marrying in a religious or non-religious belief marriage ceremony.*

We recommend that the civil officiant should not be required to participate in any religious or non-religious belief elements.

It is notable that despite recommending that a religious or non-religious belief service should not be included in a civil marriage ceremony, the Law Commission does not provide any insight as to what this term means. This is unsurprising given that what constitutes a religious service is

notoriously hard to define, and has previously been dropped from secondary legislation on civil marriages due to its ambiguity.⁸⁵ The Law Commission does not suggest a limit on the amount of religion or belief content that can feature in a civil marriage ceremony, only requiring that it does not form part of the couple's expression of consent or include content required of a religion or belief marriage ceremony.

As a result, it is our view that these recommendations risk seriously undermining state neutrality on matters of religion or belief. Couples have long chosen civil marriages with the understanding that to do so is to marry without reference to a particular belief. We believe that to now allow state actors, in the form of civil registrars, to participate in religion or belief content that is included for religious or belief-based reasons risks the state appearing to endorse particular religions or beliefs, a problem that the Law Commission has not engaged with in its review.

Further to this point, we are concerned that these recommendations fail to recognise what is distinctive about religious, humanist, and civil marriages. When a couple engages a religious or humanist celebrant to perform their wedding ceremony, they do so with the knowledge that the celebrant shares this belief with them, and is trained to perform marriage ceremonies that spring from that belief. It is unreasonable to expect a civil registrar to be able to adequately cater for content from all possible religions and beliefs, let alone receive training on how to handle this content correctly. This leaves serious potential for these beliefs to be misrepresented, with damaging reputational consequences for the groups with whom those beliefs are genuinely associated.

If independent celebrants are authorised to perform marriages as civil officiants, we expect that this issue could well prove even more problematic. We note that the Law Commission has not considered how these celebrants may be prevented from advertising themselves as able to conduct religious or humanist wedding ceremonies, despite the ample evidence (discussed in the previous section) suggesting that independent celebrants performing non-legally recognised ceremonies already market themselves in this way.

Simply requiring a civil officiant to identify themselves or their ceremony as such during the ceremony itself will not, in our view, prevent couples from erroneously believing that they have arranged a religious or humanist ceremony when it has been marketed as such. This problem is complicated by a lack of any detail on the kind of training required of independent celebrants, as outlined above, further risking this content being handled poorly to the detriment of genuine religion or belief groups.

But we do not believe that such an overhaul as recommended by the Law Commission is required to deal with some of the current issues that arise from overly restrictive interpretations of the use of religious content within civil marriage ceremonies. As mentioned above, the law already allows incidental references to religion or belief so long as it is in a secular context.⁸⁶ We therefore suggest that unnecessary restrictions are avoided through guidance issued by the Registrar General, clarifying that religion or belief content may be included depending on the couple's intent – namely sentimental or cultural reasons, as long as the motivation is not religious

⁸⁵ See paragraph 34 of Content of Civil Marriage Ceremonies: Outcome of Guidance, General Register Office, November 2005: <https://humanists.uk/wp-content/uploads/GRO-consultation-on-Content-of-Civil-Marriage-Ceremonies.pdf>.

⁸⁶ The Marriages and Civil Partnerships (Approved Premises) (Amendment) Regulations 2011, Schedule 2A(3) reads 'the proceedings may include readings, songs, or music containing an incidental reference to a god or deity in an essentially non-religious context': <https://www.legislation.gov.uk/uksi/2011/2661/schedules/made?view=plain>



– allowing its use to remain secular. This is the approach used by Humanists UK’s celebrants, whose Celebrant Handbook reads:

Celebrants are expected to hold a client or family meeting and to ensure that it is as positive and as productive as possible by: ... Dealing with requests for religious poetry, hymns and prayers – advising that these cannot be accommodated within a humanist ceremony unless the context is particularly fitting and can be signalled appropriately.

Our ceremonies are non-religious but we recognise that there are aspects of religious reference embedded in our culture and day-to-day experiences. For example, certain hymns can remind people of their youth or even of their favourite rugby team. We are happy to include this sort of content where it helps to reflect the [parties], but not as an act of worship.

Humanists UK tells us that these guidelines have long worked well for couples wishing to include incidental references to religion for cultural or sentimental reasons, while leaving no doubt that the celebrant is a humanist performing a humanist ceremony.

4.4 TIMESCALE

Based on our experience with past legislation, another of our major concerns with the Law Commission's projects is the length of time before any of its recommendations may be implemented – if they are at all. The Law Commission's project has already spanned nearly four years, and if pursued, will likely take several more years to be implemented, if at all. In the meantime, humanist couples in England and Wales will be made to wait even longer to marry in line with their beliefs, despite this choice now being afforded to their counterparts virtually everywhere else in the UK, Ireland, and Crown dependencies.

We therefore renew our call for humanist marriages to be given immediate legal recognition under the Marriage Act 2013, even if this is done on an interim basis ahead of wider reform.

To outline the time that has elapsed in more detail, the Law Commission's project was first announced in 2018, with work commencing in July 2019. Its public consultation was then delayed in launching by the pandemic, eventually running between September 2020 and January 2021, extended by a month due to the pandemic. Its final report was then published over a year later in July 2022.

The Government now has a six month window to issue an interim response to the Law Commission's recommendations, followed by another six months to provide a full response.⁸⁷ After doing so, it may well want to consult further on some, or all, of these recommendations, perhaps putting together a green or white paper before eventually drafting a new Marriage Bill. Assuming it takes the full window to respond, the very earliest such a Bill could be introduced to Parliament would be following a King's Speech in May 2024. This may then cause it to run up against the next general election, which has to happen at some point before January 2025. But given the extraordinary complexity of some of the disputed details and the range of interested parties, let alone the numerous other matters before Parliament, it could at any rate prove several more years before any Bill is introduced.

That is if the Government decides to implement the Law Commission's proposals at all. The track record of implementation of Law Commission projects is not promising in this regard. Since 1966, only 52% of Law Commission projects have been implemented in full, and 62% at least in part. For Law Commission projects published between 2017 and 2021, this falls to as low as 7% and 11%, respectively.⁸⁸

The delay in giving legal recognition to humanist marriages was acknowledged in the Harrison case, where the judge concluded that

'Although I may deprecate the delay that has occurred since 2015 [when the Law Commission issued its first report], I cannot ignore the fact that there is currently an ongoing review of the law of marriage in this country that will necessarily engage with the wider concerns that have been raised.'

But humanist marriages were on the Government's agenda well before the Law Commission first reviewed the matter in 2015, or when the Order-making power that led to this review was first granted in 2013. A previous wholesale review of registration law (including marriage) was

⁸⁷ Protocol between the Lord Chancellor (on behalf of the Government) and the Law Commission, Law Commission, 29 March 2010: https://s3-eu-west-2.amazonaws.com/lawcom-prod-storage-11jsxou24uy7q/uploads/2015/06/lc321_Protocol_web.pdf

⁸⁸ 'Implementation Table', Law Commission: <https://www.lawcom.gov.uk/our-work/implementation/table/>

announced by the Government in 2001,⁸⁹ with the possible need to revise the categorisation of marriages to not be merely civil or religious confirmed in 2004, in response to an extensive campaign for humanist marriages.⁹⁰ The project was abandoned by the Government in the same year. Humanist marriages have, therefore, now been on the Government's agenda for over 20 years. In any case, the practice of humanist wedding ceremonies themselves dates back to the 19th century, well before the 1949 Marriage Act was implemented.⁹¹

Laying an Order to give legal recognition to humanist marriages would only require a positive resolution and up to 90 minutes before both Houses of Parliament. This could be done even if further reform is planned, as was the approach taken to humanist marriages in both Scotland and Northern Ireland. In Scotland, humanist marriages gained interim recognition in 2005, prior to a wider reform of marriage law that took place nine years later in 2014. In Northern Ireland, humanist marriages gained legal recognition in 2018, with a wider reform set to take place once an Executive has formed.

The Government's current position is that it cannot consider legal recognition of humanist marriages until it has finished analysing all of the Law Commission's proposals. This is evidenced by the following answer to a written question tabled by Baroness Whitaker in September 2022:

ASKED BY BARONESS WHITAKER, LABOUR, LIFE PEER.

*To ask Her Majesty's Government, further to the Law Commission report *Celebrating Marriage: A New Weddings Law*, published 19 July, what plans, if any, they have to grant legal recognition to humanist marriages; and on what timescale they plan to grant such recognition.*

ANSWERED BY LORD BELLAMY, CONSERVATIVE ON 20/09/2022.

The Law Commission report contains 57 recommendations for legislative reform.

We must now take the time to consider the Law Commission's recommendations fully. As has been set out in Parliament, marriage will always be one of our most important institutions, and we have a duty to consider the implications of any changes to the law in this area very carefully, including balancing the needs and interests of all groups. We will publish a response to the report in due course.⁹²

No-one could accuse the Government of rushing reform. It has more than fulfilled its 'duty to consider the implications' of humanist marriage in the last nine years, and no group has emerged that claims its 'needs and interests' would be at risk, let alone should override the human rights of humanists. As to other excuses for delay, we repeat here from our previous report the key points.

⁸⁹ *Civil Registration: Vital Change – Birth, Marriage and Death Registration in the 21st Century*, Office for National Statistics, 2002: https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/250928/5355.pdf

⁹⁰ The Parliamentary Under-Secretary of State, Department for Constitutional Affairs (Lord Filkin), written ministerial statement on Marriage Law, Lords Hansard, 8 July 2004: https://publications.parliament.uk/pa/ld200304/ldhansrd/vo040708/text/40708-50.htm#40708-50_head1

⁹¹ 'Humanist Ceremonies', Humanist Heritage: <https://heritage.humanists.uk/humanist-ceremonies/>

⁹² Baroness Whitaker, Marriage: Humanism – HL2200, asked 5 September 2022 and answered by Lord Bellamy on 20 September 2022: <https://questions-statements.parliament.uk/written-questions/detail/2022-09-05/hl2200>.

With regards to the undesirability of piecemeal reform, the Government has undermined its own argument, as shown above, by introducing a myriad of piecemeal reforms to marriage law without waiting for the Law Commission's report, including those that directly concern where couples are able to get married. This is particularly significant given that it was the one argument it previously won on at the High Court.

Arguing in favour of wholesale reform the Government has also suggested that other religion or belief groups might wish to marry their couples in any location, making legal recognition for humanist marriages unfair. This point was first advanced by the Government in 2013 but was still being made in a Westminster Hall debate in January 2022 by the then marriage minister, Tom Pursglove MP, who said:

'[Humanist marriages] would allow [couples] to marry in a place meaningful to them, without restriction on the location of the ceremony. Other groups would not have the same choice.'

But as our 2018 inquiry found, the majority of religious groups are not asking for a change to the law to marry in any location, as it is customary for them to marry within a place of worship. Where this is not the case, location is generally not an intrinsic part of their beliefs. Humanists do not have places of worship, and marrying in a location that is meaningful instead is an intrinsic part of their humanism. Civil marriages are not conducted in line with any religion or belief, and so there are no intrinsic reasons for these to be conducted in any particular place, but there is now a wide choice of locations for these, indoors and out. But even for those religious groups for whom marrying in a place of worship is not customary, as our inquiry concluded:

'The fact remains, however, that all of these religious groups can have legal religious marriages in their place of worship. Humanists cannot have legal humanist marriages at all.'

There is also very much a 'two wrongs make a right' feel to this argument.

And we remain unable to identify any other belief groups that are calling for the right to marry that cannot at present. Certainly no English court has ruled that the lack of legal recognition for any such group's marriages amounts to a discriminatory infringement of human rights.

In any case, the Law Commission's most recent review covers much more than simply where couples should be able to get married or who can conduct marriages, as evidenced by its Terms of Reference. It instead covers a whole range of issues spanning legal preliminaries to the registration of marriages. We do not see why the urgent matter of humanist marriages must wait for every last aspect of weddings law to be reformed. As outlined above, the Law Commission itself acknowledges that its project was a direct result of an attempt to pursue legal recognition of humanist marriages. We think it is only right, therefore, that this is treated as a matter of priority.

It has now been another four years since our inquiry on this issue was published.

In that time, England and Wales has made no commitment to legal recognition of humanist marriages. But in that time a High Court case, the impacts of the pandemic, and developments in the rest of the UK, Ireland, and Crown dependencies have only strengthened the case for legal recognition.

We therefore renew our call for humanist marriages to gain legal recognition immediately under Section 14(4) of the Marriage Act 2013. This could even be done as an interim measure before any wider reform of marriage law is made.

5. RECOMMENDATIONS

Our 2018 inquiry concluded that there was a very clear case for legal recognition of humanist marriages. Most urgently, we renew our recommendation that the Government lay an Order under section 14 of the Marriage (Same Sex Couples) Act 2013 for legally recognised marriages conducted by Humanists UK. This could if necessary be done on an interim basis, prior to a wholesale review of weddings law.

Developments since have only served to strengthen this case. In light of these, we make two new recommendations:

1. We urge the Government to acknowledge that the High Court's ruling in *Harrison* requires it to legislate for humanist marriages.
2. We recommend that the Law Commission's report is not implemented without serious revision to its recommendations on the authorisation of religion or belief groups and the inclusion of religion or belief content in civil marriages. Further, we question the need for independent celebrants to conduct legally recognised marriages, and suggest that the Government carefully considers the risks of enabling them to do so.





ANNEX 1. DRAFT OF THE MARRIAGE (SAME SEX COUPLES) ACT 2013 (MARRIAGE ACCORDING TO THE USAGES OF BELIEF ORGANISATIONS) ORDER 2022

Under Section 14 (4) of the Marriage (Same Sex Couples) Act 2013, the Government can lay an order to extend legal recognition to humanist marriages . This provides that:

‘The Secretary of State may by order make provision for and in connection with permitting marriages according to the usages of belief organisations to be solemnized on the authority of certificates of a superintendent registrar.’

Below is a draft order that would enact such recognition for Humanists UK. At the then Secretary of State’s recommendation, this was originally drafted in 2017 through Crispin Blunt MP’s office with the assistance of a Counsel for Domestic Legislation. It has since been updated to reflect subsequent changes in marriage law. These changes have also been incorporated into subsequent private members’ bills, the most recent of which was Rehman Chishti MP’s Marriage (Authorised Belief Organisations) Bill 2020.

The order is drafted so as to add ‘authorised belief organisations’ to the 1949 Marriage Act, alongside references to the Society of Friends (Quakers), and then to specify in one place that ‘the British Humanist Association’ (the legal name of Humanists UK) is the only authorised belief organisation. However, another way to draft it would be to instead refer to the British Humanist Association throughout, rather than to authorised belief organisations. Which approach is pursued makes no difference to us.



DRAFT STATUTORY INSTRUMENTS

2022 No.

MARRIAGE

The Marriage (Same Sex Couples) Act 2013 (Marriage According to the Usages of Belief Organisations) Order 2022

Made ***

Coming into force in accordance with article 1(2)

A draft of this Order was laid before and approved by a resolution of each House of Parliament in accordance with section 18(2) of the Marriage (Same Sex Couples) Act 2013.

This Order is made in exercise of the powers conferred by sections 14(4)-(6) of the Marriage (Same Sex Couples) Act 2013.

The Secretary of State, in exercise of those powers, makes the following Order:

Citation, commencement and interpretation

- (1) This Order may be cited as the Marriage (Same Sex Couples) Act 2013 (Marriage According to the Usages of Belief Organisations) Order 2022.
- (2) This Order comes into force on DATE.
- (3) In this Order—
 - “the Act” means the Marriage (Same Sex Couples) Act 2013; and
 - “the 1949 Act” means the Marriage Act 1949.

Consequential amendments to Acts of Parliament

- The Schedule to this Order (which amends the 1949 Act in consequence of the Act) has effect.

Amendment to the Registration of Marriages Regulations 2015

- The Registration of Marriages Regulations 2015 are amended as follows.
- In regulation 11I, in subsection (1) after paragraph (b) but before the “or”, insert—
 - “(ba) the usages of an authorised belief organisation”.

Extent

- This Order extends to England and Wales only.

Secretary of State for Justice

Date

SCHEDULE

Consequential Amendments to the 1949 Act

Marriage Act 1949

1. (1) The 1949 Act is amended as follows.
 - (2) In section 26 (marriage of a man and a woman; marriage of same sex couples for which no opt-in necessary), in subsection (1) after paragraph (c), insert—

“(cc) a marriage of any couple according to the usages of an authorised belief organisation;”

and in subsection (2)(a) after “subsection (1)(c) insert “or (cc)”.
 - (3) In section 35 (marriages in registration district in which neither party resides) in subsection (4) after “the Society of Friends” insert “or of an authorised belief organisation”.
 - (4) In section 43 (appointment of authorised persons) in subsection (3) after “the Society of Friends” insert “or of an authorised belief organisation”.
 - (5) In section 43B (buildings registered under section 43A: appointment of authorised persons) in subsection (8) after “the Society of Friends” insert “or of an authorised belief organisation”.
 - (6) In section 44D (sections 44A to 44C: supplementary provision), in subsection (4) after paragraph (a) but before the “and”, insert—

“(aa) marriages of same sex couples according to the usages of an authorised belief organisation”.
 - (7) After section 47 insert—

“Marriages according to usages of authorised belief organisations

- (1) An authorised belief organisation may solemnise marriages according to its usages provided that no religious service may be used at such marriages.
- (2) For the purposes of subsection (1), the British Humanist Association is an authorised belief organisation.
- (3) The Secretary of State may, by regulations made by statutory instrument, authorise further belief organisations for the purposes of subsection (1).
- (4) Upon authorisation, a belief organisation shall designate an officer of the organisation (“the principal officer”) to appoint persons for stated periods of time to act as marriage officiants on behalf of the organisation, and may impose such conditions as seem to him or her to be desirable relative to the conduct of marriages by the organisation.
- (5) The principal officer shall, within one working day of a person being so appointed:


- (a) certify the name and address of the person so appointed to the Registrar General and to the superintendent registrar of the registration district in which the person lives, on a form supplied for that purpose by the Registrar General (a “certification form”);
 - (b) provide on the certification form—
 - (i) the name and address of the authorised belief organisation in respect of which the person is authorised under subsection (1); and
 - (ii) such other information as the Registrar General has indicated is necessary for the purposes of the certification and authorisation; and
 - (c) sign the certification form.
- (6) The authorised person must sign the certification form to indicate their consent to being authorised under subsection (1).
- (7) For the purposes of subsections (4)-(6), “working day” means any day other than a Saturday, a Sunday, Christmas Day, Good Friday or a day which is a bank holiday in England and Wales under the Banking and Financial Dealings Act 1971(9).
- (8) A marriage to which this section applies shall be solemnised with open doors in the presence of either—
- (a) a registrar of the registration district in which the marriage takes place; or
 - (b) a marriage officiant appointed under subsection (4) whose name and address have been certified in accordance with subsection (5) –
- and of two witnesses; and the persons to be married shall make the declarations and use the form of words set out in subsection (3) or (3A) of section 44.
- (9) A marriage solemnised according to the usages of an authorised belief organisation shall not be valid unless there is produced to the superintendent registrar, at the time when notice of marriage is given, a certificate purporting to be signed by the principal officer or a marriage officiant of the said organisation to the effect that at least one person giving notice of marriage is a member of the organisation and that the other is either a member of the organisation or is authorised to be married according to its usages under or in pursuance of a general rule of the said organisation.
- (10) A certificate under subsection (11) shall be for all purposes conclusive evidence that any person to whom it relates is authorised to be married according to the usages of the relevant authorised belief organisation and a certified copy of the entry of the marriage in the marriage register made under Part 4 of this Act shall be conclusive evidence of the production of such a certificate.

- (11) A copy of any general rule of the relevant authorised belief organisation purporting to be signed by the principal officer for the time being of the organisation shall be admitted as evidence of the general rule in all proceedings touching the validity of any marriage solemnised according to the usages of the organisation.
- (12) A statutory instrument containing regulations under this section may not be made unless a draft of the instrument has been laid before and approved by a resolution of each House of Parliament.”
- (8) In section 50 (person to whom certificate to be delivered), in subsection (1) after paragraph (d) insert—
- “(dd) if the marriage is to be solemnised according to the usages of an authorised belief organisation, a registering officer of the said organisation”.
- (9) In section 53C (Signing of a marriage schedule) —
- (a) in subsection (3) after “the Society of Friends” insert “or of an authorised belief organisation”; and after “the said Society” insert “or belief organisation”;
- (b) in subsection (7) after “the Society of Friends” insert “or of an authorised belief organisation”;
- (c) in subsection (8), after paragraph (b) insert
- “(bb) in the case of a marriage solemnised according to the usages of an authorised belief organisation, a marriage officiant of the said organisation;”.
- (10) In section 53E (Registration of marriage where documentation lost or destroyed) in the definition in subsection 13 of ‘relevant person’, after subparagraph (ii) insert
- “(iiA) in the case of a marriage solemnized according to the usages of an authorised belief organisation, another marriage officiant of the said organisation in the registration district in which the marriage was solemnized or (if there be no such officer) the principal officer of the said organisation.”
- (11) In section 63 (searches in register books) after the words “the Society of Friends” insert “or of an authorised belief organisation”.
- (12) In section 75 (offences relating to solemnisation of marriages) in subsection (1), paragraph (a), after the words “the Society of Friends” insert “or of an authorised belief organisation”; and in subsection (2), paragraph (a), after the words “the Society of Friends” insert “or of an authorised belief organisation”.
- (13) In section 78 (interpretation), there shall be inserted the following—
- ““authorised belief organisation” means a belief organisation that has been authorised by section 47A(2) or under section 47A(3) of this Act to perform marriages according to its usages;
- “belief organisation” means an organisation whose principal or sole purpose is the advancement of a system of non-religious beliefs which relate to morality or ethics, and which meets regularly for that purpose;



“marriage officiant of an authorised belief organisation” means a person whom the principal officer of an authorised belief organisation certifies in writing under his or her hand to the Registrar General to be a registering officer in England or Wales of the said organisation;”

“British Humanist Association” means the British Humanist Association, a company limited by guarantee and registered charity No 285987;”



Addendum, November 2022: Section 4.2 of this report has been revised. First, an academic paper referenced in footnote 41 was not fully referenced. This has been corrected. Second, page 48 stated that 'this research was funded by the Wedding Celebrancy Commission, an organisation representing independent celebrants.' It now instead quotes the author's own acknowledgements, namely 'I would like to thank the Wedding Celebrancy Commission for its financial gift to The Open University, which enabled the research to be independent'. And 'This independent research would not have been possible without the Wedding Celebrancy Commission's generous gift of £6,000 to The Open University'. Third, the report initially included the line, 'Adjusting this for the 535 celebrants advertised on the websites of the four groups whom [the] survey was sent to...' This inadvertently implied that it was only celebrants of four groups that the survey was sent to, when this was not the case. This has been clarified. We apologise to the author for this. However, we do not think that any of these changes affect the conclusions of this section of the report.

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