



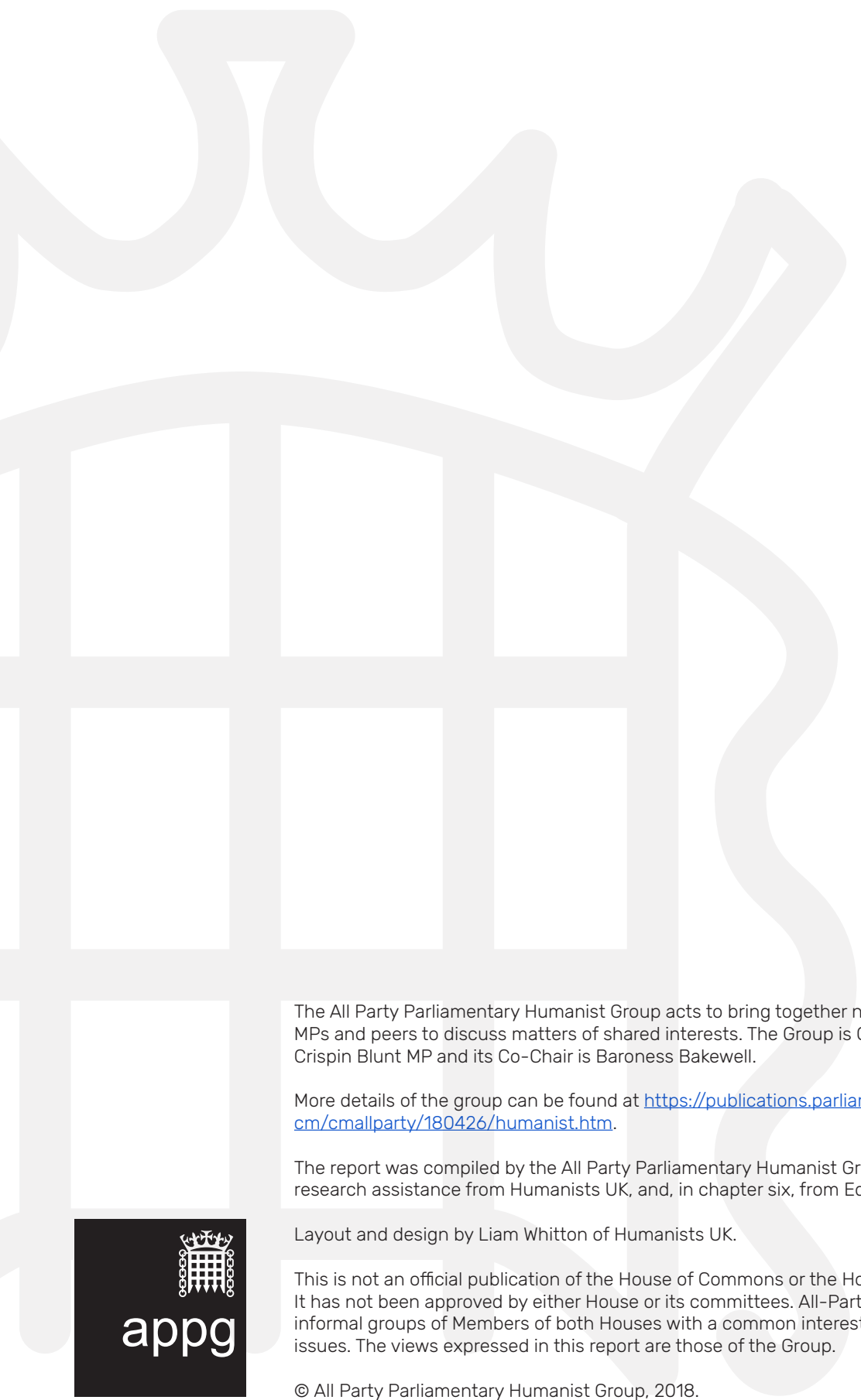
# All-Party Parliamentary Humanist Group

## **'ANY LAWFUL IMPEDIMENT?'**

A report of the All-Party Parliamentary Humanist Group's inquiry into the legal recognition of humanist marriage 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 Crispin Blunt MP and its Co-Chair is Baroness Bakewell.

More details of the group can be found at <https://publications.parliament.uk/pa/cm/cmallparty/180426/humanist.htm>.

The report was compiled by the All Party Parliamentary Humanist Group with research assistance from Humanists UK, and, in chapter six, from Eden Foley.

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## FOREWORD



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*'Of course everybody would support humanist marriages...' '[I]t would be wrong not to recognise the strength of feeling in support of the humanists. A statutory consultation as a means to effect any change is the right way forward in responding to the support for humanists, ensuring that the wider public are able to contribute to the debate, and securing that arrangements for belief-based marriages are made on a sound footing and that any implications of them are fully understood.'*

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That is what the UK Government told the House of Lords in 2013, during the final stages of the passage of the Marriage (Same Sex Couples) Act. Baroness Stowell did so while supporting a Government amendment, now part of that Act, giving the Government power to introduce humanist marriage by laying regulations. The amendment was brought in to stave off a certain defeat for the Government that would have given immediate legal recognition to humanist marriages in England and Wales.

Humanist marriages have long been recognised in Scotland and the Republic of Ireland, where they have proven hugely popular. More recently Jersey has also recognised them. In England and Wales, however, the Government has not done what it seemed to promise in 2013. Instead it has cited a number of concerns about such recognition, and action has stalled.

The All Party Parliamentary Humanist Group (APPHG) held this inquiry to assess how justified these concerns are; if they are not justified, to explain why not; and if they are justified, to consider what, if any, mitigating measures might be easily introduced. This has seen us gather evidence from many sources and come to our own assessment of the matters at hand.

Our exercise has led us to conclude that the two official reviews into this subject which followed the 2013 Act – by the Ministry of Justice in 2014 and by the Law Commission in 2015 – both ignored two crucial matters: firstly the human rights case for reform; secondly, a more technical point about multiple Orders that nonetheless significantly deals with the bulk of the concerns raised. Our inquiry has also led us to realise that the present system, whereby couples having a humanist wedding ceremony must have a separate civil marriage in order to gain legal recognition, can put such couples at a serious disadvantage, financially and practically, in terms of their ability to have the wedding they want.

In light of our findings, we think the concerns set out by the official reviews are largely dealt with. Marriage law is extremely complex and may call for wider reform, but we don't think any need for wider reform remotely justifies continuing delay in granting recognition to humanist marriages.

We are most grateful to all those who gave evidence to the inquiry, including the Law Commission, the Church of England, the Quakers in Britain, Humanists UK and its celebrants, Humanist Society Scotland, Deputy Louise Doublet, Rabbi Jonathan Romain, Ciaran Moynagh, and Laura Lacle. We are also grateful to those members of the APPHG who assisted in the conducting of this inquiry, and to Eden Foley who conducted the survey of local authorities discussed in chapter six.



**Crispin Blunt MP**



**Baroness Bakewell DBE**

**Co-Chairs, All Party Parliamentary Humanist Group**



# 1. EXECUTIVE SUMMARY

A humanist wedding is, in the words of Humanists UK, '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.' Such marriages are legally recognised in Scotland, Jersey, and the Republic of Ireland, and Guernsey is considering doing the same. But they are not in England and Wales.

There is a very clear case for legal recognition of humanist marriages: both as something people want, and as what the law requires to maximise freedom of religion or belief.

Parliament almost passed legal recognition during the passage of the Marriage (Same Sex Couples) Act 2013, but the Government instead saw the Act amended to mandate a public consultation first as well as take the power to bring in humanist marriage by statutory instrument.

Humanist marriage has since then been the subject of two recent official reports, one from the Ministry of Justice (which found overwhelming support for a change in the law) and one from the Law Commission. We believe both ignored two substantial issues of importance: (i) any consideration of human rights laws, and (ii) any consideration of the power of the Secretary of State to make multiple Orders under section 14 of the Marriage (Same Sex Couples) Act 2013.

The first of these issues has been underlined by a 2017 decision by the Belfast High Court on recognition of humanist marriages in Northern Ireland; that decision surely points the need for action here, too. The second obviates the bulk of concerns that the two reports threw up, as it means that Orders can be made for specific belief groups, while wider questions are left to one side.

To recap:

- The main concern of the MoJ and Law Commission appeared to be inconsistencies around venues. Humanists UK wishes to be able to marry people outdoors, which most religious groups cannot. But three religious groups can in fact already do this. The fact that some can't is clearly a potential source of unfairness (albeit one not much complained about by those groups themselves), but to use this source of unfairness to block any reform of humanist marriages is clearly a case of 'two wrongs make a right'. To do nothing about either because of the difficulty of reforming the venues question is not good enough, in the context of human rights breaches. We see no reason why legal humanist marriages should wait upon wider reform.
- In terms of who might perform belief-based marriages, the evidence from Scotland is instructive in suggesting only humanist groups would – indeed we can identify no other. But we think this problem does not need solving before any legal recognition is granted, because the Secretary of State can make an Order specifically for Humanists UK. The risk of a human





rights challenge to the Government is already very high and extending recognition to the one group – Humanists UK – that is pushing for it would in fact substantially lower the risk. Any other group that subsequently can make a strong case to also have such an Order could have one, but at present we see no such group.

- Concerns about forced and sham marriages, and about profit and gain, do not seem particularly to be targeted at Humanists UK, but rather at other hypothetical belief groups. Therefore, an Order specifically for Humanists UK should raise no such concerns. In any case, if legitimate concerns do arise, the Secretary of State has the power to stop a belief group from performing legal marriages – by making a further Order.
- We can see no force in the suggestion that legal recognition might put at risk the safeguards against religious groups being forced to perform same-sex marriages – indeed, the connection is impossible to detect. More than that, it is only through providing legal recognition for humanist marriages that same-sex couples will have any meaningful choice in the type of marriage they have.
- While piecemeal legislation is generally undesirable, it appears that wholesale reform is not on the table – and even if it was, it would take years. Particularly given the context of a probable human rights breach, and the fact that Humanists UK has been waiting for this change for very long already, we see no reason why an Order simply to give legal recognition to humanist marriages shouldn't be laid – even if wholesale reform was being considered.

**In summary, we do not believe that any of the concerns are remotely sufficient to prevent the legal recognition of marriages performed by Humanists UK. The case for such reform is overwhelming, not least from a human rights perspective. We urge the Government to lay an Order for such marriages under section 14 of the Marriage (Same Sex Couples) Act 2013.**

**We believe that, if any other belief groups can make the case to have an Order laid for their marriages, such an Order should then be considered. But at present we see no such groups making a case for such an Order, and we note that in Scotland, humanist groups are the only groups that are performing belief-based marriages.**

Finally, we have discovered that some registrars appear to be exploiting their statutory role and their access to local authority facilities, in ways that make it difficult for couples to have simple 'no frills' statutory-only marriage ceremonies to accompany their non-legal humanist wedding ceremonies. This is particularly true with respect to restrictions around days of the week and times of day. A significant minority are also not advertising such statutory-only ceremonies at all. Furthermore, a number appear to also be restricting where such ceremonies can occur, how soon they are available, and who can attend. On top of that, we have anecdotal evidence of registrars making it difficult for a humanist ceremony and a legal marriage to occur on the same day. All of this must add to the case for reform.



**But, in the absence of legal recognition of humanist marriages, we recommend that local authorities are mindful of their obligation, under the public sector equality duty, to 'remove or minimise disadvantages suffered by persons who share a relevant protected characteristic that are connected to that characteristic', and this may mean taking steps to ensure that non-statutory ceremonies are more readily available to humanist couples.**

**Local authorities that market non-statutory commercial ceremonies also need to ensure that they do not abuse their dominant position – as the only entities able to register legal marriages other than religious entities. They must not leverage their statutory dominance in registration into a non-statutory, commercial market.**





## 2. BACKGROUND

### 2.1 What are humanist marriages?

A humanist wedding is, in the words of Humanists UK, '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.'

This is distinct from other forms of wedding in a number of ways. One is the bespoke nature of the script 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 venues most meaningful to them. This includes venues 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.

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. It is this difference of treatment that this report will analyse.

Humanists UK celebrants performed over 1,000 ceremonies in England and Wales in 2016. While this is smaller than the number in Scotland (as we shall come onto), it nonetheless represents a 240% growth in number since 2004, and 110% growth since 2012. It means that only local authorities, the Church of England, Church in Wales, Catholic Church, and Methodist Church conduct more weddings than Humanists UK.<sup>1</sup>

The latest (2016) British Social Attitudes Survey found that 53% of the population belong to no religion, rising to 71% amongst those aged 18-24 – the most likely to be getting married.<sup>2</sup> Survey data indicates that around half of those belonging to no religion hold humanist views, while about 5 percent of the population primarily identifies with the term – comparable, for example, to the number of Muslims.<sup>3</sup>

1 'Revealed: How many marriages each religious group and Humanists UK do', Humanists UK, 9 May 2018: <https://humanism.org.uk/2018/05/09/revealed-how-many-marriages-each-religious-group-and-humanists-uk-do/>

2 'Latest British Social Attitudes reveals 71% of young adults are non-religious, just 3% are Church of England', Humanists UK, 4 September 2017: <https://humanism.org.uk/2017/09/04/latest-british-social-attitudes-reveals-71-of-young-adults-are-non-religious-just-3-are-church-of-eng-land/>

3 'New poll shows one in five are humanists, and a third hold humanist beliefs', Humanists UK, 5 June 2017: <https://humanism.org.uk/2017/06/15/new-poll-shows-one-in-five-are-humanists-and-a-third-hold-humanist-beliefs/>



## Recognition around the UK, Ireland, and crown dependencies

Humanist marriages have already been legally recognised in Scotland and the Republic of Ireland, where they have had a significant effect on the demography of marriages. In Scotland, humanist marriages gained legal recognition in 2005, and have risen in number from 85 in the first year to over 4,900 in 2016.<sup>4</sup> In the Republic of Ireland, humanist marriages gained legal recognition in 2012. In 2016 around seven percent of legal marriages were humanist.<sup>5</sup>

In Northern Ireland, Humanists UK and its section Northern Ireland Humanists have been working through the courts to secure recognition of humanist marriages. Laura Lacole and Eunan O’Kane, the claimants in the case, succeeded in having the High Court grant legal recognition to humanist marriages on human rights grounds in June 2017 and were consequently able to have their legal marriage, but the Government immediately appealed, and the wider decision was stayed. The Court of Appeal finished hearing the appeal in January 2018. Its decision is expected soon.<sup>6</sup>

Jersey extended legal recognition to humanist marriages in February: this is expected to come into force later this year,<sup>7</sup> and Guernsey is currently consulting on doing likewise.

## 2.2 Why Humanists UK wants legal recognition

Humanists UK argues that humanist marriages should be legally recognised in England and Wales. Humanists UK told us that in its view, legal recognition would:

- Be overwhelmingly popular – around 95% of respondents to the 2014 Government consultation supported it, and the number of humanist marriages happening in Scotland and the Republic of Ireland (representing around 16% and 7% of the total, respectively), where there already is legal recognition, is also testament to that;
- Be good for families: evidence from Scotland shows that legal recognition there reversed the decline in the overall number of marriages, which is good for marriage as an institution;
- Be good for the economy: by the same token, more marriages means the marriage economy – already worth £10 billion – will continue to grow; and
- Keep England and Wales up to speed with the rest of the UK and crown dependencies.

4 ‘More than 4200 Humanist weddings took place in Scotland last year’, Humanist Society Scotland, August 2016: <https://www.humanism.scot/what-we-do/news/more-than-4200-humanist-weddings-took-place-in-scotland-last-year/>

5 ‘CSO statistical release: Marriages and Civil Partnerships’, Republic of Ireland Central Statistics Office, 13 April 2017: <http://www.cso.ie/en/releasesandpublications/er/mcp/marriagesandcivil-partnerships2016/>

6 ‘Northern Ireland Court of Appeal holds final hearing in humanist marriage case’, Humanists UK, 13 January 2018: <https://humanism.org.uk/2018/01/16/northern-ireland-court-of-appeal-holds-final-hearing-in-humanist-marriage-case/>

7 ‘Jersey passes law recognising humanist and same-sex marriages’, Humanists UK, 1 February 2018: <https://humanism.org.uk/2018/02/01/jersey-passes-law-recognising-humanist-and-same-sex-marriages/>



It is plain from its involvement in the Northern Ireland case that it also believes there is a human rights case for change.

## 2.3 Chronology: The Marriage (Same Sex Couples) Act 2013 and prior work

Humanists UK has long performed non-legal wedding ceremonies. It was founded in 1896 as the Union of Ethical Societies, the ethical societies being a group of non-religious congregations that typically held 'Sunday services' or meetings, sometimes with 'ministers' and 'ethical hymns'. The organisation outlived the decline of the movement that gave birth to it: in the 1960s it became the British Humanist Association and in 2017 it became Humanists UK. One ethical society has continued to operate independently, namely Conway Hall Ethical Society in Holborn (called South Place Ethical Society until 2012).

From inception, some ethical societies performed wedding ceremonies in their venues, and relatively lax interpretations of the law at the time meant that these generally had legal recognition. This continued until the anomalous position was picked up by Government officials in the 1970s, at which point the practice was stopped at Conway Hall (by then the last remaining ethical society) on account of its not being a place of worship as required by the law. A subsequent court case famously established that humanism, though charitable, is not a religion.<sup>8</sup>

Separately, the humanist conception of ceremonies, including weddings, continued to evolve and grow. In 1988, Jane Wynne Willson (now President of Birmingham Humanists) wrote *Sharing the Future*, 'a practical guide to humanist and non-religious weddings and affirmations, including a selection of popular poetry, prose and sample marriage vows.' The book (as well as two others by Jane on funerals and namings) really established the common formats and practices that provide the bedrock of humanist ceremonies today. Since then, humanist ceremonies have grown in popularity, being adapted and adjusted as society, our understanding, and the demands of the clients for whom the ceremony is designed have changed. This has for many decades included recognition of the importance of weddings being held in the place that is most special to the couple concerned.

Humanists have long performed same-sex weddings and partnership ceremonies, even dating back to before the decriminalisation of homosexuality. Humanists UK campaigned in favour of both the Civil Partnerships Act 2004 and the Marriage (Same Sex Couples) Act 2013, and all its celebrants perform same-sex wedding ceremonies. If humanist marriages were legal in England and Wales, they would also perform same-sex humanist marriages – none would wish to opt out.

<sup>8</sup> *In re South Place Ethical Society* [1980] 1 WLR 1565, [1980] 3 All ER 918. It is worth noting that this case was pre-Human Rights Act 1998, so did not consider human rights arguments around equal treatment of religions and humanism – an area we shall return to. On the other hand, although the ethical movement historically performed legal marriages in registered buildings, today there is only one Ethical Society, and its building is not and cannot be considered a place of worship. Therefore this way forward is no longer available for legal humanist marriages, nor would it be desirable, in the eyes of humanists, as Humanists UK argues that humanist marriages must be able to occur in whatever venue is most significant to the couple, and this would not simply mean ethical society buildings.



**2001-10 campaigns for legal reform:** In parallel, Humanists UK has long campaigned for legal recognition of humanist marriages. In 2001 marriage law formed part of a review of civil registration led by the Office of National Statistics and there were plans to switch from the present system of control by authorisation of venues (registered places of worship, approved premises, etc.) to one of recognition of celebrants. Humanists UK made a strong case for humanist celebrants to be recognised within this reform and was gaining support when, at the end of 2004, the whole review was halted by Parliament on the grounds that the changes proposed required primary legislation rather than use of the Regulatory Reform Act. The Government had, however, already recognised the case for reform, and proposed further investigation and consultation, as announced on 8 July 2004 in a written statement to the House of Lords by the Department for Constitutional Affairs which read in part:

...there is an issue regarding the proposals for marriage on which there should be further consultation. The issue concerns the absence of any proposal to change the legal requirement for marriage ceremonies to be either civil or religious. Policy in this area of marriage law is the responsibility of the Department for Constitutional Affairs. In the coming months and in consultation with others, we will be working with Treasury Ministers and the General Register Office for England and Wales to determine the scope of any revised proposals.<sup>9</sup>

In mid-2006 Humanists UK met Harriet Harman, then Minister of State at the DCA, and the following year met the Registrar General, warning that in the absence of reform of the law it might mount a legal challenge under the Human Rights Act. In a continuing campaign, it submitted a case for an enquiry to the Joint Committee on Human Rights, supported several EDMs, won Liberal Democrat party support at their 2010 conference, and in 2012 prepared (originally at the suggestion of Oliver Letwin MP) a draft Bill to reform the law.

**2012: Private Members' Bill:** In 2012, for the first time, a private member's bill was produced on the matter. Lord Harrison's Marriage (Approved Organisations) Bill [HL] 2012-13 provided that:

'The Registrar General may by certificate approve organisations to solemnise marriages according to their usages provided that any such organisation—

- (a) is a registered charity concerned with advancing or practising a religion or belief, including a non-religious belief;
- (b) does not possess or have the use of any registered place of worship; and
- (c) appears to the Registrar General to be of good repute.'<sup>10</sup>

More generally, the Bill (and indeed all the proposals that followed) operated by replicating as closely as possible the provisions found in the Marriage Act 1949 for the Society of Friends.

<sup>9</sup> 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](https://publications.parliament.uk/pa/ld200304/ldhansrd/vo040708/text/40708-50.htm#40708-50_head1)

<sup>10</sup> Lord Harrison, Marriage (Approved Organisations) Bill [HL] 2012-13, House of Lords, 16 May 2012: <https://services.parliament.uk/bills/2012-13/marriageapprovedorganisations.html>



The Bill never had a Second Reading, but its production laid the groundwork for subsequent debates during the passage of the Marriage (Same Sex Couples) Act 2013. In what follows we will go through in detail the debates on the Act, as this is instructive in terms of strength of parliamentary feeling on the matter, and how things arrived at the Government having the Order-making power it now has to give legal recognition to belief-based marriages.

**Marriage (Same Sex Couples) Act 2013, Commons committee stage:** In February 2013, identical amendments (a clause and a schedule) were moved to the then Marriage (Same Sex Couples) Act 2013 by Liberal Democrat MPs Julian Huppert and Stephen Williams and Labour MP Kelvin Hopkins, for debate during the Committee Stage of the then Bill.<sup>11</sup> Mr Williams was on the Bill Committee. However, when the amendments were debated in March, the then Parliamentary Under-Secretary of State for Women and Equalities, Conservative MP Helen Grant, explained that in the Government's view,

*'A duty would be placed on the Registrar General to make judgments about which organisations are of good repute. That in itself would be problematic, given the range of organisations that might wish to be approved... [A] subjective decision would have to be made, which could make the Registrar General particularly vulnerable. That may not be fair in each individual situation... [Further] It would not be right... that humanists should be able to solemnise their marriage in the open air when that option is not available to many others who may also wish to marry in that particular way. The Government believe that such issues must be examined in a careful and co-ordinated manner, rather than for individual aspects to be dealt with in isolation... [T]he Bill is not the right vehicle.'*

The matter was then put to a vote and the Committee split 7-7 – the vote going down party lines (Labour and Liberal Democrats for, Conservatives against) except that Lib Dem Stephen Gilbert voted against. As a result, the Chair of the Committee, Conservative MP Gary Streeter, cast the deciding vote against the amendment, as is convention.<sup>12</sup>

**2013 Act, Commons report stage:** Following this, Humanists UK staff inform us that in April they met Mrs Grant to discuss how to revise the amendment to mitigate the concerns raised. As a consequence the amendments were redrafted to say that:

'The Registrar General may by certificate approve organisations to solemnize marriages according to their usages provided that any such organisation—  
(a) is a registered charity principally concerned with advancing or practising the non-religious belief known as humanism;

<sup>11</sup> Marriage (Same Sex Couples) Bill Public Bill Committee Amendments as at 12 March 2013, House of Commons, 12 March 2013, amendments NC3 and NS1: : <https://publications.parliament.uk/pa/bills/cbill/2012-2013/0126/amend/psc1261203m.pdf>

<sup>12</sup> Marriage (Same Sex Couples) Bill Committee Debate: 13th sitting, House of Commons, 12 March 2013: <https://publications.parliament.uk/pa/cm201213/cmpublic/marriage/130312/am/130312s01.htm#Column468>



- (b) has been in continuous existence for five years; and
- (c) appears to the Registrar General to be of good repute.'

The change to focus on humanism, in particular, was suggested by Helen Grant, something confirmed in a letter to Humanists UK in May 2013 – albeit while making clear that the Government still did not think the Bill was the right vehicle for a change in the law.<sup>13</sup> The new amendments were tabled by then Shadow Minister for Equalities Kate Green MP, along with Williams, Hopkins, Huppert, Conservative MP Mike Weatherley, previous opponent Gilbert, Labour MP Chris Bryant, and Lib Dem MP John Hemming.<sup>14</sup>

However, several press reports then alleged simultaneously that any change in the law 'could lead to Jedi and Pagan weddings' – such reports were carried in the *Daily Mail* ('Law change "could lead to Jedi and Pagan weddings": Tories fear inclusion of humanism in gay marriage bill could allow other sects the same powers'),<sup>15</sup> *Sun* ('With this ring Jedi thee wed'),<sup>16</sup> *Telegraph* ('Marry outdoors or have a Jedi wedding under new plans'),<sup>17</sup> *Metro* ('Amendment to gay marriage bill "could lead to Star Wars weddings"'),<sup>18</sup> and *Huffington Post* ('Jedi Wedding Fears Surface Amid Humanist Ceremony Proposals').<sup>19</sup> The *Mail* quoted a government source as saying:

***'[P]roposals such as this which seek to undermine and dilute the institution of marriage by creating a two-tiered system are ridiculous. We have a fundamentally different marriage system to the one in Scotland and while they may be open to pagans, spiritualists and Jedi's conducting marriages, we are not. In Scotland there have already been pagan marriages, white eagle lodge marriages and the spiritualist union. We would not be able to justify making special provision for the humanists and not for other belief organisations, as it would be open to legal challenge.'***

13 Letter from then-Minister for Women and Equalities Helen Grant MP to Andrew Copson, 14 May 2013: <https://humanism.org.uk/wp-content/uploads/140513-Helen-Grant-BHA-Humanist-Mariage-Ceremonies-1.pdf>

14 Marriage (Same Sex Couples) Bill Notices of Amendments given up to and including 16 May 2013, House of Commons, 16 May 2013, amendments NC15 and NS1: <https://publications.parliament.uk/pa/bills/cbill/2013-2014/0003/amend/psc0031605a.pdf>

15 Cohen, Tamara, 'Law change "could lead to Jedi and Pagan weddings": Tories fear inclusion of humanism in gay marriage bill could allow other sects the same powers', *The Daily Mail*, 15 May 2013: <http://www.dailymail.co.uk/news/article-2324674/Law-change-lead-Jedi-Pagan-weddings-Tories-fear-inclusion-humanism-gay-marriage-allow-sects-powers.html>

16 Ashton, Emily, 'Exclusive: Star Wars fans could legally marry as Jedes', *The Sun*, 15 May 2013. The article was subsequently taken offline but is still available via the Internet Archive: <https://web.archive.org/web/20130606103832/http://www.thesun.co.uk/sol/homepage/news/politics/4927909/Star-Wars-fans-could-legally-marry-as-Jedis.html>

17 Silverman, Rosa, 'Marry outdoors or have a Jedi wedding under new plans', *The Daily Telegraph*, 15 May 2013: <https://www.telegraph.co.uk/news/politics/10058087/Marry-outdoors-or-have-a-Jedi-wedding-under-new-plans.html>

18 'Amendment to gay marriage bill "could lead to Star Wars weddings"', *Metro*, 15 May 2013: <http://metro.co.uk/2013/05/15/amendment-to-gay-marriage-bill-could-lead-to-star-wars-weddings-3759711/>

19 Elgot, Jessica, 'Jedi Wedding Fears Surface Amid Humanist Ceremony Proposals', *The Huffington Post*, 15 May 2013: [http://www.huffingtonpost.co.uk/2013/05/15/humanist-wedding-government\\_n\\_3277412.html?utm\\_hp\\_ref=uk](http://www.huffingtonpost.co.uk/2013/05/15/humanist-wedding-government_n_3277412.html?utm_hp_ref=uk)



As a point of fact, pagans and spiritualists can and in both cases already do have registered places of worship and so can and do marry people under existing laws, as do groups like the Scientologists and the Aetherius Society, a so-called 'UFO religion';<sup>20</sup> whereas Jediism, also claiming to be a religion, could not meet the test for legal recognition as such. Further, the concerns about a possible legal challenge ignored the fact that the existing law was already open to such a challenge, as we shall return to.

When the amendments came up for debate, the Government repeated similar concerns. The amendment had had its focus narrowed to just humanist marriages at Helen Grant's prompting, but now the Attorney General, Dominic Grieve MP, said,

*'I have absolutely no doubt that the new clause, if passed, would render the Bill incompatible with the provisions of the European convention on human rights, because it identifies a group that is not a religious group and gives it a special status. The first thing that would happen is that all sorts of other secular groups would claim non-discrimination rights under article 14. I realise that that may be capable of being cured, but I can only say to the hon. Lady that the new clause would make it impossible for the Minister to sign a certificate under section 19(1)(a) of the Human Rights Act 1998, enabling the Bill to proceed to the other place... Given the discriminatory nature of the favour it gives to humanists as opposed to other secular organisations, it would have the consequence of making the measure incompatible with the convention rights.'*

While various MPs objected to the fact that the Government had not raised its concern before the debate (indeed, Humanists UK alleges that the Government had advised on that very narrowing to just humanism), the amendments were withdrawn. However, many MPs from the Labour, Liberal Democrat and Conservative parties, as well as SNP and SDLP colleagues, spoke in support, while opposition only came from the DUP and some on the Conservative benches. It is clear that there was majority support.<sup>21</sup>

**2013 Act, Lords committee stage:** In the Lords, at Committee stage, a new amendment was tabled by Lord Harrison and Baroness Massey of Darwen, that had been revised to take account of the Government's concerns. The amendment now said that:

'The Registrar General may by certificate approve organisations to solemnise marriages according to their usages provided that any such organisation—

- (a) is a registered charity principally concerned with advancing or practising a non-religious belief;
- (b) has been in continuous existence for at least ten years;

20 *Getting Married: A Scoping Paper*, Law Commission, 17 December 2015, page 49: <https://www.lawcom.gov.uk/project/marriage-law/>

21 Marriage (Same Sex Couples) Bill Report: 2nd sitting, House of Commons, 21 May 2013: [https://publications.parliament.uk/pa/cm201314/cmhansrd/cm130521/debtext/130521-0002.htm#column\\_1071](https://publications.parliament.uk/pa/cm201314/cmhansrd/cm130521/debtext/130521-0002.htm#column_1071)



- (c) has been performing celebrations of marriage and other ceremonies for its members for at least five years, such ceremonies being rooted in its belief system;
- (d) has in place written procedures for the selection, training and accreditation of persons to conduct solemnisations of marriages; and
- (e) appears to the Registrar General to be of good repute.<sup>22</sup>

The amendment was debated in June and again it was clear that members of all the major groupings – the Conservatives, the Labour frontbench, Liberal Democrats, and Crossbenchers – supported reform, with the Church of England making clear that it did not oppose it. Again it is clear from Hansard that the majority of peers supported the amendment.

Then-Lords Spokesperson for Women and Equalities Baroness Stowell of Beeston made clear that the amendment ‘does not raise the concern that the Attorney-General raised during the debate in the other place.’ However, she said that the Government thought there were still problems that might be unforeseen. It was not made clear at the time what those problems might be – merely that there were ‘wider implications’ – prompting Baroness Butler-Sloss to say:

*‘I have sat listening to this for an extremely long time. I do not have any [prior] views at all about whether humanists should have a marriage. I have heard very good reasons why they should and I have not heard any reasons why they should not.’*

This in turn prompted Baroness Stowell to say,

*‘[O]f course everybody would support humanist marriages. The point is... that it would require a change in law that would have implications that have not been fully thought through. That all said, having listening to the debate today, I will of course report back to my ministerial colleagues and ensure that they reflect further on the points made in this debate.’ The amendment was withdrawn.<sup>23</sup>*

**2013 Act, Lords report stage:** In July, now at Report stage, Crossbencher Baroness Meacher, Conservative peer Lord Garel-Jones, Liberal Democrat peer Baroness Brinton, and Labour peer Lord Alli proposed another amendment that would have mandated the Secretary of State to make regulations within six months to...

‘make provision for the Registrar General to approve and permit organisations that are registered charities principally concerned with advancing or practising a non-religious belief to solemnise marriages according to their usages on the authority of a superintendent registrar’s certificate’.

22 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>

23 Marriage (Same Sex Couples) Bill Committee: 2nd sitting, House of Lords, 19 June 2013: [https://publications.parliament.uk/pa/ld201314/ldhansrd/text/130619-0002.htm#column\\_291](https://publications.parliament.uk/pa/ld201314/ldhansrd/text/130619-0002.htm#column_291)





The amendment further limited the regulations to dealing with such organisations that were indicated under the previous amendments.<sup>24</sup>

However, Baroness Stowell also tabled an amendment that mandated:

‘a review of—

- (a) whether an order.. should be made permitting marriages according to the usages of belief organisations to be solemnized on the authority of certificates of a superintendent registrar, and
- (b) if so, what provision should be included in the order..

The Secretary of State must arrange for a report on the outcome of the review to be produced and published before 1 January 2015...

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...

“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.’

This amendment was supported by then Shadow Spokesperson for Equalities and Women’s Issues Baroness Thornton, Liberal Democrat peer Lord Lester of Herne Hill, and crossbencher Lord Pannick.<sup>25</sup>

The Government amendment was passed, with Baroness Stowell saying that,

***‘Although the Government maintain that this Bill is not the right place to make broader changes to marriage law, as I have said already, it would be wrong not to recognise the strength of feeling in support of the humanists. A statutory consultation as a means to effect any change is the right way forward in responding to the support for humanists, ensuring that the wider public are able to contribute to the debate, and securing that arrangements for belief-based marriages are made on a sound footing and that any implications of them are fully understood.’***

The Lord Bishop of Chester commented that ‘I see no reason at all why the consultation should not lead to permission for humanist marriage and indeed for other belief organisations that meet the necessary criteria for doing this.’<sup>26</sup>

24 Marriage (Same Sex Couples) Bill Revised Marshalled List of Amendments to be moved on Report, House of Lords, 6 July 2013, amendment 7: <https://publications.parliament.uk/pa/bills/lbill/2013-2014/0034/amend/ml034-ir.htm>

25 *Ibid.*, amendment 90.

26 Marriage (Same Sex Couples) Bill Report: 1st sitting, House of Lords, 8 July 2013: <https://publications.parliament.uk/pa/ld201314/ldhansrd/text/130708-0002.htm#13070845000227>. Amendment 90 passed in the next debate without further discussion. Marriage (Same Sex Couples) Bill Report: 2nd sitting, House of Lords, 10 July 2013: <https://publications.parliament.uk/pa/ld201314/ldhansrd/text/130710-0001.htm#13071071000461>



This subsequently became Section 14 of the Marriage (Same Sex Couples) Act 2013.<sup>27</sup>

## 2.4 Chronology: Ministry of Justice consultation

From June to September 2014 the Ministry of Justice (MoJ) ran the mandated consultation on 'Marriages by non-religious belief organisations'. The MoJ published its response on 18 December, just two weeks before the law's deadline.<sup>28</sup>

The consultation had 1,900 respondents, of whom over 95% said that there is 'a substantial case for a change in the law to establish non-religious belief ceremonies as a third type of legal ceremony, alongside religious and civil ceremonies, for getting married in England and Wales', to quote the report. About 59% of responses were deemed 'to have made use of a guide provided by the BHA to its members and supporters on answering the consultation questions' – but excluding these still would return 89% of respondents in favour of the change.

The Church of England said that it 'understood that there was a similar desire among humanists and Christian couples who wished to have a celebrant who shared their beliefs and a ceremony which fully embodied those beliefs, and on that basis thought that it was worth considering how humanist celebrants might be authorised to conduct marriage ceremonies, provided that in so doing there was no resulting damage to the social significance of marriage or to the current arrangements for other bodies authorised to solemnize marriages'. Some registrars 'were strongly opposed to a change in the law principally on the grounds that couples already had the option to personalise a civil ceremony to reflect their values and beliefs, and that further opening up marriage solemnization could risk an increase in the number of sham and forced marriages'.

However, in its response to the consultation, the Ministry of Justice raised a number of concerns about legal recognition. Summarising, these are:

- Any change would introduce inconsistency in the rules about venues – religious weddings are generally limited to places of worship and civil marriages to register offices and approved premises, whereas belief-based marriages would not be limited and might take place out of doors. Alternatively, if belief-based groups were allowed to use approved premises, this could be seen as discrimination against religious groups.
- There would be an increased risk of forced and sham marriages.
- It is unclear which belief-based groups should be authorised to marry people, and there would be a possibility of legal challenges around any safeguards introduced to try and regulate this.
- There would be a risk of commercialisation.
- There might be a threat to protections around religious groups not having to perform same-sex marriages.

<sup>27</sup> Marriage (Same Sex Couples) Act 2013, section 14: <http://www.legislation.gov.uk/ukpga/2013/30/section/14/enacted>

<sup>28</sup> *Marriages by Non-Religious Belief Organisations: Summary of Written Responses to the Consultation and Government Response*, Ministry of Justice, 18 December 2014: <https://consult.justice.gov.uk/digital-communications/marriages-by-non-religious-belief-organisations/>



- Piecemeal legislation of the sort being sought (and the added complexity it brings) is undesirable.

We do not propose to consider these objections now – we will do so in a subsequent section. For the time being, we merely set them out.

The report concluded that

***‘We think it is important that we take the opportunity to consider all these issues together. We wish to avoid any negative consequences that may result from undertaking further piecemeal legislation... The Government will therefore ask the Law Commission if it will begin as soon as possible a broader review of the law concerning marriage ceremonies. An independent review should be able to examine all the issues arising from the consultation alongside all other relevant matters.’***

Four days before the report was published, the Sunday Times reported that while the Liberal Democrats wanted the law to change, the move was being blocked by No 10: ‘Government sources... said Downing Street was blocking the idea because reform is seen by Lynton Crosby, David Cameron’s election guru, as a “fringe” issue... “Lynton Crosby and the Tories have basically said ‘no way’. They think this is a fringe issue and are saying, ‘why would we do this?’” said a senior government source.’<sup>29</sup>

## 2.5 Chronology: Law Commission scoping report

Over the course of 2015, a Law Commission team that included an external academic specialising in family law conducted its ‘broader review’. The team began by meeting stakeholders including Humanists UK which has told us that the meetings were very positive – in fact the Commission indicated support for legal recognition of humanist marriages. Furthermore, Humanists UK staff say they were told by a civil servant in November 2015 that a paper circulated to the Home Affairs Cabinet Committee recommended that legal recognition be extended.

However, on 8 December the same civil servant denied to Humanists UK that this was ever said. Perhaps this was because the MoJ now knew the contents of the Law Commission’s paper, which was published on 17 December and recommended against using the Order-making powers.<sup>30</sup> The report stated that the lack of recognition for humanist marriages was ‘unfair’, but it also raised some of the same objections as the MoJ (but no additional objections), emphasising worries about piecemeal reform. Instead, the report proposed that ‘a thorough review of the law as a whole needs to be carried out in order to provide a system that is both more coherent and fair to all’ – a review that the Commission itself wanted to carry out.

Over the following two years, there were three reshuffles and so four ministerial teams, meaning that further progress was difficult. Humanists UK reports that

29      Woolf, Marie, ‘Humanist weddings blocked by No 10’, *The Sunday Times*, 14 December 2014: <https://www.thetimes.co.uk/article/humanist-weddings-blocked-by-no-10-f89jlvhv2f2>

30      *Getting Married: A Scoping Paper*, <https://www.lawcom.gov.uk/project/marriage-law/>



over the following two years, three Ministers of State and one Secretary of State indicated either to Humanists UK, to members of the Lords, or to constituents that they favoured reform, but none were in post long enough to advance said reforms.

All the while, the Government's official position was that it was carefully considering the Law Commission scoping paper, and would respond in due course.<sup>31</sup>

In September 2017, almost two years after the Law Commission had published its paper, Dominic Raab wrote to the Commission: 'After careful consideration, I have concluded that now is not the right time to develop options for reform to marriage law.' He cited significant other pressures on MoJ time. Humanists UK learnt of this decision when the Law Commission published the letter and their reply in October.<sup>32</sup>

In January 2018, Dominic Raab was reshuffled, and Lucy Frazer MP became the responsible Parliamentary Under-Secretary of State. That month she responded to a parliamentary question, saying for the first time since 2013 that the Government has 'no plans to amend' the legislation around humanist marriages.<sup>33</sup>



31 See e.g. Shah MP, Naz, Marriage: Humanism: Written question – 58588, asked 20 December 2016 and answered by Heald MP, Sir Oliver, 31 January 2017: <http://www.parliament.uk/business/publications/written-questions-answers-statements/written-question/Commons/2016-12-20/58588/> and Blunt MP, Crispin, Prime Minister: Engagements, House of Commons Hansard, 22 February 2017: <https://hansard.parliament.uk/Commons/2017-02-22/debates/3D79A0F5-0A63-4A48-8E7C-F606D4BFED30/Engagements#contribution-E3A1ED67-C627-4E04-B8AC-7E45B33DFA8A>

32 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>

33 Williamson MP, Chris, Marriage: Humanism: Written question – 117292, asked 4 December 2017 and answered by Frazer MP, Lucy, 16 January 2018: <https://www.parliament.uk/business/publications/written-questions-answers-statements/written-question/Commons/2017-12-04/117292/>



## 3. HOW THIS INQUIRY WAS CONDUCTED

This inquiry was launched at a meeting of the All Party Parliamentary Humanist Group (APPHG) on 21 February 2018 and concluded at a meeting on 24 May.

### 3.1 Terms of reference

The terms of reference for this inquiry were agreed with the Co-Chairs of the APPHG at the meeting of 21 February and are as follows.

#### Scope

In response to parliamentary questions, the Ministry of Justice (MoJ) has stated that in its view, 'the range of issues that the Government would be required to consider' before giving legal recognition to humanist marriages in England and Wales are those that 'can be found in the Government response to the consultation on marriages by non-religious belief organisations'.<sup>34</sup> The All Party Parliamentary Humanist Group intends to examine these issues in detail and produce a report, to assist Government in expediting the legal recognition of humanist marriages.

The APPHG should assess how justified these concerns are; if they are unjustified, explain why not; and if they are justified, consider what mitigating measures might be easily introduced.

#### Timetable

The APPHG will hold its first meeting to launch the inquiry on 21 February. It will report at its meeting of 24 May, having gathered further evidence in the interim.

#### Evidence to be heard

The APPHG will seek evidence from those representing different parts of the UK and crown dependencies; those representing different religion and belief groups; and those with expertise in human rights.

<sup>34</sup> See parliamentary by Chris Williamson MP:

- Williamson MP, Chris, Marriage: Humanism: Written question – 117291, asked 4 December 2017 and answered by Frazer MP, Lucy, 16 January 2018: <http://www.parliament.uk/business/publications/written-questions-answers-statements/written-question/Commons/2017-12-04/117291/>
- Williamson MP, Chris, Marriage: Humanism: Written question – 117292, asked 4 December 2017 and answered by Frazer MP, Lucy, 16 January 2018. <http://www.parliament.uk/business/publications/written-questions-answers-statements/written-question/Commons/2017-12-04/117292/>
- Williamson MP, Chris, Marriage: Humanism: Written question – 124090, asked 22 January 2018 and answered by Frazer MP, Lucy, 25 January 2018: <http://www.parliament.uk/business/publications/written-questions-answers-statements/written-question/Commons/2018-01-22/124090/>




## 3.2 Who gave evidence

The APPHG has held two public evidence sessions.

### **First session: Experiences around the UK and crown dependencies**

**The first, on 21 February, focused on experiences around the UK and crown dependencies**, and was chaired by Crispin Blunt MP and heard from:

- Humanist Society Scotland (HSS) Chief Executive Gordon MacRae – HSS brought about recognition in Scotland;
- States of Jersey Assembly Deputy Louise Doublet – Deputy Doublet was instrumental in the campaign for recognition in Jersey;
- Northern Ireland Humanists patron Laura Lacole – Ms Lacole is the claimant in the Northern Ireland court case on the matter; and
- Humanists UK Chief Executive Andrew Copson – who spoke about England and Wales.



In his evidence, Gordon MacRae outlined how in the early 2000s, HSS approached the Scottish Registrar General, Duncan Macniven, about legal recognition of humanist marriages through reinterpretation of existing legal provisions under section 3 of the Human Rights Act 1998. In 2005 the Registrar General concluded, having looked at Article 9 of the European Convention on Human Rights ('Freedom of thought, conscience and religion'), that he 'couldn't see how he couldn't give recognition' to humanist celebrants – and so he did. Since then, Humanist Society Scotland has conducted some 53,000 legal marriages. In 2014 the law caught up with the practice, with 'belief marriages' being explicitly provided for, and in 2017 Humanist Society Scotland was awarded 'prescribed status' as a body corporately recognised as able to perform legal humanist marriages. Mr MacRae told us that legal recognition of humanist marriages helped the Scottish Government move to recognise same-sex marriages, and indeed the first legal same-sex marriages in Scotland were humanist.

In response to questions, Mr MacRae added that the Church of Scotland welcomed legal recognition of humanist marriages, and doesn't see humanist marriages as a threat to the number it performs. Legal recognition has in fact slowed the rate of decline of marriages in Scotland – leading to people who wouldn't have got married choosing to do so. He added that recognition of belief-based marriages has in practice led to recognition only of humanist marriages – there are no other belief-based groups who have secured recognition. Mr MacRae further explained that HSS see it as a requirement to demonstrate that it is meeting the needs of a belief-based community, and so will only marry its own members.

Louise Doublet explained to us how in 2014 an option paper was produced by Jersey officials to consider reform of marriage law, including humanist marriages. This initially met considerable resistance, with the complexity of marriage law putting ministers off, as well as a lack of understanding about how popular humanist marriages would be. However, as an Assembly Deputy she persisted with her efforts to reform the law, so that in 2017, when legislation to give

recognition to same-sex marriages was announced, humanist marriages were also included. Hence, in February 2018, the States of Jersey Assembly passed a law giving legal recognition to both same-sex and humanist marriages. The changes also moved Jersey from a premises-based to a celebrant-based model. The law is expected to come into force later this year.

Laura Lacole explained how she and her then-fiancé Eunan O’Kane came to the conclusion that they needed a humanist wedding: ‘we knew we needed a ceremony that embodies who we are and what we are’. As a result, in December 2016, she applied to the General Register Office for temporary authorisation for her humanist celebrant to be able to conduct their ceremony as a legal humanist marriage. This was denied, and so a judicial review was taken against both the GRO and the Department of Finance (the relevant Government department). Following a hearing in May, Ms Lacole won at the High Court in June, just thirteen days before her and Eunan’s marriage date. But that same day the Attorney General decided to appeal the case, so three days before the wedding there was a hearing in the Court of Appeal. The Court stayed the wider decision but found a way to allow Ms Lacole and Mr O’Kane’s celebrant to be authorised to perform their ceremony in line with their humanist beliefs. Further hearings ensued until January 2018, with the human rights group Liberty intervening in support of the couple. A decision from the Court of Appeal is pending.

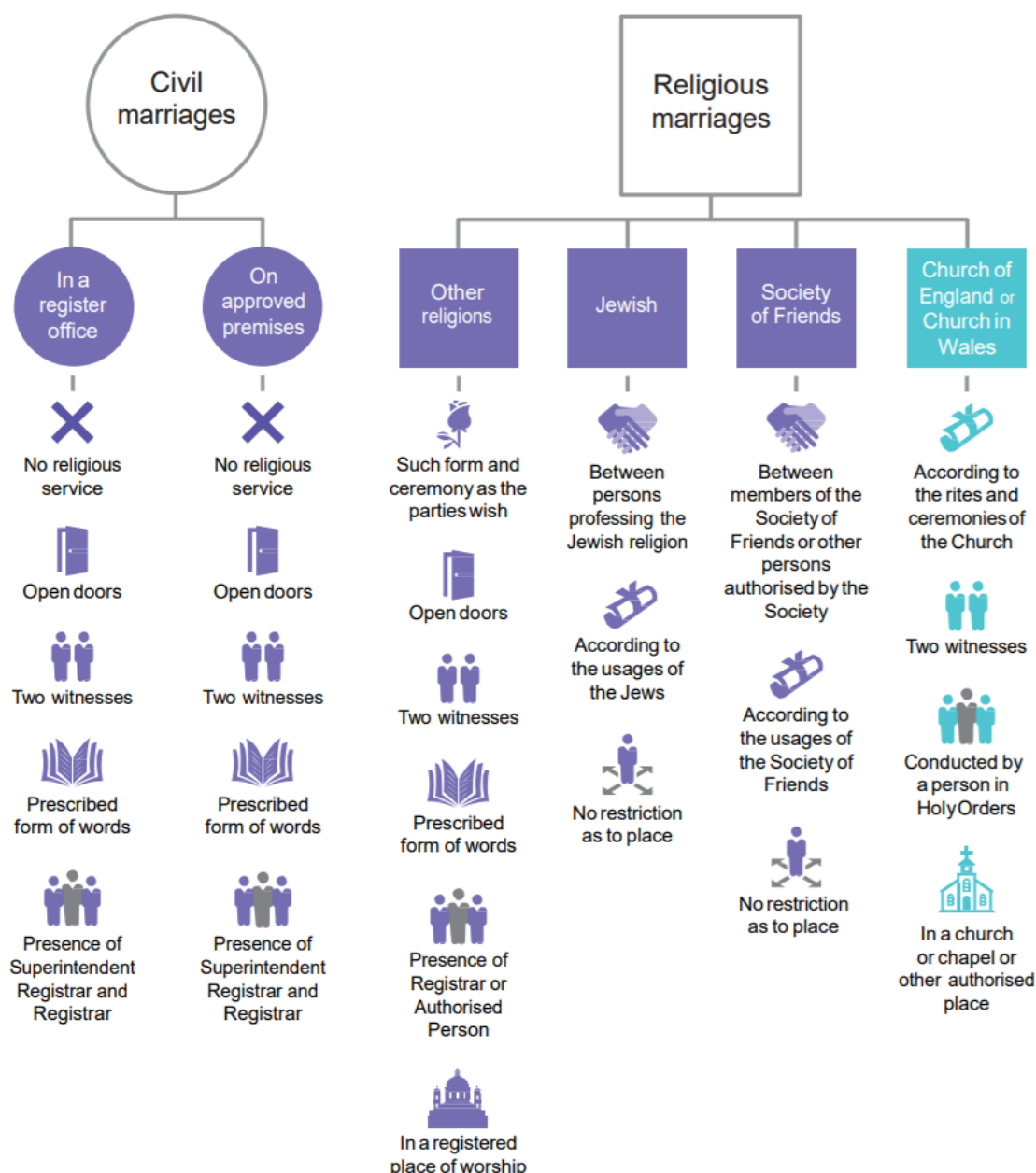
Andrew Copson set out a chronology of Humanists UK’s attempts to reform the law, much as we have done above. He explained that England and Wales differs from Scotland, Northern Ireland, and (now) Jersey due to the law being, by and large, based on registration of premises, instead of organisations or of celebrants. But he pointed out that this is not entirely true – Jewish, Quaker, and Church of England marriages are not legally restricted in the range of premises they can use. Very broadly speaking, statute provides for them specifically as organisations. He also highlighted for us that Section 14 of the 2013 Act was deliberately worded to reflect the Quaker and Jewish approach. This was a theme we explored further in our second evidence session, and which was crucial to our conclusions.

## **Second session on different aspects of marriage law**

**The second evidence session, on 28 March, focused on different aspects of the law, including human rights, and the experiences of key religious groups.** It too was chaired by Crispin Blunt MP, who formed a panel alongside Baroness Bakewell and Viscount Ridley in questioning the following three panelists:

- Rabbi Dr Jonathan Romain MBE, of Maidenhead Synagogue – Rabbi Romain was able to speak about marriage law from a Jewish perspective
- Michael Booth, Church Government Adviser, Recording Clerks Office, Quakers in Britain – Mr Booth is the key person at the Quakers in Britain responsible for advising on marriage law
- Ciaran Moynagh, solicitor and human rights expert – Mr Moynagh is taking the legal case on humanist marriage in Northern Ireland, as well as the case on same-sex marriage





◆ Under Part III of the Marriage Act 1949: Marriages under Superintendent Registrar's Certificate

◆ Under Part II of the Marriage Act 1949: Marriage according to the rites of the Church of England

↑ **Routes to solemnisation of marriages under the Marriage Act 1949, in the view of the Law Commission, from its report, *Getting Married: A Scoping Paper*.<sup>35</sup>**

Jonathan Romain and Michael Booth set out the history of legal recognition of marriages in their respective traditions, through to practice today. Rabbi Romain explained that recognition first came in the Marriage Act 1753 and was reformed by the Marriage Act 1836, which made the Board of Deputies the certifying authority. Separate Acts were later passed for the Reform and then the Liberal synagogues, both of which have much more recently opted to perform legal

35 *Getting Married: A Scoping Paper*, page 44:



same-sex marriages. The law is 'extremely permissive' in that it just needs both parties to be Jewish, and then can occur at any place and any time (provided the Synagogue marriage secretary is present, who could be a layperson or the rabbi). The couple need to give notice of their marriages to the local registrar and present the registrar's certificates to the synagogue where the rabbi may then perform the marriage. The synagogue secretary keeps a register of marriages and makes a quarterly return to the local superintendent registrar.

Mr Booth reported that Quaker marriages also received recognition from the 1753 Act, having been performed earlier without statutory recognition, although many were recognised by the courts, so they were legal by case law. Apart from the Quakers and the Jews all marriages under the Act were performed by the Church of England. This was generally a problem for non-Anglicans, but without special provision it would have been particularly acute for Quakers and Jews because the Church wouldn't marry individuals who weren't baptised. The 1836 Act introduced registrars. The Quakers nominate 70 registering officers, one for each of their areas, who keep the registers and make quarterly returns to the superintendent registrar.

Mr Booth explained that by custom, the Quakers marry couples in buildings, but Rabbi Romain explained that Jewish groups have no such custom and frequently marry couples elsewhere. Both explained that they are very supportive of legal recognition of humanist marriages, and neither was aware of any body of objections to reform from others.

Ciaran Moynagh focused on the Northern Ireland case he took for Laura Lacle. He listed those arguments for reform that found legal weight, including fairness, meeting a need for demand, that the reform is good for marriage, that it harmonises the law with Scotland and the Republic of Ireland, and that it causes no harm. The judge had considered whether humanism is a 'belief', for human rights purposes (yes); whether humanist marriages are a manifestation of that belief (yes – in fact more so, because the fact humanists don't worship means that marriage might well be one of its very few outward manifestations); therefore, was there discrimination under Article 9 (yes); and was this justified (no – the judge said there was no legitimate justification, not least given the situation of humanist marriage working successfully in neighbouring jurisdictions).

Mr Moynagh explained that any decision from the Belfast Court of Appeal will not be settled case law in England and Wales, but will clearly be a very strong steer, given that it is based on common legislation (the Human Rights Act 1998) and case law (e.g. European Court of Human Rights decisions). Mr Moynagh warned that the Government is vulnerable to a similar case being brought in England and Wales – in his opinion, such a challenge should succeed.

Mr Moynagh said that in his view, although the matter is untested in the courts, the inconsistencies around who can and cannot perform marriages outdoors could also be the subject of a human rights challenge. He said he thought this is already the case, simply because of the position of the Quakers and Jews, regardless of the situation with humanist marriages.



## Other forms of evidence

In addition to the oral evidence sessions, **the Law Commission** also submitted written evidence, and answered a number of questions we put to it about its scoping review. The Law Commission told us that:

*We would stress that the paper Getting Married is a scoping paper setting out the issues that a full law reform project ought and ought not to cover. Therefore, the paper did not ask consultation questions and did not make final recommendations for reform, in the way that we would expect a consultation paper or report to do.*

*As our work on this area ceased on publication of the scoping paper in December 2015 we are not able to address developments (for example, in case law) since that time. We are also unable to answer the hypothetical questions that you pose; the views of the Commissioners are as set out in our publication and are limited to the matters contained therein. Instead, our response must be limited to explaining and amplifying our existing work.*

Since the Law Commission's response is so intertwined with the issues considered in the following two chapters, we do not propose to spend more time with it here, but to return to it in those chapters.

But, we will note now that we asked the Law Commission, 'Since you published your Scoping Paper the Government has responded to say that it has no appetite for wider reform. If, hypothetically, the choice was only between reform simply for legal recognition of humanist marriages (through section 14), or no reform at all, would you support reform? If not, why not?' Its response was simply 'This is a hypothetical question, which we are unable to answer for the reason set out in the introduction to this response.'

We also asked it, 'With reference to the *Smyth* [humanist marriage] judgment in Northern Ireland ([2017] NIQB 55). Do you think that using section 14 [of the 2013 Act] would or would not eliminate an inequality and correct a discrimination contrary to article 14 of the ECHR in the way the Government delivers FoRB under Article 9?' Its response was simply 'We cannot comment on the *Smyth* case which post-dated our work, or, for the reasons set out in the introduction to the response, a hypothetical question. As we said in our letter dated 27 March, our work so far has been to examine the scope of reform.' We are not entirely sure why this question is hypothetical, considering the human rights issues at play in *Smyth* were live ones at the time of the inquiry, and ones the Law Commission should have examined.

We also wrote to **the Church of England** seeking its view. In response, it directed us to the 2014 paper it put in to the Ministry of Justice consultation, and further added

*'it can be beneficial for a couple if their wedding is presided over by a celebrant who shares their faith or beliefs and there should be no reason why couples who espouse Humanism as*



***their belief system should not benefit from that provision just as Christians and others do.'***

The most negative line in the Church's 2014 paper is where it says that: 'We understand the case for a change to the law but do not believe it to be substantial.'

This was said to be because the Church believes the content of civil marriages can largely already meet what humanists want, and because of concerns about moving, as the Church foresaw would be required, from a place-based to a celebrant-based model – which, the Church said, would risk commercialisation. However, in its 2018 letter the Church added that Humanists UK had by now assured it 'that the objective of Humanists UK is not to seek a move to a celebrant-based system but to secure for Humanists similar legal provision to that enjoyed by Quakers. This would leave existing provisions in place for others and might well prove a feasible way forward.'

In the same 2014 paper, it later sets out a more positive case:

***'We do, nevertheless, understand that some humanists feel that there remains a "missing element" because the celebrant in a civil ceremony for humanist couples is not able to identify him or herself as a humanist and thereby to be a full participant in the spirit of the occasion. As the Church of England believes its own ministers' commitment to the Christian values expressed in the wedding service to be of great importance, we acknowledge the similar desire among humanists to have such a relationship between the celebrant and couples who choose a humanist wedding. Having a celebrant who is committed to the same beliefs and principles as the couple can be a practical help in constructing a meaningful ceremony; and a ceremony which fully embodies the beliefs under which a couple intend to live their married lives can be a source of strength for the future of the marriage.'***

***'So we agree that it is worth considering how humanist celebrants might be authorised to conduct wedding ceremonies, provided that in so doing, no consequent damage ensued, either to the social significance of marriage or to the current arrangements for other bodies authorised to solemnise matrimony.'***

The Church further added:

***'Whilst there may be a case for enabling humanist celebrants to conduct wedding ceremonies, we are extremely cautious about opening the door more widely to other organisations.'***

***'''***

***'Some organisations, which are counted as "belief organisations" under the Equality Act, are committed to positive beliefs about (for example) virtuous living and the nature of good social and personal relationships. We would count humanism, and therefore the BHA, as being among such bodies. Others, however, are defined by beliefs about what they oppose – in other words, their identity***



*is essentially about standing against things they regard as bad rather than positively promoting their understanding of the good. It would not, in our view, be conducive to the support of marriage in society for weddings to be conducted by organisations which are not constituted with the explicit purpose of promoting a positive account of good social and personal relationships in which marriage features explicitly as a social good.*

...

*'We would argue, therefore, that any organisation which seeks to be registered to conduct wedding ceremonies should be capable of demonstrating two important characteristics:*

- That they promote positive moral and ethical principles and are not defined primarily by what they are against,*
- That the moral and ethical principles which they promote are compatible with treating marriage as a socially important and valued institution which should be celebrated publicly with suitable dignity.*

*'In our view, humanist organisations would, in general, meet these conditions, but we are not aware of other belief organisations which ought to be considered for this role.'*

We return to the question of 'who' later on.

Finally, in its recent letter to us, the Church raised a few further matters, each of which were already covered in the draft Order produced for Sir Oliver Heald MP.

Finally, **Humanists UK** provided us with evidence, and **its celebrants** were helpful in contributing further points from the floor of the oral evidence sessions. One such contribution raised the issue of local authorities restricting how easy it is to access 'no-frills' civil marriages – which is what couples having a humanist wedding ceremony need to gain legal recognition of their marriages. The celebrant in question alleged that some local authorities near her only allow such marriages to occur between 8.30 and 9.30 am on Tuesday mornings, and none of these 'no-frills' slots are available within the next nine months. In order to get married within nine months' time, the couple must pay £350–£450 for a fuller ceremony.

This is a lot of money, no doubt prohibitively expensive for many couples wanting to have a humanist wedding ceremony. This prompted us to conduct a survey of celebrants to gather their views on related issues, and to commission our own research on the question.



## 4. TWO SIGNIFICANT ISSUES THAT WEREN'T CONSIDERED BY THE PREVIOUS CONSULTATIONS

Our work has identified two significant issues that were relevant at the time of the Ministry of Justice and Law Commission exercises, and are still relevant now, but that appear not to have been considered by either. These are (a) the impact of the law on human rights, and (b) the fact that under section 14 of the Marriage (Same Sex Couples) Act 2013, the Secretary of State has the power to make more than one Order authorising belief organisations to conduct marriages.

A third issue has also come to light that appears to be a growing problem since the reviews were undertaken. This is registrars, for their own commercial ends, acting to restrict the ease with which couples may have a non-legal wedding ceremony. We will explore this issue in a later section.

### 4.1 First issue: Human rights

In the first evidence session, we heard about the impact across the UK of the European Convention on Human Rights in leading to the legal recognition of humanist marriages, and in the second, the mechanisms by which this occurred were examined in more detail. In what can only be seen as a shocking oversight, neither the MoJ report nor the Law Commission report considers human rights at all. Neither considers whether there is any relevant statute or case law that bears on the question at hand.

We heard how legal recognition in Scotland came about because the Registrar General concluded that failing to reinterpret existing law would breach Article 14 of the European Convention on Human Rights ('Prohibition of discrimination'), taken together with Article 9 ('Freedom of thought, conscience and religion').<sup>36</sup> As a consequence, the existing law was reinterpreted (under section 3 of the Human Rights Act 1998)<sup>37</sup> so as to 'read in' provision for belief groups to perform legal marriages in the way religious groups already do.

<sup>36</sup> Article 9 states: '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 states: '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.' Convention for the Protection of Human Rights and Fundamental Freedoms, Council of Europe, 4 November 1950: [https://www.echr.coe.int/Documents/Convention\\_ENG.pdf](https://www.echr.coe.int/Documents/Convention_ENG.pdf)

<sup>37</sup> 'So far as it is possible to do so, primary legislation and subordinate legislation must be read and given effect in a way which is compatible with the Convention rights.' Human Rights Act 1998, section 3: <https://www.legislation.gov.uk/ukpga/1998/42/section/3>





At the time, section 26 of the Marriage (Scotland) Act 1977 defined 'religious body' as 'an organised group of people meeting regularly for common religious worship'.<sup>38</sup> This was reinterpreted to include 'belief bodies' in a way that is now reflected in section 12 of the Marriage and Civil Partnership (Scotland) Act 2014, which amended section 26 of the earlier Act to say "religious or belief body" means an organised group of people—(a) which meets regularly for religious worship; or (b) the principal object (or one of the principal objects) of which is to uphold or promote philosophical beliefs and which meets regularly for that purpose'.<sup>39</sup>

We also heard how Northern Ireland marriage law was modelled on the Scottish law before this human rights reinterpretation. Section 2 of The Marriage (Northern Ireland) Order 2003 similarly states: "religious body" means an organised group of people meeting regularly for common religious worship'.<sup>40</sup>

However, the Northern Ireland Registrar General refused to make a similar reinterpretation of existing law. A judicial review ensued, and the result at the High Court was broadly the same as in Scotland: in the *Smyth* judgment, Colton J ordered a reading in of 'or belief' to some references to 'religious marriage' and to 'religious body' in some sections of the Order.<sup>41</sup> This decision is currently subject to appeal by the Northern Ireland Government, the outcome of which is awaited.

The judgment is also useful in providing an overview of relevant case law from across Europe. Particularly instructive is the 2012 judgment *Savez Crkava Rijec Zivota v Croatia*, in which the European Court of Human Rights found that Croatia, in affording legal recognition to marriages by some religious groups and not others, was in breach of Article 14 taken with Article 9.<sup>42</sup> Colton J also set out the case law that establishes that humanism specifically must receive equal treatment with religions under Article 9 of the Convention.

And, although not a binding precedent here, he referred to two strikingly similar international documents that both point to the need, if a state legally recognises religious marriages, to also recognise humanist marriages. The first is a 2014 US case, which led to recognition of humanist marriages in Indiana,<sup>43</sup> and the second is the 2017 *Report of the Special Rapporteur on freedom of religion and belief on his mission to Denmark*, in which the UN Special Rapporteur writes:

***'Since 2010, the Danish Humanist Society has established a dialogue with the Government in order to make it possible for a***

38 Marriage (Scotland) Act 1977, section 26: <https://www.legislation.gov.uk/ukpga/1977/15/section/26>

39 Marriage and Civil Partnership (Scotland) Act 2014, section 12: <http://www.legislation.gov.uk/asp/2014/5/section/12/enacted>

40 The Marriage (Northern Ireland) Order 2003, article 2: <https://www.legislation.gov.uk/nisi/2003/413/article/2>

41 *Smyth, Re Judicial Review* [2017] NIQB 55. Laura Smyth was, at the time, Laura Lacole's legal name, with Lacole being a professional name: <https://www.judiciary-ni.gov.uk/sites/judiciary-ni.gov.uk/files/decisions/Smyth%27s%20%28Laura%29%20Application.pdf>

42 *Savez Crkava Rijec Zivota v Croatia* (7798/08) (2012) 54 EHRR 36: [https://search.coe.int/cm/Pages/result\\_details.aspx?ObjectID=090000168063c8d6](https://search.coe.int/cm/Pages/result_details.aspx?ObjectID=090000168063c8d6)

43 *Centre for Inquiry and Reba Boyd Wooden v Marion Circuit Court Clerk and Marion County Prosecutor* No. 12-3751: <http://caselaw.findlaw.com/us-7th-circuit/1672800.html>



***group as themselves, which shares a life stance but lacks a belief in a transcendent power ("gudsdyrkelse"), to apply for the status necessary to conduct marriage ceremonies.***

***'By rendering the acknowledgment of a religious community dependent on faith in a transcendent power, the Danish law deviates from European and international human rights law. Both the European Court of Human Rights and the Human Rights Committee, which monitors compliance with the International Covenant on Civil and Political Rights, have developed jurisprudence that understands freedom of religion or belief more broadly.'***<sup>44</sup>

The Danish document is more recent than the MoJ and Law Commission reports. However, the Croatian precedent and Indiana decision predate them, as does the wider case law mandating equal treatment for humanists as for the religious.

And yet the MoJ document only refers to human rights in saying that 'Some respondents said that [being able to legally have a humanist marriage] was a human right.'

And the Law Commission document says, at one point, that

***'The system needs to be fair to those from different beliefs and cultures, as well as complying with legislation relating to human rights and equality. This does not mean that the system should not recognise and acknowledge differences between different religions or beliefs. Rather, it means that the level of regulation should be the same for all groups that can solemnize marriages, unless there is a good reason to depart from that. The ideal system would be one in which sufficient common ground between different religions and beliefs had been identified to enable a single framework to be put in place, but with sufficient scope for different traditions to be recognised.'***

This paragraph, which seemingly broadly supports legal recognition of humanist marriages, is the report's only reference to human rights law. Just as with the MoJ document, there is an otherwise complete failure to explore human rights jurisprudence, or to seriously consider the reasons for what happened in Scotland.

We asked the Law Commission about this. It told us:

***'We agree that reform of the law governing marriage would need fully to take into account human rights considerations. As we highlight in the paper, the treatment of non-religious belief organisations such as humanists is a key policy issue for consideration by the government...'***

44 Bielefeldt, Heiner, *Report of the Special Rapporteur on freedom of religion and belief on his mission to Denmark*, prepared for the thirty-fourth session of the Human Rights Council, United Nations General Assembly, 28 December 2016: <http://daccess-ods.un.org/access.nsf/Get?Open&DS=A/HRC/34/50/Add.1&Lang=E>



***In preparing the paper we did look at human rights case law, including the Croatia case to which you refer. However... this paper was a report on the scoping phase of the project and intended to identify the issues. We therefore did not include a full analysis of marriage law from the perspective of human rights in the paper.'***

Further, as noted in the previous chapter, the Law Commission refused to answer a question as to whether it thinks 'that using section 14 [of the 2013 Act] would or would not eliminate an inequality and correct a discrimination contrary to article 14 of the ECHR in the way the Government delivers FoRB under Article 9' – because it deemed such a question to be 'hypothetical' – in part because the Northern Ireland humanist marriage case had not occurred at the time of its report.

As set out above, human rights law is not at all a hypothetical question, nor was it at the time of the inquiry: it is a major issue. So if the Law Commission looked at it, why didn't it identify it as such? Had it done so, it seems to us that it should have had a substantial impact on the rest of its analysis.

The Law Commission also deemed 'hypothetical' the question of whether 'a religious group [that takes] a legal case to challenge its inability to perform marriages outside of places of worship when the Jews and the Quakers can... would succeed as the law stands?... [or] be any more likely to succeed if legal recognition is extended to humanist marriages?'

Clearly, the law in England and Wales is different from that of other jurisdictions, in particular Scotland and Northern Ireland. As far as religion or belief is concerned, marriage law in Scotland and Northern Ireland is based on granting organisations or individuals the right to marry people, whereas (broadly speaking) in England and Wales such recognition is based on registration of places of worship. As a consequence, it is harder to see how the existing legislation could be reinterpreted under section 3 of the Human Rights Act to include humanists.

However, this does not get the UK Government off the hook of section 6(1) of the Human Rights Act 1998.<sup>45</sup> In our view, it might at best only move any decision by the courts from section 3 of that Act (whereby legislation is reinterpreted) to section 4 (whereby a declaration of incompatibility may be issued).

It is our conclusion that this failure to grapple seriously with human rights law is a significant oversight. This alone should be cause enough for the Government to now use the power it already has to give legal recognition to humanist marriages. However, we shall shortly turn to another oversight that renders moot many of the concerns expressed in the two reports.

45 'It is unlawful for a public authority to act in a way which is incompatible with a Convention right.' Human Rights Act 1998, section 6: <https://www.legislation.gov.uk/ukpga/1998/42/section/6>



## Equalities law

Before moving on, it is worth spending some time considering equality law. The Equality Act 2010 also contains relevant provisions related to discrimination on the basis of religion or belief. These provisions might be 'surplus to requirement' when considered alongside those of the European Convention on Human Rights, but nonetheless it is worth noting that the MoJ's consultation document did contain a three-page 'equality impact assessment'.

On direct discrimination, the Ministry of Justice says merely:

***'Our initial assessment is that either accepting or rejecting the proposals for potentially enabling non-religious belief organisations to solemnize marriages in England and Wales would not be directly discriminatory within the meaning of the EA, as any changes would apply equally to all couples that would like to get married in this type of ceremony whether or not they have a protected characteristic. There would be no less favourable treatment because of a protected characteristic, as is the case with existing religious ceremonies and civil ceremonies.'***

On indirect discrimination, it says:

***'Our initial assessment, based on the limited information available, is that either accepting or rejecting the allowing of belief marriage ceremonies would be unlikely to amount to indirect discrimination under the EA since any resulting changes to marriage law are unlikely to result in anyone sharing a protected characteristic being put at a particular disadvantage, compared to those who do not share that protected characteristic.'***

In other words, while the assessment refers to 'accepting or rejecting' any changes, in fact it considers only the case where changes are made, concluding that in that case no-one would be significantly disadvantaged. What the assessment – like the entire MoJ report – completely failed to do was to consider whether the *current* law breaches equality laws.

The final consultation response adds:

***'We have considered the responses from the consultation and are of the view that the equalities issues included in the pre-consultation Equalities Statement remain current and unchanged... Allowing non-religious belief marriages could be considered to advance equality of opportunity between couples wishing to marry where one or both have a religious belief and one or both have a non-religious belief. However there is no option which we think can be implemented immediately which would provide for complete equality of treatment between those who have religious beliefs, those with humanist or other non-religious beliefs, and couples more generally.'***



Thus the MoJ, because it was deemed to be impossible, within the parameters of the Order, to achieve 'complete equality of treatment', presumably due to differences in treatment around venues, dismissed the case for advancing equality of opportunity for non-religious couples in line with religious couples.

The Law Commission report has no serious consideration of equality law at all.

Both the MoJ and the Law Commission entirely or almost entirely ignored the human rights and equalities defects in the present law, and the discrimination that results between religious couples wanting to marry in a ceremony reflecting their beliefs and otherwise comparable humanist couples wanting to do the same.

## 4.2 Second issue: The power of the Secretary of State to make multiple Orders

Both the MoJ and Law Commission consultation documents appear to miss the fact that section 14 of the Marriage (Same Sex Couples) Act 2013 doesn't grant the Secretary of State the power to make *an* Order with respect to belief-based marriages but in fact to make as many Orders as he or she wishes. This is significant because it does away with the need for any such Order to set up an all-in-one comprehensive system whereby marriage by belief groups can be regulated, and the complexities that doing so would entail. Instead, the Secretary of State already is the regulator for the actually already existent (but unpopulated) 'belief' category of marriage.

The MoJ consultation document opens by stating:

***'This consultation is published in accordance with section 14 of the Marriage (Same Sex Couples) Act 2013, which requires the Secretary of State to arrange for a review of whether an order [singular, emphasis added] should be made under that section...'***

Similarly, the background section of the response opens by stating:

***'Section 14 requires the Secretary of State to arrange for a review of whether an order [singular, emphasis added] should be made...'***

The Law Commission paper also refers to 'an order' in the singular. We asked the Law Commission why this is. The Law Commission said:

***'The paper does not exclude the possibility of the power under section 14 of the Marriage (Same Sex Couples) Act 2013 being used more than once. At paragraph 1.38 we discuss the order (singular) as you identify, but at paragraphs 3.19 and 3.20 we discuss the power more generally, in a way which would not preclude its use to make more than one order. Use of the power, either on one or more occasions, would not address the need for widespread reform of the Marriage Act 1949 that we have identified.'***





It's not clear, therefore, to what extent the Law Commission did consider this point. In the next chapter we shall consider the deficiencies that failure to fully explore this point caused.

For its part, Humanists UK has told us that it also did not appreciate at the time that the Secretary of State has the power, under section 14, to make more than one Order. This realisation only came in February 2017, when a counsel for domestic legislation pointed it out. It means that there is no need for an Order that produces a comprehensive solution with (for example) safeguards such as were debated during the passage of the 2013 Act. Instead the Order can simply provide for legal recognition for Humanists UK, and it can be supplemented by new Orders if any other belief organisation applies and is able to make the case for its own Order under the 2013 Act.

A draft Order on these lines was sent by Crispin Blunt MP, Baroness Meacher, and Viscount Ridley to then-marriage minister Sir Oliver Heald MP in March, along with the comment:

*'As you can see, the draft order specifically recognises marriages performed by the BHA [now Humanists UK]. The BHA similarly proposed such an approach during early stages of the passage of the Same-Sex Marriage Act. It was at that point suggested this may be problematic from a human rights point of view. However, as has been pointed out to us by counsel for domestic legislation, section 14 of that Act does not give the Secretary of State the power to make just one order with respect to 'belief-based marriages' (using the language of the law). The Secretary of State may in fact make as many orders as she likes, so if any other belief group is able to make the case that it, too, should be able to perform such marriages, then she can make another order for that group. We have to confess, this was something we had not thought of, but it is very welcome news.'*

*'Presently we see no group other than the BHA that wants to be able to perform belief-based marriages, never mind about another one that has the size, good reputation, and proper training and accreditation processes that would be required for an Order to be granted. But the fact that the Secretary of State may make as many orders as she likes is one that the Law Commission missed in its work, and obviates any objection it may have to such an Order being made, given that it would not fix marriage law in a state that gives the BHA any unfair advantage over other belief-based groups that may be able to make a similar case for such an Order.'*

*'More generally, it seems to us that Parliament has already approved in principle the notion of marriage according to non-religious belief systems. The Secretary of State is not being asked ab initio for a particular favour on behalf of the British Humanist Association; all we are asking is that the Secretary of State gives effect to this principle already established by Parliament.'*



***'You will be able to see that the attached statutory instrument has been drafted simply to add reference in the Marriage Act 1949 to the British Humanist Association alongside every reference to the Society of Friends...'***

The draft is included as an annex to this report.

The impact of this can be felt on several of the concerns set out in the previous reviews. We will consider those issues in more detail in the next section, but in brief, it seems to us that it addresses the concerns around forced and sham marriages, which were *not* directed at Humanists UK but at other *potential* belief-based providers. It also obviates the concerns about other potential belief-based providers and the regulations that might be needed to regulate them, because (once again) it makes apparent that the category of belief-based marriage providers already exists, the Secretary of State is already the regulator of which groups sit in that category, and the Secretary of State can refuse to allow any groups to enter the category about which he or she has legitimate concerns. It also helps address concerns around commercialisation, which again do not appear to have been addressed to Humanists UK specifically but at other unknown hypothetical providers.

Finally, the power to lay multiple orders means the Secretary of State can of course remove belief organisations from the category of those that are able to perform marriages – provided it is human rights-compliant to do so. This acts as a safeguard against any untoward behaviour by any belief groups that might one day be granted the power to perform legal marriages.



## 5. CONSIDERING REASONS GIVEN FOR NOT LAYING AN ORDER

To reiterate, the concerns raised in the previous reviews, and which the Government is currently relying on to say that legal recognition for humanist marriage should not proceed at present are, in summary, as follows:

- Any change would introduce inconsistency in the rules about venues – religious weddings are generally limited to places of worship and civil marriages to register offices and approved premises, whereas belief-based marriages would not be limited and might take place out of doors. Alternatively, if belief-based groups were allowed to use approved premises, this could be seen as discrimination against religious groups.
- It is unclear which belief-based groups should be authorised to marry people, and there would be a possibility of legal challenges around any safeguards introduced to try and regulate this.
- There would be an increased risk of forced and sham marriages.
- There would be a risk of commercialisation.
- There might be a threat to protections around religious groups not having to perform same-sex marriages.
- Piecemeal legislation of the sort being sought (and the added complexity it brings) is undesirable.

We consider each of these in turn.

### 5.1 Inconsistencies around venues

To reiterate, as things stand, civil marriages must take place in register offices or other approved premises, except where:

- (i) someone is housebound, due to illness or disability, and this is unlikely to change for three months; or
- (ii) someone is detained.

In general, religious marriages must take place in registered places of worship, with three exceptions, where marriages can occur anywhere:

- (i) Quaker marriages – although, as a matter of policy, the Quakers in Britain only conduct marriages inside Friends Meeting Houses;
- (ii) Jewish marriages – many of which are conducted outside; and
- (iii) Church of England marriages, conducted under special licences granted through the Faculty Office of the Archbishop of Canterbury. As a matter of policy, but not of statute, the Archbishop only grants such licences where a particular connection to the place in question can be shown – for example an unconsecrated school or college chapel, or where someone is near death and cannot get to a place of worship.

Humanists UK argues that it would need to be able to marry people anywhere, as is the case with the Quakers, Jewish groups, and the Church of England.



Humanists are distinct from religious groups in that they do not have places of worship.

Humanists UK argues that humanist beliefs dictate that marriages should be able to occur wherever is most meaningful to the couple concerned, and it is intimately connected to many humanist couples' beliefs that this means different locations from those presently allowed. This is in Humanists UK's 'usages for humanist marriages' – and section 14 of the 2013 Act specifies that any belief organisations permitted to perform legal marriages should be so permitted 'according to the[ir] usages'. (This wording reflects the fact that the Quakers and Jewish groups also perform legal marriages 'according to the[ir] usages'.)

On this point, the MoJ paper comments that:

*'One key difficulty concerns where belief marriages would take place. The BHA [as Humanists UK then was] and the majority of those supporting humanist marriages are of the firm view that only ceremonies in unrestricted locations will provide equality for and meet the needs of humanist couples. However, allowing belief marriages to take place at unrestricted locations would create a further difference in treatment in our marriage law and is opposed by the Church of England (CoE) and Church in Wales on the basis that it would create an inequality for the majority of religious groups and couples who are restricted to their registered place of worship. Registration services report a growing demand for outdoor marriages, and the Government is aware that allowing belief marriages in unrestricted locations may also be seen as unfair by couples who are neither religious nor humanist but who also may want a greater choice of marriage venues. Any broader changes concerning the places where marriages ceremonies may be conducted could not be achieved through the order-making power in section 14 of the 2013 Act, which is limited to making provision for marriages by people in non-religious belief organisations.'*

Similarly, the Law Commission comments that:

*'Many other religious groups would welcome the relative lack of legal regulation currently enjoyed by those marrying according to the usages of Jews and Quakers, and would undoubtedly and justifiably resent nonreligious belief organisations being accorded that privilege.'*

...

*'The argument of the British Humanist Association that religious groups do not need to be able to marry in a wider range of places because their place of worship is the one that is meaningful for them may well hold true for some faiths and many couples. But it does need to be borne in mind that a person's religious belief is only one aspect of his or her decision regarding the marriage venue; there are also many personal, social and cultural factors. More fundamentally, as we have noted throughout the paper, a number of religious groups do not see their place of worship as the only appropriate*





*place to get married and would also welcome a celebrant-based system. As a result, while legislating solely for nonreligious belief organisations to be able to solemnize marriages would respect the wishes and beliefs of those individuals who wish to be able to marry in this way, it would do nothing to respect the wishes and beliefs of other individuals who would also welcome a wider choice as to how and where marriages can be solemnized.'*

In response to our questions, the Law Commission told us that 'The Church of England indicated to us that they were opposed to a position where non-religious belief organisations would have special advantages that the Church does not have (such as marrying outside).'

However, as explained above, the Church of England can in fact marry people outdoors – it just chooses not to. And at any rate, as we have seen in chapter 3, it is unclear to what extent (if any) the Church of England now in fact has concerns about provisions related to unrestricted locations. In its response to the MoJ consultation, it specified simply that ceremonies should be held 'with open doors' (a requirement the Church itself doesn't have to abide by) and 'in publicly accessible and publicly identifiable places' – both concerns which could be straightforwardly dealt with by any Order. The latter could be dealt with by a requirement similar to that in The Marriage Regulations (Northern Ireland) 2003 as restricting marriages to 'any place whose position... can be suitably defined in words or figures for the purpose of recording where the... marriage was solemnised'.<sup>46</sup> Rabbi Jonathan Romain said that sometimes he simply relies on grid coordinates for this purpose.

With all of that said, this did not seem to be the Church's main concern in its response to the MoJ paper – which was in fact about a move from a buildings-based model to a celebrant-based model – a concern the Church now says would be met by the approval of Humanists UK as an organisation, on the same basis as the Quakers.

**Which other religious groups want to marry outdoors?** Most religions have as a central tenet that marriages take place in consecrated buildings, so it does not seem to us to be a common view.

We asked the Law Commission about which groups identified themselves as wishing to be able to do this. The Law Commission said that 'the Church of England and the Church in Wales thought that outdoor ceremonies might be something that the Church would want to consider' – although it is plain that marriage in a Church is normal practice in Christianity, and as noted, the Church of England can in fact already perform outdoors marriages should it wish to.

In terms of where restrictions to places of worship are not normal practice, the Law Commission said that Muslims and pagans identified themselves as such groups, and considered the same might be true of Jains. With regard to pagans, one can see that a number of pagan groups would want this right as an intimate part of their beliefs. With regard to Muslims, there is no compulsion within Islam to marry within a mosque, and indeed relatively few marriages happen within registered mosques, given the number

46 The Marriage Regulations (Northern Ireland) 2003, regulation 2: <http://www.legislation.gov.uk/nisr/2003/468/regulation/2/made>





of Muslims in England and Wales. Indeed there is some significant concern that many Islamic marriages are not marriages in the eyes of the law. During the course of conducting this inquiry, the Ministry of Housing, Communities & Local Government published its *Integrated Communities Strategy green paper*, in which it proposed to tackle this very problem by, ironically, requiring that 'civil marriages are conducted before or at the same time as [unrecognised] religious ceremonies' – a proposal that may prove challenging from a human rights point of view.<sup>47</sup>

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

Further, it is notable that the concern about the range of venues in which Muslim weddings can occur/are occurring comes from those who are worried about unrecognised Muslim marriages, and not from those who want the range of venues reformed. In recent years, only Humanists UK has made any significant noise in campaigning for the right to conduct outdoors marriages – for instance, only in the context of humanist marriages was the question of venues debated during the passage of the 2013 Act.

Individual adherents of other religions or those seeking civil marriages may, as the Law Commission says, also want to marry outdoors, and some jurisdictions have chosen to allow them to do so. But it is far from clear that this could be said to be intimately connected with their religious or philosophical convictions, as required to gain human rights protections under Article 9 of the European Convention on Human Rights. Nor has anyone else or any other organisation been campaigning for two decades for this reform.

Ultimately, our inquiry has led us to believe that this argument amounts at best to a form of 'two wrongs make a right'. It is wrong that humanist marriages are not legally recognised, and it is wrong (and already wrong) that some religious groups can marry people in a wider range of venues than others. The logic that addressing the latter is too complicated and so we should address neither leaves us with 'one more wrong' than simply addressing the former.

Or, to put it another way, the fact that just addressing humanist marriages 'would do nothing to respect the wishes and beliefs of other individuals who would also welcome a wider choice as to how and where marriages can be solemnized', as the Law Commission states, is not an argument for inaction.

As with all issues, this particular issue needs examining from a human rights perspective. Ciaran Moynagh's evidence made clear to us that the current regime, in recognising religious but not humanist marriages, is almost certainly incompatible with the Human Rights Act 1998. The Government needs to realise this fact and that it therefore must address it.

<sup>47</sup> *Integrated Communities Strategy green paper*, Ministry of Housing, Communities & Local Government, 14 March 2018, page 58: <https://www.gov.uk/government/consultations/integrated-communities-strategy-green-paper>

It is already a fact that a religious couple, particularly a Muslim couple, might be able to take a legal challenge focused on their inability to marry outdoors, when Quakers, Jews, and Anglicans can do precisely this. Adding humanist marriages onto that list does not change that fact. We cannot see it significantly increases the prospects of such a legal challenge succeeding, which may well already be high.

We asked the Law Commission whether ‘a religious group [that takes] a legal case to challenge its inability to perform marriages outside of places of worship when the Jews and the Quakers can... would succeed as the law stands?... [or] be any more likely to succeed if legal recognition is extended to humanist marriages?’ It merely responded that this question is ‘hypothetical’ and wouldn’t be drawn to answer.

All we will say is that if there are two human rights breaches here, then there are two issues the Government needs to address. We see no reason why one of them should wait upon the other before being fixed, particularly when one could be addressed through secondary legislation while the other requires primary legislation.

### **Celebrant-based vs organisation-based**

As a more general point, Humanists UK has told us it is not pushing for a celebrant-based system. What Humanists UK has told us it wants – and what the existing Order-making power allows – is a position akin to that already held by the Quakers, i.e. organisation-based recognition. This would be much more analogous to the system of registering places of worship: just as the trustees of a registered place of worship can certify to the local registrar that they have authorised their clergy to solemnise marriages, so a relevant belief organisation could certify to the registrar that it has authorised named celebrants to do likewise.

## **5.2 Which groups will be able to perform belief marriages?**

In its paper, the MoJ says:

*‘Having considered the consultation responses, it is the Government’s view that it is not possible to be completely certain about which organisations might be allowed to solemnize legally valid belief marriages following a change in the law. We would look to require qualifying criteria to provide some safeguards, particularly in relation to managing any risk concerning sham and forced marriages, inappropriate ceremonies, and commercialisation. However, this is not straightforward as such criteria could be subject to successful challenge by excluded groups, including on the grounds that religious groups able to solemnize marriages would not be subject to the same restrictions. We think that this issue merits further consideration, and that there may be scope to consider whether certain criteria, or any standards or training of celebrants, might be introduced across all providers of marriage ceremonies.’*



In response to the consultation, a number of possible groups other than humanists were identified as possibly falling into the 'belief-based group' camp, with various groups listed, and 'There were concerns that the section 14 definition was vague or imprecise enough to be open to interpretation, making it difficult to identify with certainty which organisations other than humanist groups could meet the criteria or be excluded by it.'

Some of the groups listed by respondents to the MoJ consultation are clearly religious, so could not fall within the ambit of section 14. This includes pagans, who already have registered places of worship, interfaith groups, and freemasons. Other groups listed have no connection to religion or belief or to marriage, and so again are out of scope of section 14 – including the National Secular Society, naturists, and friendly societies. They have not been conducting weddings or demanding the right to marry people. They also have no obvious human rights argument, as humanists do under Article 9, that they should gain such a right. This same point about human rights is true of those, such as so-called 'civil celebrants', providing commercial ceremonies.

Some apparently argued that 'cults' could gain the right to marry. As a matter of fact, a number of religious groups that some may label 'cults' can already legally marry people under the present law. These include the Church of Scientology and the Aetherius Society, a so-called 'UFO religion'.<sup>48</sup>

No similar concerns were identified by the Law Commission report, so we asked them, and they told us:

***The One Spirit Interfaith Foundation does not fit into the category of a religion for the purposes of marriage law in England and Wales, and the Pagan Federation told us that some pagans would prefer to identify paganism as a spiritual tradition rather than a religion.***

It seems to us that a strong argument can be made that both of these organisations should be classified as religious in nature. But even if this is not the case, it is also plain that neither is 'an organisation whose principal or sole purpose is the advancement of a system of non-religious beliefs which relate to morality or ethics' – and so neither falls under section 14 in any case.

While it may be fun to let our imaginations run wild, in reality it is unclear that any belief groups exist other than the humanists that would have any case for recognition. In his evidence, Gordon MacRae of HSS explained that in Scotland, in the 13 years since legal recognition of belief marriages only humanist groups have gained the power to marry people. If a general process of authorisation of belief groups was set up through an Order, we see no reason why things would turn out differently here.

But as explained earlier, we see no reason why such a general process even needs be set up through an Order: the Government can make as many Orders as it likes, and use this fact to make an Order for each belief group that can make the case that it merits such an Order. To reiterate, we see one 'belief' organisation that clearly merits such an Order, namely Humanists UK. If others can make the case that they, too, merit an Order, then they, too, can get one. But we are aware of no such groups.

And if any group conducts itself in such a way that the Government no longer thinks it should have the right to perform marriages, then provided this is human rights-compliant, the Government can lay an Order to remove that group's right.

As for concerns about a legal challenge, in the event that some belief groups are authorised but not others: as we have already made clear, such issues obviously already exist. Human rights law does not distinguish between religious and humanist groups in the way our marriage system does. A humanist couple could already take a case for legal recognition, and if they do, they may well win. In fact the only way the Government can remove the risk of such a defeat is to do its best to legislate for legal marriages by any belief group that clearly merits such recognition. From our perspective, that means Humanists UK.

### 5.3 Forced and sham marriages

The MoJ paper says:

*'Respondents who were opposed to a change in the law commented that civil ceremonies already provide adequately for non-religious marriage and that further opening up marriage law could increase the risk of forced and sham marriages and inappropriate ceremonies.'*

...

*'The Government would also want to see further consideration of managing risk through the use of qualifying criteria, particularly in relation to preventing sham and forced marriages, inappropriate ceremonies, and the commercialisation of marriage solemnization. Our view is that to apply such criteria is not straightforward and may be open to successful challenge by excluded groups, including on the basis that, as the law stands, religious groups would not be subject to the same restrictions.'*

...

*'The Scottish Government has concerns about profit and gain, sham and forced marriages, and other risks and complexities within its own system and (following initial consultation in 2013 as part of introducing the legislation on marriage for same sex couples) will be undertaking further, more comprehensive consultation in 2015 on qualifying requirements for religious and belief bodies to meet before their celebrants can solemnize marriage or register civil partnerships. The Scottish Government issued a brief discussion paper on the qualifying requirements in 2014.'*

The Law Commission says relatively little on this, only:

*'It is vital that any new system does not undermine the current protections against sham or forced marriages in any way, or reduce the state's ability to check the parties' eligibility to marry.'*

Nowhere, therefore, does either party suggest that Humanists UK celebrants present a risk of forced or sham marriages. Indeed, when we asked the Law Commission about this, it said:



***'We do not make any link in the paper between sham and forced marriage and the prospect of marriage by humanists. We flag sham and forced marriage in the scoping paper as an essential policy consideration to take into account in designing reform.'***

Forced marriages are not a known issue within humanism, and the lengthy time that we understand a humanist celebrant will spend working with a couple to get to know them and produce an entirely bespoke script would presumably make humanist weddings a relatively unattractive prospect for anyone planning a sham marriage. We see no reason why Humanists UK celebrants cannot go through the same training and monitoring processes that registrars and religious leaders engage in to guard against forced and sham marriages, and see no reason why there would be more of a risk of humanist celebrants knowingly conducting sham marriages than there is with religious celebrants. (The latter, who are vastly more numerous than would be Humanists UK celebrants, have in any case only been subject so far as we can see to three successful prosecutions since 2010.)

Gordon MacRae told us there have been no known issues with humanist celebrants conducting forced or sham marriages in Scotland, and that the Scottish Government's 2013-15 mooted (but not completed) review of the matter (which appears to have gone nowhere since) was not related to the legal recognition of humanist marriages in Scotland.

Rather, the concern about forced and sham marriages appears to be connected to hypothetical, unknown belief groups who could be less scrupulous. This returns us to our previous section, about which belief groups we are actually dealing with here: we see only one, namely Humanists UK, and at any rate, the Government can use its power to make multiple Orders to add or remove belief groups as it sees is merited.

## 5.4 Profit and gain

The MoJ says in its paper:

***[C]hanging the law to permit belief marriage ceremonies could open up the solemnization of legally valid marriages to a potentially large number of independent celebrants who, although accredited or approved by a not-for-profit belief organisation, may still be paid directly by the couple and able to benefit financially. Organisations and individuals already profit from marriage services, but the issues here are whether we would be inadvertently enabling the commercialisation of the solemnization of marriage and whether any controls would be required.'***

It also cited the Scottish Government's 2013-15 review – although, as already explained, those concerns do not seem to be related to humanist marriages specifically.

The Law Commission states:



***'[I]t should be noted that concerns have been expressed that extending the power to solemnize marriages beyond state officials (who are subject to specific regulations as to how much they can charge) or religious groups (many of which charge no fee) could result in commercialisation of the ceremony of marriage itself. We have given some thought to what the underlying concern is here. Given that registrars and superintendent registrars are paid for the weddings that they conduct, and that at least some religious groups charge a fee, the mere fact of payment cannot be a problem. There might however be a desire to prevent individuals from charging particularly high fees to conduct ceremonies, or alternatively from undercutting other providers by charging particularly low fees and making up the difference by the volume of weddings celebrated, or simply from making a living by conducting weddings without doing so in the context of a broader belief structure.'***

***'The Scottish experience does not suggest that there would be a problem with either unexpectedly high volume for individual celebrants or high fees... It might also be questioned whether there is anything inherently objectionable in a person conducting weddings as their sole occupation: after all, most of us receive remuneration for the work we undertake. In addition, many celebrants choose this line of work out of a sense of calling and invest a considerable amount of time and effort in the ceremonies that they conduct.'***

When we asked the Law Commission about this with respect to humanists, it said:

***'We flag commercialisation as another factor that would need to be considered in designing reform of marriage law... We did not make any link in the paper between commercialisation of marriage and humanists.'***

Rules against profit and gain are not, at present, a feature of the English and Welsh marriage system. There is nothing to stop local authorities or religious groups from seeking to profit and gain off their marriages, or to treat marriages as a marketplace. Indeed, as we shall come onto in the next chapter, there is some evidence that some local authorities are guilty of commercial and anti-competitive practices.

Ironically, such rules are a feature in Scotland, the one part of the UK that does have legal humanist marriages. The Marriage (Scotland) Act 1977 says that an individual can be barred from performing marriages if it is found that they have 'for the purpose of profit or gain, been carrying on a business of solemnising marriages'.

For what it's worth, the Church of England charges at a minimum £474 to marry in your home parish, and £517 to marry elsewhere. And on top of that it charges for extras, like cleaning, tidying, and heating the church, and having an organist, choir, or bell ringers.<sup>49</sup> We understand that many churches also request voluntary contributions over and above this amount, which can often be £200 or £300.<sup>50</sup>

49 'The cost of church weddings', *Your Church Wedding*, Church of England, accessed 18 May 2018: <https://www.yourchurchwedding.org/article/the-cost-of-church-weddings/>

50 E.g. 'How much will our wedding cost?', *Holy Trinity Hertford Heath*, accessed 18 May 2018:



This means that couples could in fact end up paying around £1,000.

Although the statutory minimum marriage charge is £46, local authorities typically make similarly high charges to perform civil marriages, particularly for marriages taking place at weekends, and often (as we shall come onto) market commercial ceremonies on top of the statutory registration.

Humanists UK says that 'We do not have national prices as each ceremony is different. As a general guide... average wedding fees [are] £650... but our celebrants' fees can vary quite a bit depending on what kind of ceremony you are having and where you are in the country.' We are told by Humanists UK that the fee reflects the number of hours that humanist celebrants put into each wedding, which (because of the fully bespoke script) are typically more than for the average religious wedding (where there are often just a number of approved forms of words that can be used – for instance, in the Church of England's case, three forms of words).<sup>51</sup>

Humanist Society Scotland says that its celebrants charge 'around £410' – although again it varies depending upon the ceremony – and membership is £43 per couple.<sup>52</sup> This is less than Humanists UK but in part must reflect the generally lower cost of all goods and services in Scotland. The law in Scotland specifically prohibits 'carrying on a business of solemnising marriages... for the purpose of profit or gain' and these fees are understood to comply with that law.

Therefore it does not appear to be the case that Humanists UK celebrants typically charge anything over and above comparable groups, and this is not a concern that either the MoJ or the Law Commission has stated with respect to Humanists UK specifically. Again, the ability of the Secretary of State to make multiple Orders for different belief-based groups is a way in which the Government can effectively regulate which groups can provide legal marriages – it could, for example, preclude any groups that are not charitable, and remove any groups about which it develops concerns.

## 5.5 Religious groups performing same-sex marriages

When commissioning the Law Commission's scoping paper, the MoJ says:

***'The Government would also want to ensure that any review took full account of and did not undermine the provisions within the 2013 Act which protect religious organisations which do not want to marry same sex couples at the same time as allowing those who do to opt in to conducting such marriages.'***

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<http://www.hertford-heath-church.org.uk/special-services/more-information-about-weddings/>; and 'How much will it cost us to marry in church?'; The United Benefice of Hunsdon with Widford and Wareside, accessed 18 May 2018: <https://www.hwwchurch.org.uk/pdfs/weddingprices.pdf>

51 'Wedding ceremony words', *Your Church Wedding*, Church of England, accessed 18 May 2018: <https://www.yourchurchwedding.org/article/wedding-ceremony-words/>

52 'Humanist Ceremonies: Weddings & Civil Partnerships', Humanist Society Scotland, accessed 18 May 2018: [https://www.humanism.scot/humanist-ceremonies/weddings\\_civil\\_partnerships/](https://www.humanism.scot/humanist-ceremonies/weddings_civil_partnerships/)



The Law Commission, however, then only wrote that:

***'A number of areas of marriage law were agreed with the Government from the outset of our work as being outside the remit of this scoping review and so outside of any Law Commission reform project. These comprised:***

***'''(2) the question of whether or not religious groups should be obliged to solemnize marriages of same-sex couples, which was recently decided by Parliament following wide public debate...'***

***It also deemed out of scope 'the question of whether or not non-religious belief groups should be obliged to form civil partnerships or solemnize marriages of same-sex couples'.***

Humanists UK has long performed same-sex wedding and partnership ceremonies, even before the decriminalisation of homosexuality. It wishes to be able to perform legal same-sex marriages.

We see no reason why the system we would favour, namely an Order specifically for Humanists UK – and Orders subsequently for any other belief group that can make the case for one, of which we see none – would affect the right of religious groups to refuse to marry same-sex couples.

Although we think this is a hypothetical question, we also see this approach as neatly solving any question about whether belief groups must perform same-sex marriages: those that want to can have an Order allowing them to, and those that don't can have an Order that doesn't allow this.

It is worth noting that the lack of recognition for legal humanist marriages is hugely significant in denying same-sex couples a choice of the type of marriage ceremony they have. We understand that Humanist Society Scotland performs a quite significant proportion of same-sex marriages in Scotland. In England and Wales, only a few religious groups perform same-sex marriage ceremonies, and a 2017 survey by YouGov on behalf of Stonewall also found that some 66% of LGBT people are not religious<sup>53</sup> – higher than the 53% of the population as a whole where the same is true.<sup>54</sup> This means that in 2015, just 44 of 4,850 same-sex marriages – less than 0.1% – were religious. Over 99.9% were civil marriages. In 2014, just 23 of 6,493 same-sex marriage ceremonies were religious – around 0.03%.

Generally speaking, then, it is only through providing legal recognition for humanist marriages that same-sex couples will have any meaningful choice in the type of marriage they have.

53 'YouGov / Stonewall – LGBT in Britain', YouGov, 16 February – 11 April 2017: [https://d25d2506sfb94s.cloudfront.net/cumulus\\_uploads/document/etsbnlnngh/YG-Archive-140217-StonewallResults.pdf](https://d25d2506sfb94s.cloudfront.net/cumulus_uploads/document/etsbnlnngh/YG-Archive-140217-StonewallResults.pdf)

54 As per the 2016 British Social Attitudes Survey, published by NatCen Social Research 4 September 2017. Accessible through the British Social Attitudes Information System: <http://www.britsocat.com/>



## 5.6 Piecemeal legislation

In the MoJ's consultation response, for all the reasons explored above, it is concluded that,

***'We think it is important that we take the opportunity to consider all these issues together and to avoid any negative consequences that may result from undertaking further piecemeal legislation.'***

***'Having carefully considered the full range of responses and issues raised through the consultation, and the complex issues associated with any option for change, we have come to the conclusion that to make such changes would not be straightforward and would have implications for marriage solemnization more broadly.'***

The Law Commission, for its part, found that there are already problems here:

***'The current law is of considerable antiquity and has become unduly complex. There is both a high level of uncertainty on key aspects of the law and a concern that the current requirements are overly restrictive. There are also indications that it does not operate as efficiently or fairly as it both could and should.'***

For this reason it advocated wholesale reform of the law.

We asked the Law Commission why it said that any recognition of humanist marriages 'would add additional complexity to the law' – 'Could it not be argued that it would rather simply extend the number of people able to use the already existing model applied to Jews and Quakers – i.e., not add any complexity at all?' The Law Commission responded by saying that:

***'The existing model applied to Jews and Quakers is not a celebrant-based model; the ceremony simply has to accord with the usages of those groups (as a separate matter, the Marriage Act does specify who will be responsible for registering the marriage and making returns to the local register office). We therefore take the view that devising a new, celebrant-based, framework within which marriages could be solemnized according to the rites of non-religious belief organisations, in addition to the existing buildings-based system, would add complexity to the law.'***

But, as explained above, Humanists UK does not want a celebrant-based model but more akin to the position afforded to the Quakers and Jews. While not addressing all of the inconsistencies within marriage law, such an approach would surely deal with the concerns expressed about **additional** complexity introduced by extending recognition to humanist marriages.

As for the alternative, namely wider reform: first, it is clear that the Government has no appetite at all for such a programme of reform. This is what Dominic Raab told the Law Commission in September 2017.



It is also clear that recent attempts at wholesale reform have failed. See, for example, the 2001-4 proposals of the Blair government, which came to naught. It has now been five years since the passage of the Marriage (Same Sex Couples) Act 2013, debates on which showed strong parliamentary support and concluded with the Government introducing a power to bring in humanist marriage by statutory instrument. Baroness Stowell concluded those debates by saying 'Of course everybody would support humanist marriages...' <sup>55</sup> and 'it would be wrong not to recognise the strength of feeling in support of the humanists. A statutory consultation as a means to effect any change is the right way forward in responding to the support for humanists, ensuring that the wider public are able to contribute to the debate, and securing that arrangements for belief-based marriages are made on a sound footing and that any implications of them are fully understood.' <sup>56</sup>

And yet, the various reviews considered since then have also gone nowhere.

Humanists UK has been waiting a very long time. The Government has said it has no appetite for wholesale reform. We have, we think, dealt above with all the reasons for hesitation about a more limited reform, certainly all those that the MoJ and Law Commission set out. And yes, the law is complex, but we do not see that an Order that simply replicates for Humanists UK the provisions that the Quakers already enjoy adds any more complexity to the existing law. A draft of such an Order is provided as an annex to this report.

Finally, we return to the point that we believe the Government is under an obligation to act quickly, as the present law is out of step with the Human Rights Act.

If there is to be no fundamental change, then reform for humanist marriages must surely now occur. And if there is to be fundamental change, then that may well take many years. Therefore in our view the human rights argument means that reform for humanist marriages still cannot be refused, as an interim measure. Piecemeal reform has after all been the predominant pattern since 1753.

## 5.7 Summary

**In summary, we do not believe that any of the concerns are remotely sufficient to prevent the legal recognition of marriages performed by Humanists UK. The case for such reform is overwhelming, not least from a human rights perspective. We urge the Government to lay an Order for such marriages under section 14 of the Marriage (Same Sex Couples) Act 2013.**

**We believe that, if any other belief groups can make the case to have an Order laid for their marriages, such an Order should then be considered. But at present we see no such groups making a case for such an Order, and we note that in Scotland, humanist groups are the only groups that are performing belief-based marriages.**

<sup>55</sup> Marriage (Same Sex Couples) Bill Committee: 2nd sitting, House of Lords, 19 June 2013: <https://publications.parliament.uk/pa/ld201314/ldhansrd/text/130619-0002.htm#13061995000016>

<sup>56</sup> Marriage (Same Sex Couples) Bill Report: 1st sitting, House of Lords, 8 July 2013: [https://hansard.parliament.uk/Lords/2013-07-08/debates/13070845000227/Marriage\(SameSexCouples\)Bill#contribution-13070845000119](https://hansard.parliament.uk/Lords/2013-07-08/debates/13070845000227/Marriage(SameSexCouples)Bill#contribution-13070845000119)



## 6. A THIRD ISSUE THAT HAS SINCE COME TO LIGHT: REGISTRARS ACTING AGAINST HUMANISTS

During the course of this inquiry we have discovered that there is widespread concern at unfair practices by some registrars, exploiting their statutory role and their access to local authority facilities, in ways that make it difficult for couples to have non-legal humanist wedding ceremonies. For example:

- Some registrars are marketing themselves as performing non-statutory ceremonies alongside the legal marriage, often using the local authority to assist in this marketing in a way not open to other providers of non-statutory ceremonies.
- Some registrars are repeatedly telling couples that they cannot have a humanist ceremony on the same day as their legal marriage – thereby discouraging the former in favour of just the latter. Humanists UK says that this issue became so serious that last year staff were prompted to write to the Registrar General, whose deputy then issued guidance to all civil registrars that such restrictions were not mandated by law. However, Humanists UK celebrants report that problems persist.
- Many registrars are increasingly restricting the number of ‘no-frills’ registration-only ceremonies available, both to early hours of certain weekday mornings and in some cases making them prohibitively expensive. They are also sometimes restricting the register offices in the local authority at which such ceremonies can occur, how soon they are available, and who can attend, in some cases to just one office and to the couple and two witnesses.

It seems to us that much of this behaviour is borne out of a commercial desire to maximise income for the registration service. This underlines the fact that humanist couples, in being required to have a civil marriage as well as a humanist ceremony, are not at present being treated equally to religious couples who can just have a religious marriage. Not only that, but it also raises concerns about both commercialisation of marriage and anti-competitive practices by registrars which we believe urgently need to be investigated. Such behaviour surely sheds new light on the opposition by some registrars to legal humanist marriages that was expressed during the MoJ consultation. It trivialises any such concerns about Humanists UK celebrants.

During the course of the first hearing of this inquiry, one Humanists UK celebrant reported her experience of local authorities restricting access to ‘no-frills’ civil marriages – which is what couples having a humanist wedding ceremony would at present want. The celebrant in question alleged that some local authorities near her only allow such marriages to occur between 8.30 and 9.30 am on Tuesday mornings, and charge £350-£450 for registrations earlier than in nine months. This is a lot of money, no doubt prohibitively expensive for many couples wanting to have a humanist wedding ceremony. This prompted us to conduct a survey of



Humanists UK wedding celebrants on related issues, which in turn prompted us to commission our own research on the question.

## 6.1 Experiences of celebrants

We contacted the celebrant referred to in the previous paragraph and she expanded significantly on her experiences:

*The statutory ceremonies are timetabled to be awkward – often early midweek and only a few slots per week, which means they are often fully booked up for over 6 months. I rang [council 1] on behalf of my couple and they didn't have anything until the following year (I rang in March). The £350 comment comes into play because what the councils 'can' do is offer you their next simplest ceremony, at most times of the week for £350+ – so they make the statutory ceremony very difficult to find on their websites (if at all) and then really restrict its availability so that 1) it is so overbooked a couple will have to wait a long time for a ceremony and 2) it is at fairly antisocial hours of the day – usually an early midweek day and before 11am.*

*To illustrate this, I have tried to look at all the information on many local government websites in my area. [Council 2] is a good example. If you read all the fine print (knowing what you are looking for) it looks like they offer the statutory marriage ceremony only on Mondays in a particular room. But nowhere on their website does it say this. Also, you can only book this room if you ring (not online) and you have to pay for it in full. This is £54, but you only find this out if you ring them up. Online, the cheapest ceremony you can find is midweek in the same room for £180. If you didn't know what you were looking for, that would online be your cheapest and simplest option.*

*In [council 3], the statutory marriage is very strict, you are only allowed 2 witnesses (most councils allow 4 -10 guests), you are not allowed to bring any flowers (!) and it is only £50 on Wednesday mornings at selected offices and £114 on a Saturday only at 9am.*

*On the [council 4] website, again, you need to know what you are looking for as the statutory ceremony is not mentioned anywhere in any of the brochures they encourage you to click through, 'a day to remember' and 'ceremonies brochure' – where the most affordable ceremony is £315 on a weekday. [Council 4] has its own wedding website and the statutory marriage isn't anywhere within it. You can only find out about it if you click through a series of links on a subsidiary of its main page.*

*On [Council 5's] website, you see [a large table of fees ranging from £235 to £570, depending upon venue and day of the week, followed by a smaller bit of text saying] 'A small statutory register office ceremony room for up to 4 persons is available Tuesday and Thursday for the statutory fee of £46 at the Register Office in [one location in large county].*



*When you call to book, they tell you the appointment times are 9.30, 10 and 10.30 only on Tuesday and Thursday and they are very booked up, when I called yesterday the earliest I could arrange was late September this year, even when asking for a quick appointment based on the illness of a family member.*

*So, this is only a very basic and brief exploration into councils and how they try to steer couples into the more profitable ceremony options and make it actively difficult for a couple to just have the bare minimum – only a few slots a week and almost always on very particular days.*

The more general survey of celebrants returned lots of complaints of issues in the three areas in particular outlined above, and Humanists UK also supplied other complaints received over the last few years. Here is a selection:

- *‘The couple went to see the registrar and were told that they could not have the humanist ceremony and legal one on the same day and in the same place. They had to change their plans drastically having the legal ceremony in one place and then having everyone travel across town for the humanist ceremony and reception. If a couple plan to have both ceremonies on the same day, I must consequently now advise the couple to check with individual registrars as they differ in different areas.’*
- *‘The registrar demanded I [the celebrant] leave the premises completely during the legal part of the ceremony despite having the couple’s permission to watch this.’*
- *‘A couple informed me that they were required to bring forward the date of their legal ceremony because there were so few short ceremony appointments available.’*
- *‘A couple went to the registrar’s office to explain that they intend to follow their legal ceremony with a humanist ceremony and were told categorically that they can’t do this.’*
- *‘Two local licensed wedding venues have been approached by the registrar threatening to take their licence away if any further ceremonies are held by humanist celebrants. Excerpt from an email from the registrar’s office to venue regarding humanist ceremonies: “I am concerned by the number that are being booked with you – this could have an implication on your Civil Ceremonies licence so I will ring you when the Head of Service is back from leave and arrange a time to visit.” After meeting with the registrar the proprietors of the venue were informed that the concern is that registrars are losing out on too much income thanks to wedding celebrants.’*
- *‘A couple were told by their registrar office that as of next year they would not be able to have a simple service and would have to have*



*a full service meaning that the costs would be too great for this couple to have the two ceremonies.'*

- *'Two weddings with me this year where the couple wanted their humanist wedding to include the legal procedure with the registrar have both been refused. On the second occasion I had a long and difficult phone conversation with the registrar, as the couple involved had told me that the registrar had said she wanted "nothing to do with a Humanist Ceremony". I was expected to leave before the start of the civil ceremony although the humanist and civil ceremonies took place in different areas of the same site.'*
- *'In my local area the cheapest way of registering a marriage is around £120. Broken down that is £35-47 notice fee per person (I don't know why there is a £12 band – no explanation on the website) and a £50 registration fee (Mon to Fri morning only) inclusive of one certificate/licence. However this "cheapest option" is only possible/available it seems at one out of the four register offices in the county, meaning that depending upon where you live, you may be required to travel a considerable distance to make the saving. Prices for the cheapest way of doing things at the three other register offices are considerably higher; at two the lowest possible cost is £234 (Friday) plus notice fees (£35-47 each) – bringing the total to over £300. The cheapest option at the last is the same but only Monday to Thursday – it goes up to over £350 on a Friday and more on a Saturday (as do the others). It seems the reason for the price hike at these other three register offices is due to the fact that the service insists on the booking of a ceremony room at each venue (whether you want one or not – ridiculous since you clearly wouldn't if you were going to have a humanist ceremony elsewhere). I have had many couples get in touch with me to enquire about the cost of a humanist ceremony, who have subsequently come back to me to say that because the cost of registering a marriage is so high, they cannot afford a humanist ceremony as well.'*
- *'My couple wanted to sign their papers in [the registered venue], their plan was to then finish that ceremony with their two witnesses, leave and walk down the aisle into our ceremony. The registrar point blank refused to allow this. They then went so far as to say that they would refuse to conduct the civil ceremony if I was even on the premises. They inferred that it would null and void their legal ceremony. They also stated that I wasn't allowed to pronounce them husband and wife, as this would also have the same effect. My bride and groom were very scared and worried that having a humanist ceremony could affect their legal standing, until I pointed out that this was by no means the case. In the end the Bride and Groom cancelled their civil signing [at the venue] and opted for a simple signing at the registrar's office.'*
- *'I have been told (from the staff, not officially) that [venue] can't let the registrar know that they allow humanist ceremonies as*



*the registrars get really antsy about it and threaten to revoke their civil licence – as such they only allow humanist ceremonies if the couple insist on it, they never suggest or offer humanist ceremonies.'*

- *'I have been told by at least half a dozen of my couples across the country that the slots available for the simple signing have been reduced and only about 4 slots a week are offered now. (For example two on a Tuesday morning [and] two on a Wednesday morning.) Essentially, registrars across the country are trying to limit this availability to keep couples with them, once you have to pay more than the £45 for the simple signing, a lot of couples may well be talked out of having both a signing and a humanist ceremony.'*

- *'The registrar told me to get out of the room (I was doing a rehearsal) as I "wasn't allowed to be there" before finding out I was actually also a witness at the civil ceremony!'*

- *'The bride was told by a registrar that she could not have a ceremony before the legal ceremony. She was told not to have a humanist celebrant but to have a "combi-wedding" where the celebration ceremony as well as the legal one is conducted by registrars, which is offered at reduced rate if you choose to have both ceremonies. She added it is not worth bothering with the humanist ceremony as they can't offer what the registrars can however when the paperwork was looked at in more detail it appeared that the ceremony was identical to the legal one so the two would be exactly the same. The manager of the hotel venue where the wedding would take place did say that registrars are doing everything possible to stop the humanist weddings happening there.'*

- *'The registrar told the couple that it was illegal to have a humanist ceremony before the legal one and asked for our celebrant's details which caused distress to couple.'*

- *'I was challenged at the end of an outdoor wedding by one of the guests who is also a registrar. She suggested that the registrar who was conducting the legal ceremony (in the licensed location nearby) would be reluctant to conduct a ceremony on the same day.'*

- *'I have only recently trained as a celebrant but already I have experienced a local registrar telling a couple that they must have their register office service before their humanist ceremony. They were told that under no circumstances could they have the register office service after their humanist ceremony as they had initially hoped.'*

- *'I was told by two or three couples that the registrar had warned them against having a humanist ceremony as the words they would say "cancelled out" their legal ceremony.'*





The issues highlighted, therefore, include difficulties with same-day ceremonies, difficulties with same-building ceremonies, the presence of the humanist celebrant at the legal ceremony, registrars allegedly threatening approved premises' licenses over the number of humanist ceremonies being performed, registrars not offering cheap 'no frills' ceremonies or restricting the times and locations at which they are available or restricting how quickly they are available, registrars restricting what can happen at 'no frills' ceremonies e.g. the number of guests and the presence of flowers, and registrars allegedly more generally trying to warn couples off having humanist ceremonies.

For its part, Humanists UK tells us that it wrote to the Deputy Registrar General, Andrew Dent, about issues around same-day ceremonies in particular, in 2016-17. This prompted him to clarify that 'there is no reason why another event, such as a humanist ceremony, may not take place on the same day at the same venue as the civil ceremony, either before or after the civil ceremony' – so long as the two events are 'distinctly separate'. On 9 February last year this prompted him to helpfully issue guidance to all registration offices in order to clarify the matter. However, it appears that issues with some registrars have continued since.

## 6.2 Survey of local authorities

The subsequent research was able to generalise celebrants' complaints around competition, and accessibility of 'no-frills' ceremonies, into a pattern of issues. It was conducted by surveying all 152 local authorities in England and 22 in Wales.

**Date and time of ceremonies:** The research didn't throw up much in the way of problems either with having a non-statutory ceremony and a legal marriage on the same day, or in terms of the order of the two. At three local authorities there were issues uncovered with respect to the latter, with one local authority stating that 'your legal ceremony must take place... before a bespoke celebration'. But the absence of evidence is not necessarily evidence of absence – as these are not considerations that you would necessarily expect registrars to set out on their website. The research only found one local authority positively making clear that the ceremonies can take place on the same day (but this same local authority got things wrong with respect to the order of ceremonies), and found only two making it clear that any order of the ceremonies is allowed.

**Non-statutory commercial ceremonies:** The research found 20 local authorities in England (13%) and three in Wales (14%) offering on their websites to combine legal ceremonies with non-statutory commercial ceremonies, all performed by their registrars – not an insignificant number. Such ceremonies are not humanist in nature but secular, as registrars personally quite properly hold a variety of religions and beliefs. A further 15 in England and one in Wales offered non-legal 'Commitment Ceremonies', which, though not designed to be part of a marriage still represent registrars attempting to market themselves. This means that 23% in England and 18% in Wales offered one or the other type of ceremony. None of the local authorities in England and Wales that advertised commercial ceremonies include information about other ceremony providers such as humanist celebrants.



**‘No-frills’ ceremonies – prices:** statutory ceremonies by law can only cost £46, at a register office.<sup>57</sup>

The research found 26 local authorities in England (17%) not advertising statutory ceremonies at all on their websites, making them far more inaccessible as an option to couples in those areas. Of these, 23 advertise higher fees on their websites. These are all above £100, average of £158, and the worst council charged £254 for the cheapest ceremony.

Suffice to say, if a couple wishes to have a humanist ceremony, thinking they must pay £254 for their legal registration on top is quite possibly going to put them off.

**‘No-frills’ ceremonies – days of the week:** A more widespread problem was the restrictions on times statutory ceremonies are available. 29 local authorities in England and 11 in Wales didn’t make clear on their website what times such ceremonies are available, leaving 97 and 11, respectively, that did.

Of these, 88 local authorities in England (90%) and nine in Wales (82%) offered statutory ceremonies only during the week, meaning it would not be possible to have such a ceremony on a Saturday, the most popular day to get married. Instead, local authorities typically offer higher-price ceremonies at the weekend. Such an approach means such ceremonies are less accessible to couples. This also has a symbolic effect for couples whose humanist ceremony is on a Saturday, as they would then be unable to have their legal marriage be the same day as what they would see as the wedding ceremony that is meaningful to them – leading to ambiguity as to the day they would see themselves as having truly got married.

There were further restrictions. Four local authorities in England offer statutory ceremonies on only one day a month, making it extremely difficult for couples in those areas to access them. 33 local authorities in England offer them on only one day a week. Nine in England and one in Wales offer them on only two days a week; seven in England and two in Wales offer them on three days a week; only eight in England and two in Wales offer them on six days a week.<sup>58</sup>

**‘No-frills’ ceremonies – times of the day:** Many local authorities also restrict the time of day at which statutory-only ceremonies are available.

In total, 55 local authorities in England and five in Wales make clear what time of the day their statutory ceremonies are available. Just nine of these in England and three in Wales make them available in both the morning and afternoon. 45 in England and three in Wales make them available only in the morning, and one in England makes them available only in the afternoon. Many of these specify precise slots, e.g. one or two 9.30 am slots a week.

<sup>57</sup> Marriage Act 1949. . See also ‘Marriages and civil partnerships in the UK’, GOV.UK, accessed 18 May 2018: <https://www.gov.uk/marriages-civil-partnerships/weddings-and-civil-partnership-ceremonies>

<sup>58</sup> 20 in England and five in Wales offer them four days a week; 16 in England and one in Wales offer them five days a week.



**‘No-frills’ ceremonies – location:** Statutory-only ceremonies are generally only available in register offices, and not other approved premises, which further restricts their accessibility. But some local authorities further restrict it to particular register offices. The research identified ten saying this is true up-front, but this may well be an underestimate as most did not specify. The ten include two of the three largest counties in England, both of which coincidentally offer such ceremonies in towns adjacent to National Parks – severely curtailing accessibility.

**‘No-frills’ ceremonies – attendance:** A small number of local authorities only allow the couple getting married and two witnesses to attend a statutory-only ceremony. While such couples presumably wish to see their humanist ceremony as their ‘proper’ one, that doesn’t mean they would want to exclude close loved ones entirely from being present when their legal marriage occurs.

## 6.3 Conclusion

In sum, not every local authority is restricting the availability of cheaper registration ceremonies for those couples who want a humanist ceremony. But many do. This is particularly true with respect to days of the week and times of day. A significant minority are also not advertising such ceremonies at all. And finally, a number appear to also be restricting where such ceremonies can occur, how soon they are available, and who can attend.

On top of that, we have anecdotal evidence of registrars making it difficult for a humanist ceremony and a legal marriage to occur on the same day. Some seem to be misrepresenting the law in order to do so.

All of this adds up to a pattern of increased challenges for couples wanting a humanist ceremony. This must surely add to the picture of discrimination outlined above, and only enforce the need for reform.

**In the absence of legal recognition of humanist marriages, we recommend that local authorities are mindful of their obligation, under the public sector equality duty, to ‘remove or minimise disadvantages suffered by persons who share a relevant protected characteristic that are connected to that characteristic’, and this may mean taking steps to ensure that non-statutory ceremonies are more readily available to humanist couples.**

**Local authorities that market non-statutory commercial ceremonies also need to ensure that they do not abuse their dominant position – as the only entities able to register legal marriages other than religious entities. They must not leverage their statutory dominance in registration into a non-statutory, commercial market.**



## 7. RECOMMENDATIONS

It seems to us that there is a very clear case for legal recognition of humanist marriages: both as something people want, and as what the law requires, to maximise freedom of religion or belief.

We make four recommendations:

1. We urge the Government to lay an Order under section 14 of the Marriage (Same Sex Couples) Act 2013 for legal recognition of marriages conducted by Humanists UK. As outlined in our analysis of the two previous reviews, we do not believe that any of the concerns are remotely sufficient to prevent this. The case for such reform is overwhelming, not least from a human rights perspective.
2. We believe that, if any other belief groups can make the case to have an Order laid for their marriages, such an Order should then be considered. But at present we see no such groups making a case for such an Order, and we note that in Scotland, humanist groups are the only groups that are performing belief-based marriages.
3. In the absence of legal recognition of humanist marriages, we recommend that local authorities are mindful of their obligation, under the public sector equality duty, to 'remove or minimise disadvantages suffered by persons who share a relevant protected characteristic that are connected to that characteristic', and this may mean taking steps to ensure that non-statutory ceremonies are more readily available to humanist couples.
4. Local authorities that market non-statutory commercial ceremonies also need to ensure that they do not abuse their dominant position – as the only entities able to register legal marriages other than religious entities. They must not leverage their statutory dominance in registration into a non-statutory, commercial market.



## **ANNEX: DRAFT ORDER PROVIDING FOR HUMANIST MARRIAGES**

In February 2017, Sir Oliver Heald MP, the then-Minister of State responsible for marriage law, told Baroness Meacher and Viscount Ridley in a meeting that he was not opposed to humanist marriages in principle, and invited them to draft an Order pursuant to section 14 of the Marriage (Same Sex Couples) Act 2013.

Crispin Blunt MP's office arranged for that to happen, seeking advice from a counsel for domestic legislation, and the three parliamentarians sent this to Sir Oliver. This is that draft Order.





## **DRAFT STATUTORY INSTRUMENTS**

**2017 No.**

### **MARRIAGE**

#### **The Marriage (Same Sex Couples) Act 2013 (Marriage According to the Usages of Belief Organisations) Order 2017**

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.–(1) This Order may be cited as the Marriage (Same Sex Couples) Act 2013 (Marriage According to the Usages of Belief Organisations ) Order 2017.

(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**

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

#### **Extent**

3.–(1) 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**

47A—(1) Any authorised belief organisation referred to in subsection (2) 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 only authorised belief organisation is the British Humanist Association.

(3) 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 registering officers 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 and to the safe custody of marriage register books.

(4) The principal officer shall, within the prescribed time and in the prescribed manner, certify the names and addresses of the persons



so appointed to the Registrar General and to the superintendent registrars of the registration districts in which such persons live, together with such other details as the Registrar General shall require.

(5) A marriage shall not be solemnised according to the usages of an authorised belief organisation until duplicate marriage register books have been supplied by the Registrar General under Part IV of this Act to the registering officers appointed to act on behalf of the organisation.

(6) If the Registrar General is not satisfied with respect to any registering officer of an authorised belief organisation that sufficient security exists for the safe custody of marriage register books, he or she may in his or her discretion suspend the appointment of that registering officer.

(7) A marriage to which this section applies shall be solemnised in the presence of either—

- (a) a registrar of the registration district in which the marriage takes place; or
- (b) a registering officer appointed under subsection (3) whose name and address have been certified in accordance with subsection (4)

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.

(8) 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 registering officer 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 the said usages under or in pursuance of a general rule of the said organisation.

(9) A certificate under subsection (8) 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 the entry of the marriage in a marriage register book under Part IV of this Act, or a certified copy thereof made under the said Part IV, shall be conclusive evidence of the production of such a certificate.

(10) 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



solemnized according to the usages of the said organisation.

(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 53 (persons by whom marriages are to be registered), after paragraph (b) insert—

“(bb) in the case of a marriage solemnised according to the usages of an authorised belief organisation, a registered officer of the said organisation;”.

(10) In section 54 (provision of marriage register books by Registrar General), in subsection (1) after the words “the Society of Friends,” insert “registering officer of an authorised belief organisation”.

(11) In section 55 (manner of registration of marriages)—

(a) in subsection (1) after the words “the Society of Friends” insert “or of an authorised belief organisation”; and

(b) in subsection (1)(b) after the words “the Society of Friends” insert “or an authorised belief organisation” and after the words “the said Society” insert “or the said organisation”.

(12) In section 57 (quarterly returns to be made to superintendent registrar), in subsection (1) after the words “the Society of Friends” insert “or of an authorised belief organisation”.

(13) In section 59 (custody of register books) after the words “the Society of Friends” insert “or of an authorised belief organisation”.

(14) In section 60 (filled register books) in subsection (1), paragraph (b), after the words “registering officer of the Society of Friends” insert “or of an authorised belief organisation”; after the words “members of the Society of Friends” insert “or of an authorised belief organisation”, and after the words “the said Society” insert “or the said organisation”.

(15) In section 63 (searches in register books) after the words “the Society of Friends” insert “or of an authorised belief organisation”.

(16) In section 67 (interpretation of Part IV), there are inserted in the list of definitions the following—

““an authorised belief organisation” means a belief organisation (as defined in section 14(7) of the Marriage (Same Sex Couples) Act 2013) that has been authorised by section 47A(2) of this Act to perform marriages according to its usages;

“registering officer 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”.

and in the definition of “superintendent registrar” after paragraph (b) insert—

“(bb) in the case of a marriage registered by a registering officer of an authorised belief organisation, the superintendent registrar of the registration district which is assigned by the Registrar General to that registering officer;”.

(17) 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”.







Photography credits

Marie and Tiz's wedding (p. 8). Celebrant: Hannah Hart.

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Ali and Lee's wedding (p.20). Celebrant: John Trimmer.

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