










**Law  
Commission**  
Reforming the law



# **GETTING MARRIED: A SUMMARY OF THE WEDDINGS LAW CONSULTATION PAPER**



## INFORMATION ABOUT THIS CONSULTATION

<b>Who are we?</b> 	The Law Commission of England and Wales is an independent body established by statute to make recommendations to Government to reform the law in England and Wales.
<b>What are we doing?</b> 	Conducting a public consultation on our provisional proposals to reform the law governing weddings.
<b>What is it about?</b> 	Weddings – the rules governing which formalities a couple needs to comply with in order to be legally married, from giving notice through to registration of the marriage.
<b>Why are we consulting?</b> 	We are seeking views on our provisional proposals and asking questions. Your views will be carefully considered when we decide on our final recommendations.
<b>Who do we want to hear from?</b> 	We are keen to receive comments from as many stakeholders as possible, whether they agree or disagree with our provisional proposals. Interested stakeholders include religious organisations, non-religious belief organisations, local authorities, wedding venue businesses, and members of the public.
<b>What is the deadline?</b> 	The consultation closes on 3 December 2020.
<b>What happens next?</b> 	After reviewing all responses, we will decide on our final recommendations for law reform, which we publish in our final report on the project.

## THIS SUMMARY

This Summary does not summarise all of the provisional proposals and questions set out in our detailed Consultation Paper. Instead, it highlights the current law and our proposals on key issues. This Summary only provides an overview of those issues.

Before responding, you are encouraged to read our full Consultation Paper, or

the relevant parts of it. You do not have to respond to all of the questions in our consultation. We want to hear from you even if you only have a view on one or a few of the questions that we ask.

References in this Summary are to the chapters of the Consultation Paper.

**This Summary and [Ch 3](#) of the Consultation Paper provide an overview of our proposed scheme.**

Some stakeholders may be particularly interested in certain chapters, which cover aspects of our proposed scheme in more detail:

- Local authorities: [Ch 4](#) [Ch 6](#) [Ch 7](#) [Ch 8](#) and [Ch 12](#)
- The Church of England and the Church in Wales: [Ch 4](#) [Ch 5](#) [Ch 6](#) [Ch 7](#) and [Ch 8](#)
- Religious groups that conduct weddings in registered buildings: [Ch 5](#) [Ch 6](#) and [Ch 7](#)
- Jewish groups and the Society of Friends: [Ch 5](#) and [Ch 6](#)
- Non-religious belief groups: [Ch 5](#) [Ch 6](#) and [Ch 7](#)
- Independent celebrants: [Ch 5](#) [Ch 6](#) and [Ch 7](#)
- Wedding venues: [Ch 7](#)
- Couples and other members of the public: [Ch 1](#) [Ch 5](#) [Ch 6](#) and [Ch 7](#)

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## RESPONDING TO OUR CONSULTATION

The Consultation Paper is available on our website at [www.lawcom.gov.uk/project/weddings/](http://www.lawcom.gov.uk/project/weddings/)

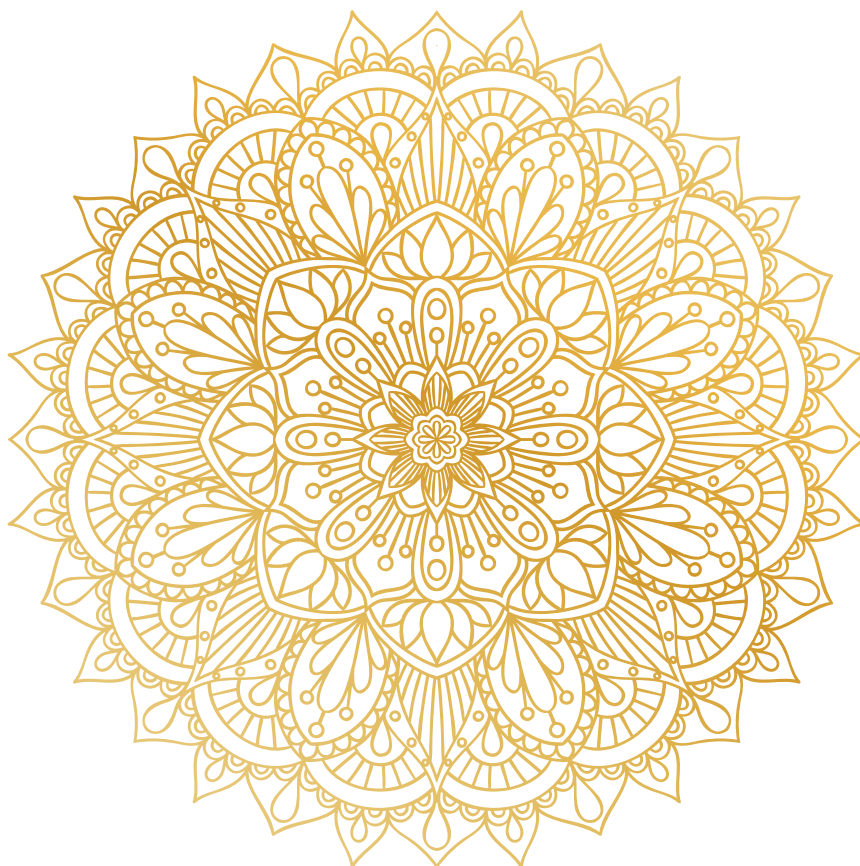
The deadline for responses is 3 December 2020.

Comments may be sent to us using the online response form, available on our website at [consult.justice.gov.uk/law-commission/weddings](http://consult.justice.gov.uk/law-commission/weddings). Where possible, it would be helpful if this form was used. Alternatively, comments may be sent:

1. by email to [weddings@lawcommission.gov.uk](mailto:weddings@lawcommission.gov.uk)
2. or by post to  
Weddings Team,  
Law Commission, 1st Floor,  
52 Queen Anne's Gate,  
London, SW1H 9AG.  
(If you send your comments by post, it would be helpful if, whenever possible, you could also send them electronically.)

We ask consultees to avoid including personal identifying information or confidential commercial information in the text of their response.

For further information about how the Law Commission conducts its consultations, and our policy on the confidentiality of consultees' responses, please see pages i to ii of the Consultation Paper.





## The COVID-19 pandemic

The COVID-19 pandemic has affected everyone. In addition to the tragic loss of life, daily life has been put on hold in England and Wales and across the world. As a result of emergency measures introduced on 23 March 2020 to prevent the spread of COVID-19, weddings were unable to go ahead, with many couples having to reschedule or cancel their weddings.

Because of the pandemic, we delayed publication of our Consultation Paper. Consultation is central to all of our projects, and pivotal to our ability to make recommendations for reform to Government. We did not think that the recent circumstances allowed us to consult meaningfully. Moreover, we were acutely aware of the sensitivity of consulting on weddings law during a time when weddings were not able to go ahead. However, we had drafted the majority of the Consultation Paper before the public health emergency. Therefore, the pandemic, and its impact on weddings, does not feature in our discussions about the current law and our proposals for general reform within the paper.

But it is important that this consultation provides an opportunity to consider the impact of the COVID-19 pandemic on weddings law. Our project will not be able to provide solutions for individuals whose wedding plans have been ruined by the current pandemic. This is because the scope of this project does not include looking at contract law, consumer protection law or insurance law, so we will not be considering issues arising between couples and vendors about postponed or cancelled weddings. However, we can learn from what has happened to ensure that a reformed weddings law is resilient, and is able to respond effectively in the event of further disruption on a similar scale.

In order to do so, we need to understand the impact that the pandemic has had on people – couples planning their weddings, local authorities, religious groups and others involved in weddings – and so we ask consultees to tell us of their experiences. See [Ch 1](#).

We also consider how our provisionally proposed scheme would operate during a national emergency, and whether specific reform is necessary to allow the rules governing weddings to be adapted to the situation of a national emergency. We have not exclusively focussed on a pandemic, but considered any emergency during which people are unable to meet in person. We make a provisional proposal for an emergency scheme that could be brought into force during a future national emergency, which would allow weddings to go ahead, including by allowing weddings to take place with each person participating by audio-visual link. See [Ch 11](#).

## HIGHLIGHTS OF OUR PROPOSED SCHEME

We suggest a comprehensive new legislative scheme to replace the outdated, overly-restrictive current law of weddings, much of which dates from 1836.

### Our provisional scheme



Allows individuals to give notice of their intended wedding remotely, and to choose the registration district where they have their in-person interview.



Provides for online publication of upcoming weddings that will be accessible to the wider community.

Allows couples to marry on UK registered cruise ships with a home port in England or Wales.



Provides a framework that could allow non-religious belief organisations (such as Humanists) and/or independent celebrants to conduct legally binding weddings, should Government decide to enable either or both to do so.

Clarifies the consequences when a couple has not complied with the required formalities, and ensures that fewer weddings conducted according to religious rites result in a marriage that the law does not recognise at all.



Allows couples and religious groups (and, if enabled to conduct weddings, non-religious belief groups) to choose where their weddings take place, without unnecessary restrictions and costs. This would allow weddings to take place outdoors (for example on beaches, in parks, in private gardens and on the grounds of current wedding venues) and in a wider variety of buildings (for example in private homes and on military sites).

Allows all couples and religious groups (and, if enabled to conduct weddings, non-religious belief groups) to choose the form their wedding ceremonies will take, enabling the law to recognise the variety of ceremonies that people use to mark their weddings, including religious ceremonies.

## Terms we use in the Consultation Paper

**“Anglican”**: the Church of England and the Church in Wales. These organisations are treated differently from other religious organisations under weddings law.

**“Forced marriage”**: a marriage which one or both of the parties entered into without free and full consent due to violence, threats or any other form of coercion.

**“Non-qualifying ceremony”**: a ceremony that results in a marriage that is neither a valid nor a void marriage because the wedding ceremony did not comply with the required formalities under the law.

**“Non-religious belief organisation”**: an organisation that professes a secular belief system that claims to explain humanity’s nature and relationship to the universe, and to teach its adherents how they are to live their lives in conformity with the understanding associated with the belief system.

**“Officiant”**: under our provisionally proposed scheme, all weddings would be attended by an officiant, who would have certain legal responsibilities. The officiant could, but would not be required to, lead the ceremony.

**“Preliminaries”**: the steps that must be taken before a couple is authorised to have a legally binding wedding. Preliminaries ensure that there are no impediments to a couple marrying each other (for example, a prior marriage or the couple being too closely related), and help to detect sham marriage and guard against forced marriage. Civil preliminaries are conducted by superintendent registrars and the Registrar General; Anglican preliminaries are conducted by the Church of England and Church in Wales.

**“Relevant national”**: a British citizen, European Economic Area national or Swiss national.

**“Schedule”**: a document issued by the registration service as part of civil preliminaries, which authorises the couple’s wedding, and is used to register their marriage. A schedule system is used in Scotland and Northern Ireland, and is anticipated to be introduced in England and Wales by regulations to be made under the Civil Partnerships, Marriages and Deaths (Registration etc) Act 2019.

**“Sham marriage”**: a marriage between parties of whom at least one is not a relevant national, and where there is no genuine relationship between them and either one or both entered into the marriage for the purpose of gaining an immigration advantage.

**“Void marriage”, “invalid marriage” and “avoid a marriage”**: a void marriage or a marriage which has been avoided, is invalid or a nullity, meaning the marriage is treated as never having come into existence. The parties to a void marriage are entitled to apply for financial relief, as if they were divorcing; this is not the case for parties to a non-qualifying ceremony.

**“Voidable”**: a marriage is voidable if certain criteria, for example, non-consummation of the marriage, can be established. Unlike a void marriage, a voidable marriage is a valid marriage until it has been annulled by a decree of nullity.

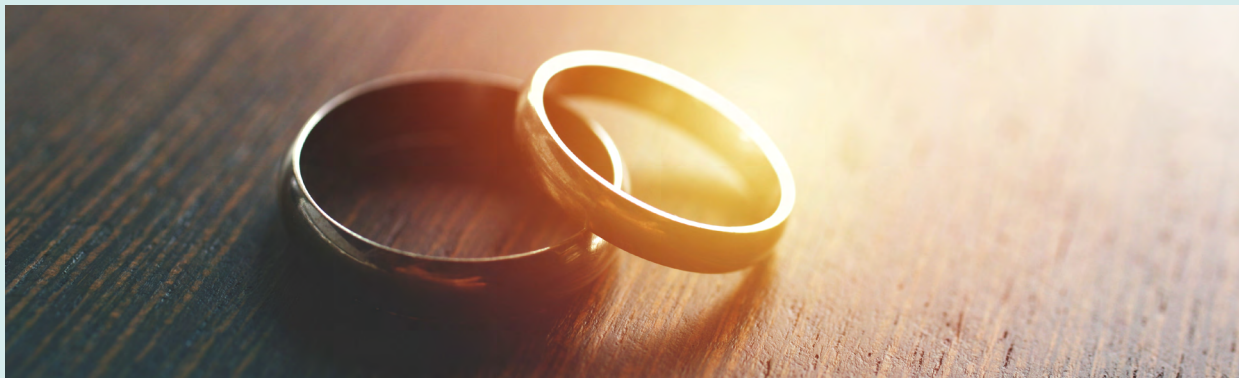
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## THE CURRENT LAW

Ch 1

Ch 2

“Weddings law” means all of the formalities which a couple is required to go through in order to have a legally recognised marriage. The law governing weddings includes the preliminaries to the wedding (also known as giving notice), rules about the ceremony itself, including where it can take place, who must attend and what must be said, and the registration of the marriage.



The Marriage Act 1949 governs weddings in England and Wales.

The current law is a complex maze of different rules for different types of ceremonies.

Couples must choose between a civil or a religious ceremony.

Religious ceremonies are further divided by the law into four different types:

- Anglican (meaning the Church of England and the Church in Wales),
- Jewish,
- Quaker (meaning the Society of Friends), and
- any other religious group.

Couples having an Anglican wedding can get authority to marry from the church; all other couples must give notice at the register office.

With few exceptions, all couples must have their wedding either in a place of worship or a licensed secular venue;<sup>1</sup> they cannot marry outdoors, even in the garden of a licensed venue. Jewish and Quaker weddings, and to a degree also Anglican weddings, are excepted from these strict rules about place.

At present, couples have no option to have a ceremony reflecting non-religious beliefs (such as Humanist beliefs). Interfaith weddings – which combine elements from different traditions – are not facilitated, and couples have no choice to include anything more than incidental religious content into their civil weddings.

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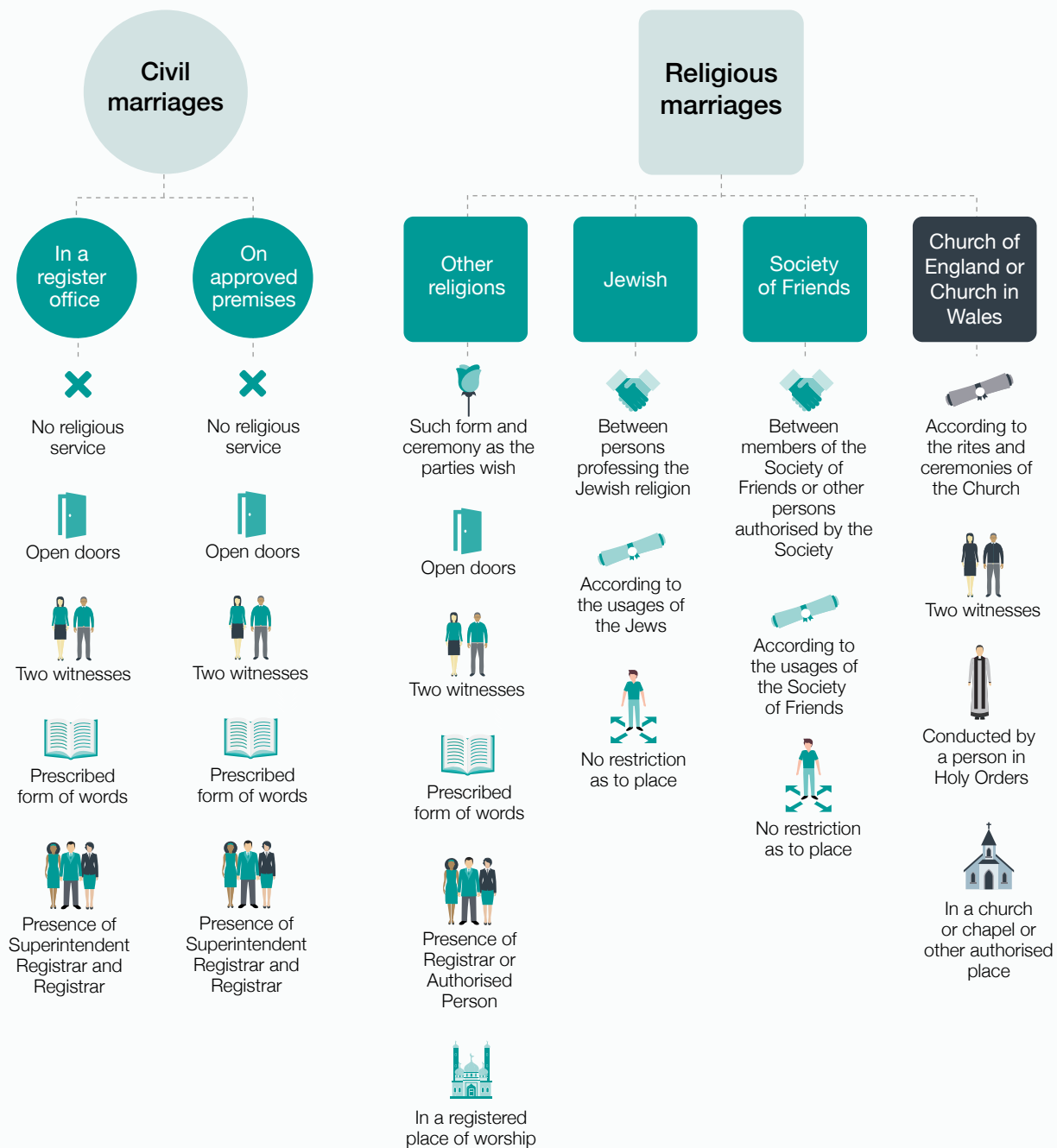
<sup>1</sup> Either in a register office or on approved premises.



# ROUTES TO MARRIAGE



## Solemnization of marriages under the Marriage Act 1949



◆ 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

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If a couple fails to comply, either intentionally or without realising, with the legal requirements for a wedding, the law might not recognise them as being legally married. This risk arises most often with some religious wedding ceremonies. Couples often only discover their lack of legal status when their relationship breaks down, or on the death of one of them. When that happens, the parties may have no legal rights against each other, or against their estate if one of them has died. In practice, the effect of this position will be felt by the financially weaker party, disproportionately women, and can cause hardship for any children of the relationship.

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The current law has developed incrementally over centuries. The Marriage Act 1949 was a consolidating measure which did not fundamentally change the law. The central elements of the law date from much earlier: the 18th and 19th centuries.





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However, without question, England and Wales have experienced profound social changes since the central elements of weddings law were settled in the past two centuries. As a society, we are far more culturally and religiously diverse, and we are far more secular.

Unsurprisingly, then, the law does not work for many. It restricts how couples are permitted to celebrate their weddings, for historical rather than current policy reasons. For many couples, how they wish to celebrate their wedding, and how the law requires them to celebrate it, often conflict. Because of unnecessary regulation, many couples cannot marry in a place that is meaningful to them and cannot have a ceremony with the vows, rituals and music that reflects their beliefs.

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Some couples follow their own religious traditions and celebrate in a way the law does not recognise at all, sacrificing the protections of legal marriage. Others have – and pay for – two weddings: one that meets the legal requirements, and one that meets their own beliefs and desires. Others may travel to another jurisdiction which permits a wider range of weddings. And others may choose not to marry at all.





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## EXAMPLES OF PROBLEMS WITH THE CURRENT LAW



### Inconsistency and complexity

There are no universal requirements for who must attend a wedding. The statutory requirements vary depending on the type of wedding.

- Civil weddings must be attended by two registration officers – a superintendent registrar and a registrar of the registration district – and two witnesses.
- Anglican weddings must be attended by a person in Holy Orders and two witnesses.
- Other religious weddings (except Jewish and Quaker weddings) must be attended by a registrar of the registration district or an authorised person of the place of worship, and two witnesses.
- Jewish and Quaker weddings do not have to be attended by anyone: not the person registering the marriage or witnesses. However, the law requires certain persons to register those marriages, with witnesses required to sign the registration forms.



### Inefficiency

The current law requires that a person giving notice by way of civil preliminaries must do so in person in the registration district where they have resided for the past seven days. This residency requirement is not serving any clear purpose.

Notice of the intended marriage is then publicised by posting it at the local register office. In today's largely urban and mobile society, posting the notice in the local register office is not an effective way of discovering legal impediments to a marriage (such as a prior existing marriage).



### Unnecessary and costly regulation

The current law has many detailed regulations about the premises that can be approved for civil weddings. These rules and the application process often impose significant costs on venues wanting to host civil weddings. The costs of approval and compliance may prove too expensive for some small

businesses, who therefore are not able to offer these services to the public.

The purpose of these regulations is not clear. They do not appear necessary from a safety or regulatory perspective. But the result seems to limit competition among businesses and to reduce choice and increase costs for couples getting married.



### Unfair and restrictive

The law requires couples to have either a religious wedding or a civil wedding.

- There is no option to have a wedding according to beliefs that are non-religious.
- The law does not accommodate couples who have different beliefs, including couples made up of persons of different faiths, and couples in which one person is religious and the other is not. Couples wanting an interfaith wedding will generally have to choose between a ceremony that reflects the faith or beliefs of one and a ceremony that reflects the faith or beliefs of neither.
- The law does not allow couples to include elements in a civil wedding that reflect religious beliefs.

The rules governing where various weddings can take place only accommodate couples whose beliefs dictate that they marry indoors, in particular types of venue. The rules

restrict couples' choice as to where to get married, and is not apparent that there is good reason to do so.

- Anglican weddings must generally take place in an authorised church or chapel. Save for Jewish and Quaker weddings, all other religious weddings must take place in a place of worship. However, some religious groups do not see their place of worship as the best or most meaningful place to get married: we understand these include some Muslims, Jains, Hindus, Buddhists and Pagans.
- Couples having a civil wedding are also constrained by rules on where they can get married. They are limited to register offices and approved premises. For premises to be approved, by application through the local authority, the premises must be a permanently immovable structure made up of at least one room, or a permanently moored boat or vessel. Outdoor locations are not permissible.

## SCOPE OF THE PROJECT

### Ch 1

In 2015, the Law Commission conducted a scoping review of weddings law, to identify the issues that would need to be addressed in order to develop proposals for reform. We published our conclusions from this preliminary work in *Getting Married: A Scoping Paper*.

Informed by our earlier work, our current project aims to recommend a reformed law of weddings that allows for greater choice within a simple, fair and consistent legal structure.

**In our Scoping Paper we identified four principles of reform. These, plus one further principle, will underpin our recommendations for reform.**

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

We are considering:

- The legal preliminaries that should be required prior to a wedding.
- Where weddings should be able to take place, considering, for example, weddings outdoors, at sea, and on military sites, with a view to removing restrictive regulations.
- Which groups should be able to conduct legal marriages, including considering how a scheme could include weddings conducted by non-religious belief organisations and independent celebrants. The Law Commission will not, however, be making recommendations on whether as a matter of policy new groups should be allowed to conduct legally binding weddings, which is a decision for Government.
- Whether specific vows should be required during a ceremony.
- How marriages should be registered.
- What the consequences should be for couples who do not comply with any requirements.

Our focus is on weddings law, meaning that the following matters are outside the scope of the project:

- Who is eligible to marry (for example, based on age or mental capacity).
- The rights and responsibilities of marriage.
- The law of divorce.
- The recognition of foreign weddings.
- Ancillary wedding services (for example, flowers, catering, or insurance).
- The formation of civil partnerships (as it will be for Government to consider whether to make corresponding provision for civil partnership ceremonies).

**There are some policy matters that we are not considering in this project:**

- The introduction of universal civil marriage (although we will be considering universal civil preliminaries).
- The duty of the Church of England and the Church in Wales to conduct marriage ceremonies of their parishioners.
- Although the review will consider how weddings by Humanist and other non-religious belief organisations could be incorporated into a revised or new scheme, and how provision could be made for independent celebrants to conduct weddings, the Law Commission will not make recommendations as to whether the groups who can solemnize marriages should be expanded.
- Whether or not religious groups should be obliged to solemnize marriages of same-sex couples, which was decided by Parliament following wide public debate.

## OVERVIEW OF OUR PROPOSED SCHEME

### Ch 3

We think the scheme that we propose would make the law simple, fair and certain. In our initial view, it would protect both the state's legitimate interest in weddings law and individuals' interests – in both cases to provide clarity and certainty about whether a marriage is legally recognised, and to protect against forced and sham marriages. At the same time, our scheme seeks to remove regulation that goes beyond what is necessary to protect the state's interest and the interests of individuals. By ensuring that the law does not regulate weddings unnecessarily and unjustifiably, our proposed scheme seeks to allow all couples more freedom of choice in getting married. It would enable all couples to have a wedding ceremony that is meaningful to them, protecting their freedom of expression and belief.

However, our proposed scheme is only provisional, showing our initial thinking. Our final recommendations for reform will be developed in light of consultation responses. We encourage you to respond to our consultation.



### Regulation of the officiant, not the location

Our provisional scheme is based on regulation of the officiant. That marks a significant shift in focus from the current law, under which regulation is generally based around the building in which the wedding takes place. The change would remove some of the unnecessary restrictions of the current law, and help to address unfairness in the treatment of different groups.



### Universal rules for all weddings

With very few exceptions, under our proposed scheme, the same rules would apply to all weddings. Again, that is different to the current law, under which different rules often apply to Anglican weddings, Jewish and Quaker weddings, other religious weddings, and civil weddings.

## The Path to Marriage

### Preliminaries



28 days

### Ceremony



Within 1 year

### Registration



Within 7 days

\*Weddings following Anglican preliminaries must generally take place within 3 months, and must take place in an Anglican church or chapel or the place authorised by the Church. The document authorising the marriage, which will be signed at the ceremony, is called a marriage document.



## PRELIMINARIES

### Ch 4

Before getting married couples would be required to give notice of their intention to marry. The purpose of preliminaries is to allow any impediments to a marriage to be discovered (for example, age, capacity, prior marriage, or the couple being too closely related), and to allow investigations to take place to identify forced and sham marriages. Our proposed scheme directs much of the focus of regulation onto the preliminaries stage: we think that, with robust preliminaries to protect the interest of the state, the law could give couples more choice about the wedding ceremony itself.

Because of the importance of preliminaries to assessing whether a wedding should go ahead, and in protecting the state's interest, a wedding would not result in a valid marriage if the parties had not given notice.

Currently, most couples must give notice to the registration service. However, couples having an Anglican wedding can instead give notice to ecclesiastical authorities, through Anglican preliminaries, most usually by having banns called. Our proposed scheme could retain the existing dual systems of preliminaries, or could instead be a system of universal civil preliminaries.

The image shows a person's hands holding a tablet computer. The screen displays a digital 'APPLICATION FORM' with a blue header. The form is divided into three main sections: '1. Personal information', '2. Application', and '3. Sign & Submit'. The '1. Personal information' section includes fields for 'First name', 'Middle name', 'Last name', 'Home address', 'City', 'State', 'ZIP code', 'Country', 'Phone number', 'Date of birth (DD MM YYYY)', 'Email address', 'Gender' (with 'F' and 'M' options), and 'Employment status' (with 'Employed', 'Not employed', and 'Self-employed' options). The '2. Application' section includes a field for 'Are you married?' (with 'Y' and 'N' options) and a field for 'Citizenship country'. The '3. Sign & Submit' section includes a large text area for 'Additional comments'. A blue button labeled 'NEXT STEP >' is located at the bottom right of the form.



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## Civil preliminaries

In order to give notice of an intention to marry, an individual would not need to be resident in the registration district where they give notice. Civil preliminaries would no longer be tied to rules about registration districts.

Each member of the couple would be required to give at least 28 days' notice of the intended marriage. There would continue to be an exception for those who are not relevant nationals (meaning someone who is not a British citizen, European Economic Area national or Swiss national) with certain immigration statuses, who may be subject to an extended 70-day waiting period. There would also continue to be discretion for the waiting period to be shortened for compelling reasons, and a right for the waiting period to be shortened for people who are terminally ill.

The notice process would be split into two steps:



the initial giving of notice, which might take place remotely (for example, by post or online); and



an in-person meeting with a registration officer.

Both steps would be able to take place at the same time, as they do now, with an individual giving notice in person. However, the steps would also be able to be taken separately, with the first, giving notice, starting the 28-day waiting period.<sup>2</sup> Dividing the process into two steps will have the significant advantage of facilitating British or overseas couples who are not resident in England and Wales to marry here, by eliminating the requirement that they travel to England and Wales twice or for a minimum of five weeks.

To give notice, each party would be required to submit an application, providing information and evidence of their identity, including their nationality. The parties would be required to identify their chosen officiant, to allow the registration service to ensure that the person was authorised to act as an officiant. Each party would also identify the register office where the in-person meeting will take place, so that they could choose the one most convenient for them, whether near to their work, their home, or where they were getting married.

Couples who are currently required by immigration law to give notice at a designated register office (that is, most couples where one of the couple is not a relevant national) would still be required to have their in-person interview at a designated register office. Someone who was terminally ill, housebound or detained would be able to indicate that they required a registration officer to travel to them in order to complete the notice process.

To give notice, the application would have to be accompanied by payment of the nationally prescribed fee. There could be a different fee for persons who are not relevant nationals as there is under the current law, to reflect the additional checks the state might undertake to investigate potential sham marriages. There could also be different fees for someone who is housebound or detained, and for someone with a terminal illness. Each fee would be calculated based on an England and Wales-wide assessment of the average cost to local authorities for providing the service. However, we consider whether the fee for a person who is terminally ill should be set below the cost-recovery level, on compassionate grounds.

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<sup>2</sup> There will need to be separate consideration for couples either of whom are not exempt persons – meaning they are not relevant nationals, do not have the appropriate immigration status, and do not hold a relevant visa. These individuals are required to give notice at a designated register office and are subject to their notice period being extended to 70 days by the Secretary of State to investigate whether the marriage is a sham.

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Once notice was given, the registration service would publicise the intended marriage on a national online database of notices, which could also be accessed by members of the public at any register office. The entry would note the names of each party. Someone who saw the notice and knew of an impediment to the marriage could contact the registration services to file an objection.

The second stage, the in-person meeting, would be required to take place before the registration service could authorise the wedding to take place. We have asked whether the meeting should be required to be three, seven, or another number of days in advance of authority being given. This meeting would give the registration officer an opportunity to check that the original documents matched the copies given in the notice application, ensuring that the person giving notice was the same person identified in the application. By ensuring that each party was seen alone, it would also be an

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opportunity for the registration officer to offer support (or for the local authority to apply for a forced marriage protection order) if there were concerns that one of the parties was being forced into the marriage.

For most people, this meeting would take place in a register office. However, the registration officer would continue to travel to persons who are housebound, detained or terminally ill in order to have the in-person meeting.

We consider the possibility that this meeting should be able to take place remotely, using technology, for example, by video conference. Before remote interviews could be introduced, however, the process would need to be carefully scrutinised to ensure that safeguards were in place to enable people who might be at risk of forced marriage to seek advice or support from the registration officer during the interview.





Provided no impediments were discovered, at the end of the 28-day waiting period, the couple would be issued a schedule, a document authorising the wedding to take place. The schedule would be valid for 12 months, allowing the wedding to take place any time within that period.

A wedding ceremony conducted after the schedule had lapsed would be void.

The schedule would name the officiant attending the wedding. However, couples would be able to request that the name of the officiant be amended in advance of the wedding; moreover, if an officiant needed to be replaced on very short notice, for example, due to illness, another officiant would be able to act in their place without the schedule being amended.

## Anglican preliminaries

We ask consultees whether there should be universal civil preliminaries; therefore, our scheme could include a proposal to abolish the legal effect of Anglican preliminaries. Of course, even if Anglican preliminaries ceased to have legal effect, the Church of England and Church in Wales could continue to require that they precede Anglican weddings and so could, for example, still require banns to be called.

If retained, Anglican preliminaries would continue in much the same form that they exist now. We invite views on some limited reforms to simplify banns and common licences. Under the schedule system that Parliament has recently supported,<sup>3</sup> following Anglican preliminaries, couples would be issued with a marriage document, similar to a schedule, which the couple, person conducting the ceremony and witnesses would sign following the ceremony and which would be returned for registration of the marriage.

The fees for Anglican preliminaries would continue to be set by the Anglican churches.

<sup>3</sup> Civil Partnerships, Marriages and Deaths (Registration etc) Act 2019, s 1(2)(a); see also Explanatory notes to the Civil Partnerships, Marriages and Deaths (Registration etc) Act 2019, paras 3 to 7.



## OFFICIANTS

Ch 5

Ch 11

Our scheme could be described as an officiant system: the focus of the regulation would be on the officiant, with the law prescribing their role and responsibilities and the categories of person who could act as officiants.

Currently, the law is complex and inconsistent. How the person recognised under the law as having a role to play is described, what their responsibilities are, and how they are appointed vary, depending on whether it is an Anglican wedding, a Jewish wedding, a Quaker wedding, a wedding by another religious group, or a civil wedding. Rationalising these roles accords with our principle of providing for certainty and simplicity.

### The requirement for an authorised officiant

All weddings would be required to take place in the presence of one authorised officiant. This rule would apply equally to civil weddings, so (in contrast to the current law) only one registration officer would be required to attend.

Because of the importance of the officiant's role, a wedding that was not officiated at by a person authorised to play that role would not bring about a valid marriage, if the parties were aware that their officiant was not authorised or that an officiant was not in attendance. It would also be an offence for someone who was not authorised to purport to be an officiant and to deliberately mislead the couple, or either of the couple, about the effect of a ceremony.



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## The role and responsibilities of an officiant

The officiant may or may not conduct or lead the wedding ceremony under our proposed scheme. However, their key role would be to ensure that the legal requirements of the ceremony were met. They would have a duty to ensure that:

1. the parties freely expressed consent to marry each other;
2. the other requirements of the ceremony were met (such as the requirement for two witnesses); and
3. the schedule was signed.

As a part of their role, officiants would also be responsible for upholding the dignity and solemnity of marriage. Guidance to give advice to officiants on how to fulfil their duties would be issued by the General Register Office, for example, in relation to forced and sham marriages.

A failure of an officiant to comply with the three duties in officiating at a wedding, or a failure in their responsibilities to uphold the dignity of marriage, would not affect the validity of the marriage (except for a situation in which the parties had not expressed consent to the marriage). Nor would it, on its own, amount to a criminal offence. However, a failure could have consequences for the officiant's continuing authorisation.

But an officiant would be committing an offence if they deliberately or recklessly misled either or both of the parties about the legal effect of the ceremony. For example, it would be an offence for an authorised officiant to lead a couple to believe that their wedding would result in a valid marriage even though the couple had not given notice.

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## The categories of officiant

In addition to identifying a single role, that of an officiant, we are also seeking to rationalise the rules governing who can be authorised to be an officiant at a religious or a civil wedding. Our Terms of Reference also require us to consider how the law could be reformed to incorporate two new categories of officiants, if Government decides to enable either or both groups to solemnize marriages: officiants appointed by non-religious belief organisations and independent officiants.

Depending on what Government decided, officiants would fall into four, or possibly five, categories:

1. registration officers;
2. Anglican clergy;
3. nominated officiants;
4. (if authorised by Government) independent officiants; and
5. maritime officiants.



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## Registration officers

Registration officers would officiate at civil weddings. They would continue to be appointed by local authorities, with the terms of their appointment set by the local authority which employed them.

## Anglican clergy

Anglican clergy would officiate at Anglican weddings. They would be authorised by virtue of their ordination, by being in Holy Orders.

## Nominated officiants

Religious organisations other than the Anglican churches would be able to nominate officiants to conduct weddings in accordance with their rites, beliefs or rules.

If Government determined that non-religious groups should be able to solemnize weddings, non-religious belief organisations would be able to nominate officiants in the same way as religious groups.

Nominations would be made by the organisation's relevant governing authority to the General Register Office. To make a nomination, the nominating body would have to pay a prescribed fee. The General Register Office would be responsible for keeping a publicly available list of all nominated officiants.

In order to nominate officiants, a religious organisation would have to fall within the description of a religious body given by the Supreme Court in *R (Hodkin) v Registrar General of Births, Deaths and Marriages*:

a spiritual or non-secular belief system, held by a group of adherents, which claims to explain mankind's place in the universe and relationship with the infinite,

and to teach its adherents how they are to live their lives in conformity with the spiritual understanding associated with the belief system...<sup>4</sup>

If authorised by Government to conduct weddings, non-religious belief organisations would be required to meet the following definition in order to nominate officiants (a definition we have based on the description of a religious body given in *Hodkin*):

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

We consider whether the definition of a non-religious belief organisation should be limited further, by a list of exclusions of the types of group that would not qualify to nominate officiants, such as political parties, trade unions, or sporting organisations.

In addition to having either a sincerely held religious or non-religious belief, to nominate officiants, religious and non-religious belief organisations would further be required to have:



at least 20 members who meet regularly for worship or in furtherance of their beliefs, and



a wedding service or a sincerely held belief about marriage.

We also consider whether there should be an express exclusion preventing organisations from nominating officiants if the organisation promotes purposes that are unlawful or contrary to public policy or morality.

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4 [2013] UKSC 77, [2014] AC 610 at [57].





The special provisions in the current law, under which religious organisations can only conduct same-sex marriages if they opt into doing so would continue under our proposed scheme, in keeping with the Terms of Reference of this review.<sup>5</sup> As under the current law, the Church of England and Church in Wales could not opt in under the scheme that would apply to other religious groups.

Nominating bodies would nominate individuals to act as officiants. We also consider whether the nominating bodies should be able to nominate persons by the office that they hold within the organisation, which we call “office holders”.

To be nominated as an officiant, an individual (or office holder) would have to be a “fit and proper” person to officiate at weddings. Meeting this test would include having undertaken relevant training, which could be established for nominated officiants in a number of ways: for example, by a person (or office holder) training as, or having performed the role of, a minister, priest, rabbi, imam or other religious official; having legal responsibility to register marriages under the current law; or having specifically trained as a wedding officiant.

Nominated officiants would be required to undertake ongoing training, which could be satisfied by engaging with guidance updates by the General Register Office or by completing training provided by their nominating body.

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<sup>5</sup> In accordance with our Terms of Reference, the special provisions would not apply to non-religious belief organisations, which, if authorised by Government to officiate at weddings, would not be permitted to discriminate between opposite- and same-sex couples.



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## Independent officiants

If Government decided to enable independent celebrants to solemnize weddings, individuals would apply to the General Register Office for authorisation. The General Register Office would be responsible for keeping a list of all independent officiants.

To be authorised, independent officiants would have to demonstrate that they were a “fit and proper” person to officiate at weddings. For independent officiants, the

meaning of a “fit and proper” person would be prescribed: it would include requirements that they were at least 18 years of age, understood the legal requirements of being an officiant, and had undertaken prescribed training, which would be either provided by the General Register Office or approved by the Registrar General.

To retain their authorisation, independent officiants would have to undertake ongoing training as prescribed by the Registrar General.



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## Maritime officiants

Under our proposed scheme, maritime officiants would conduct civil weddings in international waters, on board cruise ships (or possibly other passenger vessels) that were registered in the United Kingdom with a port of choice in England or Wales.

Only deck officers (the captain, chief mate, and certain other senior officers) of relevant vessels would qualify. On application to the General Register Office, the individual would have to meet the same requirements as those imposed on independent officiants: that they were a “fit and proper” person, meaning that they were at least 18 years of age, understood the legal requirements of being an officiant, and had undertaken the prescribed training.

Maritime officiants would be required to complete the ongoing training prescribed by the Registrar General.

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## Withdrawal of authorisation

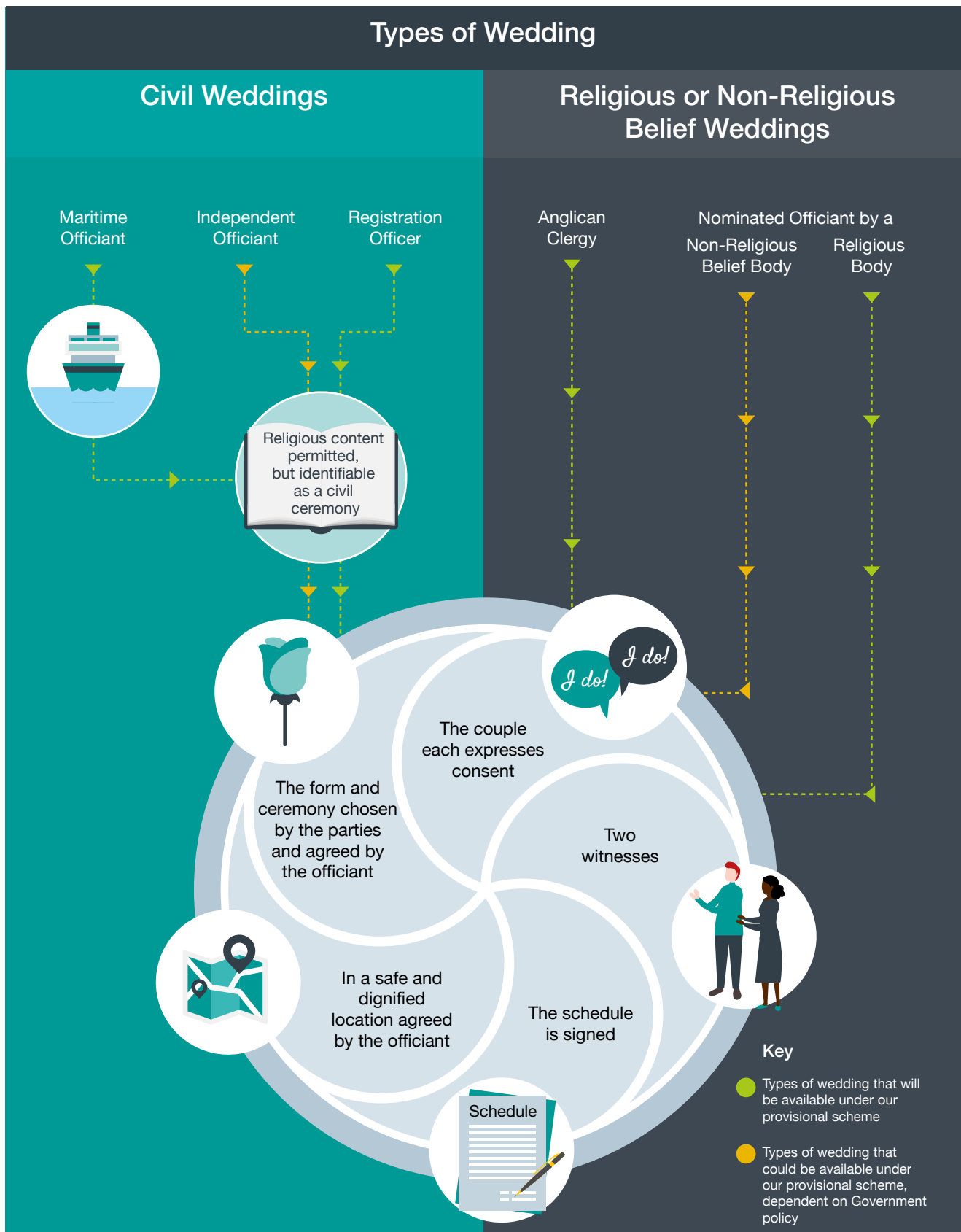
If a nominated officiant, independent officiant, or maritime officiant failed in their duties and responsibilities, or ceased to satisfy the fit and proper person standard, then they would be subject to having their authorisation withdrawn by the General Register Office.

Although the General Register Office would not have any authority to withdraw authorisation of registration officers or Anglican clergy, those officiants would nevertheless be expected to comply with their duties and responsibilities under the law. We anticipate that local authorities and the Church of England and the Church in Wales would act appropriately to provide support to or sanction officiants who did not comply.



# CEREMONY

Ch 6





Because the focus of our proposed scheme is on regulating officiants, there is less regulation of other aspects of the law. Therefore, our proposed scheme gives couples much greater flexibility and choice about the wedding ceremony itself than they have under the current law.

The requirements for all wedding ceremonies would be the same: there would no longer be special rules governing the form of Anglican, Jewish or Quaker wedding ceremonies. Instead, all ceremonies would be conducted according to the form and ceremony chosen by the couple and agreed to by the officiant. The one exception to this that we provisionally propose is that, although religious content would be permitted during civil ceremonies, the ceremony would be required to be identifiable as a civil ceremony rather than a religious service.

Of course, religious and (if enabled by Government to conduct weddings) non-religious belief bodies would be entitled to insist on their own requirements, in relation to whose weddings they would conduct, and the content of the weddings that they conducted.

The main requirement of any wedding ceremony would be that the parties consent to the marriage; without an expression of consent by each of the couple, no marriage would be formed at all. During the ceremony, therefore, each party would be required to express their consent to be married to the other, whether orally or otherwise. This expression of consent could be according to religious rites or other beliefs: for example, in a Jewish wedding, a bride could express her consent by accepting the groom's ring on her finger. The marriage would be formed when the parties had expressed their consent. The schedule itself would contain a declaration that the parties had consented, or did consent, to the marriage, so that if the content of the ceremony did not

contain an expression of consent, signing the schedule would itself constitute consent. Every ceremony would also be required to be witnessed by two people.

The fee for a registration officer to officiate at a civil wedding would be prescribed nationally. The fee would depend on where the wedding took place. There would be one fee set for a simple "statutory" wedding in the register office, a type of ceremony under the current law. For weddings officiated by registration officers that take place anywhere other than the register office, there would be an additional fee, charged at a prescribed hourly rate, to account for the time the registration officer took in travelling to and from the ceremony. We consider whether the fee for a registration officer to officiate at a wedding involving a person who is terminally ill should be set below a cost-recovery level, or whether there should be no fee at all. Local authorities could also charge additional fees, set by each local authority on a cost-recovery basis, for discretionary services, such as the registration officer conducting the ceremony or helping the couple personalise their vows.

Other officiants would determine their own fees. However, they would be subject to general rules in relation to the setting of fees: nominated officiants would be prevented from operating on a commercial basis; and maritime officiants and independent officiants could operate for profit, but would not be permitted to act in a conflict of interest with their role as authorised officiants.





## LOCATION

Ch 7





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The focus of our proposed scheme on regulating the officiant enables weddings to take place at a much greater variety of venues than is currently permitted. Indeed, under our proposed scheme, and in line with the approach taken in many other jurisdictions, a wedding would be legally permitted to take place anywhere, including outdoors, in a private venue such as a home or on a military site, and on inland, coastal and territorial waters. There would be no requirement for public accessibility or open doors. The form and validity of the marriage would not depend on where the wedding ceremony was held.

There would also be no requirement for the location of a wedding to be pre-approved by the state, eliminating the unnecessary regulation in the current law. The location of a wedding would be subject to the officiant's consent. To give consent, the officiant would be responsible for considering safety and dignity, with guidance on how to do so from the General Register Office. Additionally, we consider whether there should be an optional scheme for pre-approval; if there were, some venues would already have been determined to be safe and dignified, removing any need for an officiant to make their own assessment of safety and dignity.

Any fee charged by a local authority for a registration officer to determine whether to agree to conduct a wedding in a particular location would be set by the individual local authority on a cost-recovery basis.

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Of course, religious and (if enabled by Government to conduct weddings) non-religious organisations would be entitled to insist on their own requirements about where a wedding could take place, such as requiring that a wedding take place in a church, chapel, meeting house, or gurdwara. Nominated officiants would therefore only consent to officiate at a wedding in a place that met the religious or non-religious belief organisation's own requirements.

We also consider whether civil weddings should be prevented from taking place in religious venues. If non-religious belief weddings are enabled by Government, we also ask whether the law should prevent civil weddings from taking place in non-religious belief venues, non-religious belief weddings from taking place in religious venues, and religious weddings from taking place in non-religious belief venues (bearing in mind that non-religious belief organisations may not have designated meeting places in the same way that many religions do).

Our provisional scheme could also allow civil weddings to take place at sea, in international waters on cruise ships registered in the United Kingdom with a port of choice in England or Wales. We additionally consider whether weddings should also be permitted on other vessels. Weddings in international waters would be officiated at by maritime officiants, or, if enabled by Government, independent officiants who were employed on board the vessel. We also ask whether there is any demand for religious weddings or non-religious belief weddings to take place in international waters, in the presence of a nominated officiant.

## REGISTRATION

### Ch 8

The final stage of the legal process of a wedding would be registration of the marriage. Under our proposed scheme, although a marriage's validity would not depend on registration (as a marriage would have already had been formed during the ceremony), registration would continue to have evidential value in establishing that a valid wedding had taken place. Moreover, registration serves an interest of the state: because marriage affects the status of an individual and gives rise to legal rights and obligations, the state has an interest in maintaining a record of marriages.

The couple, witnesses and officiant would be required to sign the schedule at the end of the ceremony. The couple could note on the schedule the location where the wedding took place, and both their parents' names and occupations.

Couples would have the option of their schedule being in Welsh only.

Our scheme takes as its starting point how Parliament has envisioned a schedule system would operate under the Civil Partnerships, Marriages and Deaths (Registration etc) Act 2019. Accordingly, the couple would be legally responsible to return the signed schedule to the registration service, within one week of the ceremony.<sup>6</sup> We provisionally propose that a couple who married on a cruise ship in international waters would not be subject to the fixed deadline, but would instead have to return the schedule as soon as was reasonably possible.

In the future, it might be possible for the schedule to be returned electronically, or for the schedule itself to be in electronic form.

There would be no separate fee for registration. Fees would continue to be charged for making corrections to, and obtaining copies of, marriage records.



<sup>6</sup> Registration of Marriages Regulations (draft statutory instrument), deposited in the House of Lords Library on 17 April 2018 by Baroness Williams of Trafford.



## VALIDITY

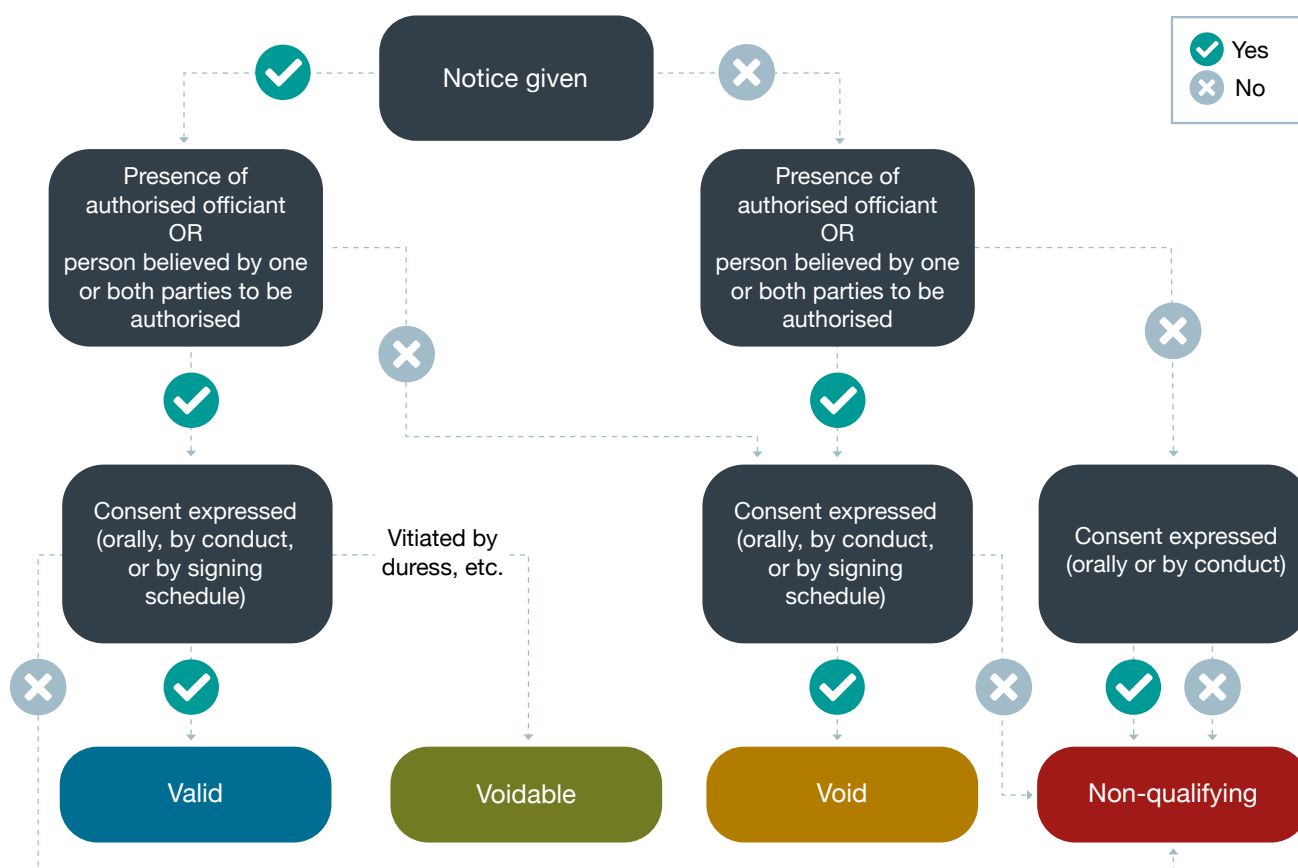
### Ch 10

Guided by our principles that the law should be simple, certain, fair and consistent, our scheme seeks to make the minimum requirements for a valid marriage clear, and seeks to make the consequences of failing to comply consistent for all weddings.

If a wedding does not create a valid marriage, the marriage will either be void or non-qualifying. The categorisation of a ceremony as non-qualifying as opposed to a void marriage has significant consequences. If a marriage is void, a court has the same powers to reallocate assets between the couple as when granting a divorce. In the case of a non-qualifying ceremony, in contrast, a court has no such powers and the couple are treated as if they were

cohabitants. This can leave individuals vulnerable, particularly where they either did not realise that the ceremony they went through would not be legally recognised, expected that a legally recognised ceremony would follow, or acquiesced with some reluctance. However, it is also important to take into account the interests of the state that certain formalities should be observed in order for a marriage to be valid and that there should be certainty as to whether a couple is married. Moreover, some couples will wish to retain the option of a non-legally binding ceremony.

Under our proposed scheme some failures will result in a marriage being void, and in some cases the interests of the state, or the couple's lack of consent to a legally binding marriage, will still result in a ceremony being classified as non-qualifying.



## **Religious-only weddings**

Religious-only weddings conform to the beliefs and practices of a religion but are conducted outside the legal framework, and so are often determined by courts to be non-qualifying ceremonies.

Non-qualifying ceremonies may arise more frequently within certain faiths, including Muslim, Hindu and Sikh groups, which developed their own rich traditions and ways of conducting weddings separately from the development of the legal rules governing weddings in England and Wales. The evidence suggests that non-qualifying ceremonies are a growing issue within some Muslim communities in particular.

The categorisation of a ceremony as non-qualifying as opposed to creating a void marriage has significant consequences. If a marriage is void, a court has the same powers to reallocate assets between the couple as when granting a divorce. In the case of a non-qualifying ceremony, in contrast, a court has no such powers and the couple are treated as if they were cohabitants. We are aware of the hardship caused by a lack of legal recognition, which is experienced disproportionately (though not invariably) by women who have been financially dependent on their partners for the duration of the religious-only marriage or where all of the assets are held in the man's name.

Our provisional proposals will make it easier for religious weddings to comply with the legal requirements.

- A religious wedding will not need to take place in a place of worship that is registered for weddings, enabling couples to have a legally binding wedding at a venue that is meaningful to them and their faith.
- There will be no prescribed words that have to be included in a ceremony, enabling couples to have a legally binding ceremony which reflects the traditions in their faith.

Our provisional proposals also seek to reduce the circumstances in which couples find themselves in a marriage which has no legal effect.

- A marriage will be valid if the couple give notice and consent to be married in the presence of an officiant, or a person whom at least one of them believes to be an officiant.
- A marriage will be void (rather than non-qualifying) if the couple do not give notice but still consent to be married in the presence of an officiant, or a person whom at least one of them believes to be an officiant.

We also provisionally propose to make it an offence for an officiant, or a person who purports to be an officiant, to deceive a couple about the legal effect of their ceremony.

However, we do not think that our project is able to solve this issue entirely. Our project is limited to considering the law governing weddings. Hardship can arise in a religious-only marriage when the couple has celebrated their relationship according to religious rites, even when both knew that the ceremony would not be legally recognised. But ultimately the unfairness and hardship does not result from the ceremony. It arises from the couple's ensuing relationship (and the fact that the couple did not enter into a legally recognised marriage at a later date). We agree that a legal remedy would be appropriate in these cases. However, the need for a remedy derives from what has happened during the relationship, rather than from the ceremony itself, and so falls outside the scope of what can be achieved by reform to weddings law.

Religious-only weddings are a specific instance of a wider difficulty that arises at the end of a relationship between a couple who were never married in the eyes of the law. Ultimately, we do not think that couples who have had a religious ceremony can be treated differently at the end of their relationship from couples who have had a non-religious, non-legally recognised ceremony, or who have had no ceremony at all. We consider that the correct approach in such cases is to focus on the consequences of the relationship coming to an end, rather than on the ceremony.

Reform of the law relating to cohabitation would be able to ensure protection of those whose religious ceremonies have no legal consequences, as well as those who have had a non-religious ceremony with no legal consequences or have not had any ceremony at all. We draw attention to our earlier proposals for such reform.<sup>7</sup>

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<sup>7</sup> Cohabitation: The Financial Consequences of Relationship Breakdown (2007) Law Com No 307.

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## CONCLUSION

We hope that you will read the full chapters in the Consultation Paper on the topics of interest to you, and respond to the questions in the paper.

The full Consultation Paper can be found at [www.lawcom.gov.uk/project/weddings/](http://www.lawcom.gov.uk/project/weddings/), and the online response form can be found at [consult.justice.gov.uk/law-commission/weddings](http://consult.justice.gov.uk/law-commission/weddings).





