

# When is a wedding not a marriage? Exploring non-legally binding ceremonies

A Briefing Paper for the Law Commission



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## **About this briefing paper**

This briefing paper presents the findings from a Nuffield-funded project exploring non-legally binding weddings ceremonies. It analyses the provisional proposals for reform of weddings law put forward by the Law Commission in 2020 to ascertain what their impact on such ceremonies might be. It will be followed by a full report of our findings.

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## Key Messages

### Overview

In 2020 the Law Commission published a consultation paper setting out provisional proposals for reform of the law governing weddings. In this briefing paper we draw on empirical research findings from a study funded by the Nuffield Foundation to analyse the potential impact of those proposals.

Our study investigated why ceremonies are being conducted outside the legal framework, the nature of such ceremonies, and the beliefs, practices, and preferences of those involved. Using group and individual interviews and focus groups, it engaged 170 participants who had conducted or had had a non-legally binding wedding ceremony. These ceremonies took a range of different forms, reflecting the varying faiths, beliefs, and choices of participants. 67 of the 83 non-legally binding wedding ceremonies reported by interviewees were accompanied by a legal wedding, providing an insight into how the current processes work in practice.

Participants regarded the current law as outdated and in need of reform to reflect changes in society including, though by no means limited to, religious and cultural diversity. Key issues here were the perceived lack of recognition of 'non-Christian' ceremonies, the non-recognition of ceremonies conducted by Humanist and independent celebrants, and the limited options for interfaith weddings. Many also considered the legal processes for getting married to be complex and uncertain, with unexpected barriers.

### Preliminaries

Participants recognised the importance of preliminaries in ensuring that proper checks were carried out prior to a legal marriage, but many also felt that the processes should be as simple as possible to make it easier for couples to comply.

#### *Civil preliminaries*

- Some participants were inconvenienced by the current requirement that each of the couple be resident in the registration district where they are giving notice for the preceding seven days. The proposal to remove that requirement was welcomed.
- The idea of giving at least initial notice online found favour across the board. Participants saw this as more modern, convenient, efficient, less stressful, and simpler.
- Participants agreed that an in-person meeting should still be required prior to the wedding as a safeguard to verify identity and to counter forced or sham marriages.
- While there was a consensus that displaying the notices in the register office was an ineffective way of publicising an intended wedding, a significant number did not welcome the idea of additional publicity with online notices. Concerns were cited about data security and privacy.
- The duration of the notice period (to which the Commission did not propose any change) was identified as creating difficulties for some. Participants noted that people sometimes want to be married more quickly, and that within Muslim communities some weddings take place with little waiting period. However, others in the same communities viewed the notice period as essential to ensure marriages were not rushed into and thought that the practice of organising weddings at short notice could potentially change.

Fewer commented on the Anglican preliminaries, but those that did described them as anachronistic and complicated. Having banns called in different places made this process more complex.

## Officiant

The idea of regulating the person officiating at the wedding rather than the place in which it occurred was one that found widespread support among our individual participants:

- A wider choice of persons able to officiate at weddings for future couples was welcomed.
- At the same time, participants emphasised the importance of officiants being regulated. It was acknowledged that the change would not be simply a matter of removing restrictions but of changing what was regulated.
- Some of those involved in conducting non-legally binding religious ceremonies were unlikely to become officiants on account of (1) the fear that they would be compelled to conduct same-sex weddings; (2) the sense that the role was administratively burdensome; and (3) a sense that their religious role should not be mixed with a legal one.
- The proposed distinction between an officiant and a celebrant was seen as particularly appropriate for religious weddings as (a) it allowed the administrative and spiritual aspects to be performed by different people; and (b) some groups did not see it as theologically necessary to have a specific person conduct the ceremony.

## The Wedding Ceremony

Many of our participants felt that the law was too prescriptive and did not allow them to choose to be married in a form that was meaningful to them.

- A key finding was the differential impact of the requirement to include certain legally prescribed words in any legal wedding in a registered place of worship. Perceptions of the prescribed words differed between Christian and non-Christian participants, and according to whether the wedding was attended by a civil registrar or authorised person. The Commission's proposal to remove the need for prescribed words is crucial to ensuring that the law is perceived as fair, as well as ensuring engagement with the law both by couples and those involved in conducting ceremonies.
- The Commission's proposal is that it should be the expression of consent that makes the marriage in the eyes of the law. Discussions with those conducting ceremonies indicated the importance of making it clear that the validity of a marriage would not depend on whether all of the requirements of a religious ceremony had been fulfilled. The way in which many *nikahs* were conducted, with the bride and groom giving consent separately, also illustrates the need to ensure that cultural practices are acknowledged even if the legal framework requires both to be present to sign the schedule together in the presence of the officiant and two witnesses.

## Location

The non-legally binding ceremonies in our study had taken place in a wide range of locations. This was the case whether they were led by a friend or family member, conducted by an independent celebrant or by a Humanist celebrant, minister, priest, imam, or vicar.

- The current rules on location were regarded as unnecessarily restrictive, especially by those who had limited access to a registered place of worship or who had wanted to be married outdoors or in a particular venue that was not approved premises. For many couples, the location had determined their choice of ceremony: they had wanted to get married in a particular place and, upon learning that it was not possible to do so legally, had decided to have an additional non-legally binding ceremony.
- There was widespread support for the Commission's proposal that there would cease to be any specific rules on where weddings could take place. The locations of the non-legally binding ceremonies in our sample do not suggest that relaxing the rules on location would lead to problems.

## Validity

The Commission's proposed scheme does not envisage recognising all religious ceremonies of marriage as valid in themselves, but rather providing a framework within which the religious ceremony *could* be recognised. It retains the concept of a non-qualifying ceremony, but only in those cases where there was no expression of consent or where the parties had not given notice and either no officiant was present or both knew that the person officiating was not authorised to do so.

- None of the 16 participants who were in a non-legally binding marriage at the time of the interview had given notice, and most were aware of its lack of status. Such cases would still be classified as non-qualifying under the Commission's proposals. In one case, however, the interviewee was unaware that the ceremony would not be recognised. This would potentially be classified as void under the Commission's proposed scheme, thereby providing access to financial remedies upon the court granting a decree of nullity.
- The evidence from our participants also suggested that the Commission's proposals would make it easier for couples to get married in the way that they wish and reduce the need for a separate non-legally binding ceremony.
- However, some would still want to have a non-legally binding ceremony. Some wanted to have this option *before* getting legally married, for example if a religious ceremony was a necessary precursor to any intimate relationship. This was particularly evident among Muslim couples. Others wanted the option of having a non-legally binding ceremony *instead of* getting legally married, to ensure greater ease of exit (and control over their assets) should things go wrong. Simplifying the process will not make any difference if one of the parties does not wish to be legally married.

## Offences

The Commission proposed that it should be an offence for an officiant to 'deliberately and recklessly' mislead either of the couple as to the effect of the ceremony, or for a person to purport to be an officiant and 'deliberately and recklessly' mislead either of the couple about their status or to the effect of the ceremony. The majority of those involved in conducting ceremonies confirmed that they already made it clear to the couple in advance that the ceremony would not be a legally recognised wedding. This was the case across the range of different types of non-legally binding ceremonies in our study. Some noted that they formalised their advice by giving it in writing and requiring the parties to sign to say that they understood. A few went further and explained the financial implications to the parties. Only a

small number did not consider it their responsibility to advise couples on the legalities of the ceremony.

### Costs and Impact

Our project was focused on the process of getting married, rather than the costs of doing so. Nonetheless, a number of participants did comment on the cost, or explained how their choices about the form of the ceremony had been driven by the relative costs of different options.

- The cost of weddings on approved premises was a major factor in the decision of some couples to have a non-legally binding ceremony before or after their (generally smaller) legal wedding. Couples saved costs by not paying the additional fee for registration officers to come out to approved premises, opting for venues that were not approved, or holding the ceremony at home.
- Many were unaware of the option of getting married in a register office for a fixed fee of £46, or had paid more because the 'register office' was in fact approved premises.
- Some participants were of the view that having more choice would increase the cost of getting married. Others indicated that they would still have chosen to have two ceremonies and that the proposals would therefore make no difference to the cost. However, the majority felt that a wider choice would in fact *reduce* the cost of getting married by enabling couples to choose different – and cheaper – options, for example, holding a wedding at home or outdoors. Some also thought that the direct legal costs of getting married might be reduced, their assumption being that giving notice online would be cheaper.

### Conclusion

The Commission's proposed scheme was seen by many as simplifying the law governing weddings, making it easier to understand, reducing the bureaucracy of the process, and making it easier to get married. For many of our participants it would have removed the need for a second ceremony.

However, not all agreed that the proposals would make it easier to get married. Couples where each partner had a different faith or belief background largely indicated that they would prefer to have separate ceremonies.

Overall, while some participants were ambivalent about the idea of reform, or had other ideas as to how the law should develop, there was a high level of support for the Law Commission's proposed scheme among the majority of our participants, both those who were involved in conducting non-legally binding ceremonies and those who had had such a ceremony.



## 1. Introduction

- 1.1 It has long been recognized that the law governing the process of getting married is in need of reform.<sup>1</sup> As the Law Commission indicated in its 2020 consultation paper,<sup>2</sup> its aim in proposing a new law of marriage was ‘to ensure that the law works for all couples and all faiths, including those who are not well served by the current buildings-based system.’ Its remit also included ‘developing a scheme that would allow non-religious belief groups, such as humanists, and independent celebrants to celebrate weddings’.
- 1.2 One of the key aims of our Nuffield funded qualitative research project was to ascertain how the Commission’s proposed options would work for the range of couples who might have a non-legally binding marriage ceremony.<sup>3</sup> To this end we investigated why ceremonies are being conducted outside the legal framework, the nature of such ceremonies, and the beliefs, practices, and preferences of those involved. We sought out those who had been involved in conducting non-legally binding ceremonies, and those who had had such a ceremony, whether before, after, or in the absence of a legal wedding.<sup>4</sup>
- 1.3 In our full Report we analyse the potential impact of the Law Commission’s proposals on different types of ceremonies or combinations of ceremonies.<sup>5</sup> However, our findings also speak to many of the specific issues identified by the Commission. At the time of the interview, 66 couples had had a legal wedding in addition to their non-legally binding ceremony, and so had recent experience of negotiating the complex laws governing weddings.<sup>6</sup>
- 1.4 We have therefore put together this separate briefing paper to make the relevant evidence available both to the Commission and the public. For ease of reference, it is largely structured around the same core concepts as the Commission’s own consultation paper – preliminaries, officiants, ceremony, location, validity – and organised around its consultation questions.<sup>7</sup> In the penultimate chapter we analyse the potential impact of the Commission’s proposed scheme, addressing the questions set out in chapter 13 of the consultation paper. We conclude by examining the five principles underpinning the recommendations for reform (CP, para 1.69) and whether the views of participants suggest that the proposed scheme would achieve its aims.
- 1.5 In this introductory chapter we first provide some background information about our sample.<sup>8</sup> We then go on to provide further evidence of the problems with the current law that were identified in the Commission’s Scoping Paper and subsequent Consultation Paper.

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<sup>1</sup> For discussion of earlier attempts at reform see R Probert, *Tying the Knot* (Cambridge University Press, 2021).

<sup>2</sup> Law Commission, *Getting Married: A Consultation Paper on Weddings Law*, CP No 247 (3 September 2020).

<sup>3</sup> By this we mean any marriage ceremony that does not give rise to a legally recognized marriage. It includes ceremonies that take place after a legal wedding, or before as part of the process of getting married, as well as those that take place in the absence of a legal wedding.

<sup>4</sup> We have followed the usage of the Law Commission in referring to the legal ceremony of marriage as a wedding. However, since many of the couples in our study saw their non-legally binding ceremony as their ‘real’ wedding, we have ensured that we always use the term ‘legal wedding’, or otherwise clarify what form it took (eg ‘civil wedding’ or ‘register office wedding’), in order to avoid confusion.

<sup>5</sup> The report is due to be published in early 2022 and will be found on the project webpage: [When is a wedding not a marriage? Exploring non-legally binding ceremonies | Nuffield Foundation](#)

<sup>6</sup> All weddings were held between 2010 and 2021, most since 2015.

<sup>7</sup> We do not cover the specific questions on registration, or on special types of weddings, although in our report we include a chapter on the impact of Covid-19 on weddings.

<sup>8</sup> Full details of our sample and of how participants were recruited can be found in chapter 2 of our project report, *When is a wedding not a marriage? Exploring non-legally binding ceremonies*.

## The participants

- 1.6 We held 11 focus groups, two joint interviews, and 17 individual interviews with those who had been involved in conducting different kinds of non-legally binding ceremonies (n=84 individuals).<sup>9</sup> As is standard in qualitative research, the data was anonymized, and participants will be referred to by a code consisting of a letter and number (eg A-101).<sup>10</sup>
- 1.7 Five of the focus groups were focused on a single faith group,<sup>11</sup> while two brought together individuals from different faiths.<sup>12</sup> The final four were devoted to Humanist and independent celebrants who do not currently have the option of conducting legally recognized weddings. These were grouped not according to the types of ceremonies they conducted but according to whether they appeared to conduct ceremonies in line with a particular set of beliefs, whether religious or non-religious.<sup>13</sup> The two joint interviews were also conducted with individuals from the same religious tradition,<sup>14</sup> while the 17 individual interviews were primarily with imams,<sup>15</sup> plus two Roman Catholic priests<sup>16</sup> and one Sikh priest.<sup>17</sup>
- 1.8 We also conducted 83 interviews with individuals who had had a non-legally binding ceremony. These too were anonymized and will be referred to by numerical identifiers, with the individual's gender, age and beliefs being noted. Five of these interviews involved both spouses where there were particular reasons for speaking to both of them together, for example the participant who initiated contact felt they needed support in order to participate. These will be distinguished by the addition of a letter to the numerical identifiers, rather than by separate numbers (eg 083A and 083B).
- 1.9 Classifying these non-legally binding ceremonies is something of a challenge, for a number of reasons. First, the relationship between the legal wedding and the non-legally binding ceremony was a complex one, with some participants making a conceptual distinction between different aspects of what the law would regard as one ceremony.<sup>18</sup> Second, a few of our participants had more than one non-legally binding ceremony, so the numbers add up to more than 83. Third, there is no single method of classification that works for the variety of ceremonies in our sample. While many were conducted according to a recognised religious form, others reflected the spiritual or personal beliefs of the couple through a range of rituals or a bespoke or self-devised ceremony. Equally, classifying ceremonies according to who conducted them does not

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<sup>9</sup> We refer to those 'involved in conducting non-legally binding ceremonies' in order to encompass the range of roles that our participants performed. These included conducting legally binding weddings and being responsible for their registration; conducting legally binding weddings alongside another person who was responsible for their registration; being the person responsible for registering the marriage but not conducting it; conducting non-legally binding ceremonies only; and being what was described as a Master of Ceremonies.

<sup>10</sup> Each group (or group of interviews) was given a different letter, and each participant within that group, or each interviewee, was also given a number.

<sup>11</sup> Focus groups A, B and C all consisted solely of imams, while J and K consisted of Hindu priests.

<sup>12</sup> Focus group E consisted of a Baptist minister, a Zoroastrian priest, a female imam, and a representative of the Bahá'í, while focus group L brought together two rabbis (one Orthodox and one Progressive), two Anglican clergymen, and a minister of an Evangelical Christian fellowship.

<sup>13</sup> Focus group F consisted of those who had a personal belief but indicated that they conducted a range of ceremonies, focus group G consisted of those who identified themselves as holding a particular belief and as conducting ceremonies in line with that belief, and focus group H of those who identified themselves as holding no beliefs. Focus group I involved a mix.

<sup>14</sup> There were two Buddhist authorised persons (M-231 and M232) and two Pagan celebrants (N-241 and N-242).

<sup>15</sup> There were 14 interviews with individual imams (coded D).

<sup>16</sup> Coded as O-251 and O-252.

<sup>17</sup> Coded as P-261.

<sup>18</sup> See further paras 4.23, 4.28-4.37.

necessarily work for all ceremonies: a *nikah*, for example, was not necessarily conducted by an imam, and friends and family were involved in conducting a range of different ceremonies.

- 1.10 With those caveats in mind, 35 non-legally binding ceremonies took the form of a *nikah*, 12 were conducted according to Hindu rites, nine were Christian, four were Pagan, four were Humanist, two were Zoroastrian, and two were led by interfaith ministers. There were also individual examples of Sikh, Bahá'í, Jewish, and Jain ceremonies. Twelve ceremonies were individualised ones, of which eight were led by an independent celebrant and four by a friend or family member, although there was a degree of overlap between these two categories.
- 1.11 All participants were given the 'At a Glance' summary of the Law Commission's proposals and asked for their views on those proposals and whether those proposals would solve or create problems for them. Those involved in conducting ceremonies were asked how the proposals might impact on the process of getting married for the types of couples whose weddings they conducted. Those who had had a non-legally binding ceremony – whether in addition to or instead of a legally recognised wedding – were asked whether they would have liked any of the proposals to have been available to them, and how they thought the proposals might impact on the process of getting married in their communities or social groups. Those who had married legally were asked whether they had faced any challenges in finding out what they needed to do, and how straightforward it had been for them to do it.

### Problems identified with the current law

- 1.12 In this section we provide further evidence of the problems identified by the Law Commission in setting out the case for reform, focusing on the broader issues rather than the details covered in the chapters that follow. While our sample is not representative of all couples getting married, it does reflect a wide range of experiences.

### Complexity and uncertainty

- 1.13 Most of those who had married legally noted that they had found the necessary information online fairly easily, whether on the government website or the one for their local council. A few, though, had experienced difficulties where they had to deal with different registration districts: as 043 (male, 32, agnostic) noted, 'it's Council dependent. So, [name of wife] lived in another part of [city in South East] so she had a different process or a slightly different process to what I was doing. And that didn't help either.'
- 1.14 In addition, how interviewees regarded the information given very much depended on whether they were looking for an explanation of the process of getting married or an explanation of the options for getting married. 027 (female, 44, Christian), for example, had wanted to get married outside, and reported that:

when we started researching it, trying to figure out what you could and couldn't do legally was a bit of a minefield, because it just wasn't clear. Because ... you know, yes you can get married with an officiant under a pergola, but it's got to be this ... and we were like, 'can we get married outdoors? Can't we get married outdoors? It says that it might ... in this circumstance, it might not be legal but what does that actually mean?'

- 1.15 083A (female, 33, Muslim) and 083B (male, 34, Christian) had faced even greater challenges because of their wish to have a ceremony reflecting their respective faiths. As 083A reported, even ascertaining whether it was possible to have a Muslim wedding was challenging:

trying to figure out the process of getting married became quite challenging... I started doing some research and it was really difficult because I found out on the [county] council website where all the licensed venues were and where all the churches were, but there was no database for any other faith, let alone the Muslim faith. So then I tried to figure out 'do I need to go to a mosque to get married?' or can I get someone to come to the venue and get married, because then I realised as well there were only certain areas in the venue that you could get married, but I quickly found out that my ceremony didn't seem to have that connection to the whole legally binding thing.

- 1.16 Many interviewees felt that the process was more complex than it needed to be. 062 (female, 30, agnostic), for example, commented that she and her husband had been prepared for there to be technicalities, but still felt that getting legally married 'seemed strangely a bit more complex than we'd really thought about'. For 015 (female, 25, atheist), too, 'there were more barriers than I thought there would be'. 024 (female, 34, no belief) similarly felt that 'it didn't seem proportionate, the amount that we had to do, in order to do something that's actually quite straightforward'. Both 015 and 024 referred to the 'hoops' they had to go through, while 019 (male, 40, Muslim) spoke of 'red tape', 039 (female, 40, no belief) of the 'faff' involved (039), and 043 (male, 32, agnostic) described the process as 'clunky and challenging'.

- 1.17 For 076 (female, 43, Humanist), it was not just the extent of regulation but its impact. She supported reform of what she described as the 'legalities and stipulations' surrounding the ceremony, stating:

it seems to be that there's lots of rules and regulations in place that don't actually ... have a significantly positive impact at the moment, but they have quite a significantly negative impact on the couples that do want to get married.

In a similar vein 008 (male, 35, Zoroastrian) commented that getting married was meant to be 'joyous' and 'celebratory', not 'admin-y'.

- 1.18 He, along with a number of interviewees, also commented that it was hard to understand the rationale behind the rules. As he put it, 'there's some things that you have to do, and you almost don't understand why you have to do them'. 026 (female, 33, no belief) referred to the rules being 'a little bit arbitrary'. 015 (female, 25, atheist) similarly noted that 'it just doesn't make any sense at any point and no one really explains why you have to do these things', while 027 (female, 44, Christian) commented that '[t]here's a lot of information that ... to a layperson makes no sense and you can't quite grasp why it's set up the way it is.' And while navigating the rules had been easier for 047 (male, 35, Jewish), who was already familiar with the law, he too thought the rules 'are complex and bizarre and make no sense'.
- 1.19 The lack of certainty as to when a couple are legally married was reflected in the way that a number of interviewees focused on what had been signed, rather than what had been said. The assumption that it was signing the register that made the marriage, rather than the words that were said, was reflected most clearly in the question posed by 070 (male, 35, Hindu) as to why the prescribed words had to take the form they did: 'if the thing that binds you legally is a signature on a piece of paper then why that certain language?'

- 1.20 The lack of certainty as regards the legal effect of Muslim religious marriage ceremonies was also noted by a few participants. While most of those who had had a *nikah* knew that it was not legally recognised by itself, others were unsure as to its legal implications. 056 (female, 42, Muslim), for example, commented that ‘I don’t actually know precisely what is true now and what isn’t in terms of what having a *nikah*-only, legally the implications are. Cos I’ve been told varying things from very different people.’ 051 (female, 40, Muslim) also reported that ‘[t]here’s like a lot of myths and like misunderstandings out there’. And 082 (female, 37, Muslim) remained uncertain as to the status of a *nikah* even after being advised by her solicitors that her religious-only marriage was not recognised:

sometimes you hear people or solicitors or, you know, other organisations say ‘well the *nikah* is recognised’ ... to this day having been through the system I still don’t understand, you know, where do I stand from a *nikah* perspective. Is it valued, is it recognised, is it not, there’s a lot of mixed messages and mixed information out there.

### Inefficiency

- 1.21 The complexity of the current law also created inefficiencies in that registration officers had to spend time explaining the process to those couples who experienced difficulties in navigating the information available online. As 027 (female, 44, Christian) noted ‘in the end, we just went, “right, stuff it! We will just make an appointment at the local ... at the Registrar’s office, and we will just go and speak to somebody.”’ She was full of praise for how helpful the registration officers had been, as were others who had sought advice from them. 047 (male, 35, Jewish) similarly commented that ‘the registry office ... were incredibly helpful ... really, really very helpful indeed’, adding that ‘I presume they’re used to dealing with people having no idea what they have to do’.
- 1.22 In the case of 054 (female, 33, Hindu), uncertainty about the process resulted in multiple appointments having to be made. She was planning a register office wedding in addition to her religious ceremony in India and, as she explained, assumed that the meeting with the register office was to explain the options that would be available to her:

No one tells you how you get married in the UK and I Googled it and I set up my first interview with the women at the registry office and we had an engagement ceremony on the 5th January just before we went out to India and basically the plans were all changing quite a lot, so I turned up to this meeting and I was like ‘okay, what do we need to do’ and she was like well ‘when are you getting married’ and I was like ‘well I don’t know yet because the plans keep changing’... and she’s like ‘okay, so where are you getting married’ and I was like ‘I don’t know’ – it sounds so stupid now but she looked at us like we were idiots and we were at the time because we didn’t know and she was like, ‘just find a venue that’s appropriate and then come back to give notice’.

- 1.23 The time needed to complete the required formalities was also highlighted by a number of interviewees. As 041 (male, 31, Christian) explained:

in terms of actually trying to do it, it took quite a bit of time to make sure ... because you have to free up both schedules, to arrange the meeting for the banns, travel to them and then complete the interview. You’ve got all the payments that you need to do. I think we even had to pay cash at the Registrar’s office for it because they didn’t take cards.

001 (male, 40, Muslim) similarly referred to there being ‘a lot of toing and froing. You have to go to the Registry, then you have to give a date, then you have to do this, and you have to do that ... I just remember going back and forth to the Registry Office quite a few times.’ In the case of 053 (female, 24, Muslim), part of the reason for being in a non-legally binding marriage only was the length of the forms. ‘I kept saying no because I kept thinking, that’s too many forms to fill out and I don’t want to do that. And it’s just simply an issue to do with, I suppose, laziness in a way. Or just like the fact that it’s time-consuming.’

## Unfair and restrictive

### *Perceptions of what constituted a religious or civil wedding*

- 1.24 As the Commission noted in the CP, the law ‘requires couples to have either a religious wedding or a civil wedding’ (para 1.38). A key finding from our research related to what was actually seen as a religious wedding and what was seen – and experienced – as a civil wedding. This did not align with the legal options, in that it did not depend on whether the wedding was in a registered place of worship and had to include the prescribed words. Put simply, Christian weddings in registered places of worship were seen as religious weddings that were accepted as such. Non-Christian weddings in registered places of worship were seen as religious ceremonies with a civil wedding taking place before or after or, most problematically of all, in the middle of that ceremony.
- 1.25 Indeed, since only a few participants were aware of the different treatment of Jewish weddings, for most the dividing line was simply seen as being between Christian (or ‘church’) weddings and non-Christian ones. 019 (male, 40, Muslim) noted that the law was ‘obviously governed by ... Christianity’, while 073 (female, 37, unclear) commented that the choice between having ‘a civil ceremony, or a Christian ceremony, just doesn’t reflect the reality of England today’. 056 (female, 42, Muslim) referred to ‘church’ weddings being recognised when a *nikah* was not, while 042 (female, 26, Sikh) had an idea that the rules were ‘less stringent’ for those getting married in church, and 032 (female, 59, Druid) saw the options as being getting married in a church or having a secular marriage. This view was even shared by those Christians who did not in fact share the same privileged position as Anglicans or Quakers: 049 (female, 28, Christian), who had married in a Baptist church, noted that ‘as a Christian, I can have the type of service I want ideally also legally recognised’.
- 1.26 This sense that non-Christian ceremonies were not recognised generated a strong sense of unfairness and a lack of respect for other religions and beliefs. This was something that came out time and again from participants from different faiths. 007 (female, 28, Bahá’í) commented that it was ‘such a shame’ for anyone who wasn’t Christian or Jewish that ‘[y]our ceremony isn’t legal and it’s just like there’s so many people of so many faiths that just would want to do what they want to do that aren’t recognised’. 008 (male, 35, Zoroastrian) thought that ‘it’s a very limited option of getting married in this country. It’s either a church or a civil, and there’s no recognition of other religious ceremonies, as far as I’m aware, or at least not of Zoroastrian marriage ceremonies.’
- 1.27 048 (male, 38, Muslim) commented that ‘one of the biggest issues in Britain is that they don’t formally, as far as I understand ... they don’t formally recognise the *nikah* as a wedding ceremony as such’ and felt that there should be recognition of the ‘sacred sacrament that you’re taking’. 042 (female, 26, Sikh) argued for more ‘cultural respect’

for Sikh marriages, commenting that it was ‘a bit offensive to say, “well, you’ve been getting married like this for centuries and centuries but we’ve decided that we’re not going to recognise it for whatever reason.”’ And 043 (male, 32, agnostic) was particularly eloquent about the perceived lack of respect for Hindu ceremonies:

in multi-cultural Britain it seems like a bit of a strange situation to be in ... at the moment, it comes across like well, the Registration is the thing that matters, the rest of it is ... you can do it if you want. You don’t need to do whatever it is. And that doesn’t feel respectful to our culture. I know I’m British. I’m British born. I’m British Army, blah, blah, blah. But I still was brought up in the Indian culture and I like to think I have the benefit of both cultures. But I feel like in the way they deal with our ceremonies, where they’re just not really anything, it’s not really respectful to our culture.

- 1.28 This sense of unfairness was also shared by those Christians who had experience of other religious traditions. 068 (female, 38, Christian), whose legal wedding had taken place in the Anglican church, provided a particularly full and reflective answer on why she and her Hindu husband had chosen this option. Her perception was that the law barely impinged on a wedding in the Anglican church:

because in a church wedding you do all of the church bit and then you literally go and sit at a table while the choir is singing and sign a bit of paper. And that is the legal bit and it’s such a small part of it, that if that’s your own experience, you don’t really realise that that’s not part of ... the actual church wedding.

However, as she had begun to meet people from other religions, she had realised that other religious weddings were not as simple. As a result, she felt that it wasn’t right ‘that a church wedding can be a legal ceremony and none of the other religions can’. As she explained:

It just adds to the whole ‘what is normal in society’ ... white people are the norm and middle-class people are the norm and Christians are the norm, or not just the norm but the desirable or the best ... and it’s all these subtle messages. It’s not explicit and it’s not saying only Christian marriages are legal because they’re the best way but it’s just that subtleness. But it has built up historically because I guess that, at that time, there wouldn’t have been other religions. So, it’s not like those laws were made ... no-one sat down right now and said, ‘right, we’re not going to let any other religion have a legal ceremony’. It built up from that time. But actually it’s quite shocking that they haven’t reformed it over the last ten years really because ... we’re such a multicultural society now and so it’s quite sad really. That’s just another thing that just adds to the fact that there is that tier system in this country where people still think there are different classes of people and some are better than others, or more worthy or more normal or more British.

- 1.29 As we will show, it is the prescribed words that are key to why Christian and non-Christian weddings in registered places of worship are seen so differently.<sup>19</sup>

### *The difficulty of accommodating interfaith weddings*

- 1.30 In discussing interfaith ceremonies, it is important to distinguish between two different ways in which that term can be used. For some, an interfaith ceremony is one that expresses a distinct belief about the essential commonality of all religions, the ‘one

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<sup>19</sup> See further paras 4.18-4.37.

spirit' on which all faiths are founded. For others, an interfaith ceremony is one that brings together two distinct faiths. Our project included examples of both, as well as a number of different-faith couples who wanted to have separate ceremonies to reflect their different religious traditions.

- 1.31 The idea of the essential commonality of all religions was expressed by both 045 (female, 55, spiritual) and 078 (female, 36, spiritual). Each had a ceremony conducted by an interfaith minister and were also themselves interfaith ministers and members of the OneSpirit Interfaith Foundation. 045 described her beliefs as 'universally welcoming of every different belief', explaining that they 'have evolved and continue to evolve and my relationship with whatever it is that is greater than all of us continues to evolve'. Her partner shared her beliefs, which was described as 'an important foundation for our relationship'. 078 similarly explained how 'the idea behind OneSpirit is that there is sort of one spirit or one truth that lies at the heart of all religions and that kind of is made manifest in different forms', and noted how summing this up for the purposes of completing a form could pose a challenge:

It's very fluid for me. Sometimes I would describe myself as Pagan-earth-based spirituality, so connecting with nature and the earth. But it's very much influenced by, I think the mystic truth that are at the heart of all different religions actually, which is why I chose the interfaith path because I got to explore the beauty of each religion. So, I don't know, every time I have to fill in a form about what religion I am, I hesitate and think what am I going to put today? Because I hate putting myself in a box cos it never feels like it does it justice and yet it feels really important to me that I say I am something. So, other phrases that I've experimented with is Holistic. Yeah, so earth-based, holistic, Pagan, but none of them quite fit.

- 1.32 In describing her work as an interfaith minister, she noted how she might be working with different-faith couples or those whose beliefs were more fluid:

I had one couple where one was an atheist and one identified as Shamanic or Pagan. And they wanted a ceremony that reflected both. Or that kind of could hold space for both. Some interfaith weddings I know, yeah, are between Christian and Jewish people. And, yeah, so the idea originally, I think, was to help those conversations between different faith groups. And increasingly, I find that actually the dialogue is happening for the people who don't fit into any of the boxes. So, the people who believe in something, but they don't necessarily have a name for it. Or they do have a name for it, but ... or even ... I mean a lot of the time actually, people somewhere in it are kind of vaguely identified as Christian, but they would never go to Church and they would never tick the Christian box. But they believe in God and they believe in Heaven and all those sorts of things. So, for me, the role of an interfaith minister is to work with another person and find out what is sacred to them and what language they use to identify what's sacred to them and how they connect.

- 1.33 As a result, exactly what was included in an interfaith ceremony very much depended on the couple:

Some people, they come with explicit traditions and they're like, 'We definitely want this tradition from here and we definitely want that ritual from there and we'll have both,' and it'll be to honour the different sides of the family. Other people want them to be kind of rewritten and reinterpreted and reimagined in a different way. And sometimes it's also the couple may not be particularly



religious or spiritual themselves, but they want to please family, or they've got people coming from an older generation and they want to honour that.

- 1.34 083A (female, 33, Muslim) and 083B (male, 34, Christian) had wanted to have a single ceremony that not only reflected both their faiths but was also conducted by representatives of those faiths. Having one ceremony rather than two was important to them: as 083A explained '[t]hat was, if anything the most important thing in our wedding, it was to subtly reinforce the fact that someone who is Muslim and someone who is Christian could get married. And I felt like having two separate ceremonies just didn't do that.' Having found an approved venue, their original plan was to have the wedding outside combining both faiths. They had then discovered that not only could they not have a wedding outside but that a registrar would need to be in attendance. As a result, they decided to have the legally binding wedding in the Anglican church located next to the venue. At this stage they were still exploring the idea of this being a combined ceremony, but 083A eventually felt that this was not the right option:

So there was one time we were talking about, could we have the imam and the reverend standing side by side in the church, and having the whole ceremony there? And then I said that, after some time I said 'I can't do it.' Because we're still in a church, and it just ... it didn't make sense to me, I felt like it needed to be a neutral setting to have both of them standing there side by side and conducting the ceremony.

Their wedding day finally consisted of a *nikah* in a rose garden followed by an Anglican ceremony. Each had an interfaith dimension, in that the bride's mother gave a reading from the Koran in the church, and the groom's mother gave a reading from the Bible in the *nikah* ceremony. But while both 083A and 083B found each of the ceremonies to be equally meaningful, and were full of praise for both the rector and the imam who had accommodated their different beliefs, their clear preference would have been, and remained, to have a combined ceremony. As 083A noted, they had spoken to other different-faith couples that the imam had done ceremonies for 'and they said the same thing, you know that it just wasn't the same, that they had to split it up like that'.

- 1.35 Five other different-faith couples had also had one or more non-legally binding ceremonies<sup>20</sup> in order for each to have a ceremony that reflected their faith.<sup>21</sup> These couples saw it as important to have separate religious ceremonies in order to reflect their different beliefs rather than a single interfaith wedding that accommodated both. 068 (female, 38, Christian) articulated the sense that different-faith marriages were not about 'mixing' faiths but rather having the two 'standing alongside each other'; in her view, having a joint ceremony 'would have ruined both sides'.
- 1.36 That is not to say that they regarded the current law as satisfactory. The one consistent theme that emerged from their answers was the importance of treating all faiths equally. Within these couples the main issue was the sense that a Christian wedding was legally recognised in a way that others were not. Significantly, for the three couples who had had one legal religious wedding and one non-legally binding religious ceremony, it was the Christian one that was the legal one. However, for 008

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<sup>20</sup> These were 008 (male, 35, Zoroastrian; civil wedding followed by Zoroastrian and Anglican blessings); 049 (male, 35, Jewish; Catholic wedding followed by Jewish ceremony); 068 (female, 38, Christian; Anglican wedding followed by Hindu ceremony); 079 (female, 40, Hindu; civil wedding in Scotland followed by Anglican blessing and Hindu ceremony); 080 (male, 36, agnostic; civil wedding followed by *nikah* and a Catholic blessing in Italy).

<sup>21</sup> Other different-faith couples were unable to do so because of restrictions set out by religious organisations. 009 (female, 26, Sikh) would have liked to have had married in a Sikh temple but was unable to do so on account of the bar on marrying a non-Sikh. Similarly, 047 wished to marry in the synagogue he attended but was not permitted to marry a non-Jewish individual within his place of worship.

(male, 35, Zoroastrian), a Zoroastrian marrying a Christian, the sense that the Christian ceremony stood on a different footing had led to them choosing a different combination. Since getting married in a church was seen as 'a bit one sided', they had decided to start with a civil wedding followed by a blessing from both religions.

*No option for non-religious belief weddings*

- 1.37 The lack of any option to have a wedding according to beliefs that are *non-religious* also generated a strong sense of unfairness. This came out particularly clearly in focus group G, which included a number of celebrants accredited by Humanists UK. Humanist ceremonies were described by G-175 as a 'human right', with other participants nodding agreement. As he explained:

the point about Humanist ceremonies is Humanism is a recognised belief system. So, it's not a question of choosing your celebrant, it's a Human Rights issue. If people are Humanist, they should be able to have a legal Humanist ceremony like a legal Catholic ceremony or Church of England ceremony.

In a similar vein, G-177 noted that it was about 'being able to have your values recognised as part of your wedding ceremony and your declaration of commitment.'

- 1.38 While there have been examples of places of worship hosting Humanist ceremonies,<sup>22</sup> this is not the same as Humanist groups having the right to register the buildings where they meet and conduct weddings there. In addition, as a number of Humanist celebrants emphasised, the personalisation involved in Humanist weddings meant that it was important for the ceremony to be conducted in a place that held significance for the couple.
- 1.39 The account given by 076 (female, 43, Humanist) of her Humanist ceremony emphasised the importance of having a personalised ceremony in terms of both the location and the ceremony: 'just being able to do it in a in a place that, you know, we connected with and ... and yeah, making it into our own'. She spoke of the importance of being outside ('nature's a huge part of our lives') and close to water ('I'm a bit of a water baby, I love the water'). They personalised the venue still further by filling picture frames with their favourite lines from songs and hanging them in the trees and at other points about the venue, reflecting the fact that both she and her husband were 'massive music fans'. They also had vows that were 'completely personal to us, and incredibly touching and memorable'; as she added, there was 'not a dry eye in the house'.
- 1.40 As this reflects, ideas of 'authenticity', 'truth', and 'beauty' resonated through the accounts of ceremonies conducted by Humanist celebrants, painting a picture of ceremonies that were personally meaningful and reflective of the couple's lives. As G-177 explained:

Humanist ceremonies are about celebrating life and the couple, sharing the couples' story, their dreams and aspirations. They are written based on what values are most important to that couple. There's freedom of choice, which is not available in a civil ceremony like the venue, the celebrant, the order and the length of the ceremony, the symbolic actions and it's a ceremony that is written collaboratively. So, the couple have full input, full control over edits, which again is not available in a civil ceremony.

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<sup>22</sup> See J Wynne Willson, *Sharing the future: A Practical Guide to Non-Religious Wedding Ceremonies* (BHA, 1996), 4-5.

Linked to this, G-173 emphasised the importance of the beliefs of the celebrant and the couple aligning: ‘that alignment of the system of belief that we have is part of the reason that I was chosen in the first place’. She referred to one couple whose ceremony she had conducted as ‘card carrying Humanists. They wanted a Humanist celebrant. They were very firm in their convictions’.

*The lack of an option that was neither civil nor religious*

1.41 Humanist celebrants made it clear that the ceremonies they conducted were available to couples irrespective of their religion or belief. Indeed, among our participants who had a Humanist ceremony, only 076 actually defined herself as holding Humanist beliefs. A further three who did not identify themselves as Humanist, chose this form of ceremony for different reasons.<sup>23</sup> This indicates that those opting for Humanist ceremonies cannot always be clearly differentiated from those opting for independent ceremonies.

1.42 In the case of 039 (female, 40, no belief) the choice was driven by her desire to be married on her favourite beach. As she explained, when she had researched what options were available:

I found out about the Humanist celebrants and what they do, and the Humanist way of living, and I actually thought that’s actually really like how I like to live my life anyway, with the Christian values I was brought up with but none of the actual religious stuff. That’s what Humanism seems to me.

1.43 For 024 (female, 34, no belief), the choice of a Humanist ceremony was the result of the couple’s rejection of other options. As she explained, neither she nor her husband held religious beliefs and so ‘didn’t want to get married in a church and be saying vows that we actually felt were contradicting our ways of life’; at the same time, they had been to a number of civil weddings and found them ‘quite dry and quite formulaic’ as well as ‘unreasonable in its prescriptiveness’. As she noted, her husband:

pictured a load of old religious politicians 100 years ago being so angry that there were people who wanted to get married outside of a religious set-up that they went, ‘well, fine, you can do it but you’re not allowed to do it like this and you have to say it like this’, because they were so indignant that there was any suggestion of doing anything other than a religious ceremony.<sup>24</sup>

Having a Humanist ceremony had enabled them to write the vows that they wanted to say: ‘nice, short, brief, honest ones’.

1.44 For 073 (female, 37, unclear), a Humanist ceremony was the ‘obvious route’, not because of her beliefs – she specifically mentioned that she did not ‘identify as a Humanist’ – but because of the flexibility that it offered. Again, however, this was not specifically because it was Humanist but because it was not subject to the same constraints as a legal wedding, in particular in terms of where it could be celebrated. As she explained:

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<sup>23</sup> In addition, 067 (female, 37, Hindu) described her ceremony as a Humanist one but it appears that it was in fact conducted by an independent celebrant.

<sup>24</sup> Given the debates on the Marriage Act 1836 (on which see Probert, *Tying the Knot*, ch 2), this was a rather astute observation.

I like the idea of having, you know, having a Humanist or a non-legal ceremony meaning you have so much more flexibility and control over what you can include in terms of readings and structure and so on. But it was more ... I think as well, it was about budget. So, finding a licensed venue that was affordable for us with quite a large number of guests in [city] was quite difficult. So, the village hall wasn't a licensed venue, you know, so we couldn't have a legally binding ceremony there. But it was cheap and round the corner and had space for everybody. So, it was, yeah, partly about just having that flexibility really.

- 1.45 In addition, as G-176 noted, Humanist ceremonies might be particularly suitable for different-faith couples as they provided a 'neutral ground'. As she added, 'you might have observing Muslims on one side of the room and hard-drinking cradle Catholics on the other side, but because it's not religious territory they can both join in the wedding ceremony.' G-177 gave the example of a Sikh groom and Hindu bride who had not been allowed to get married in a Sikh Temple and 'wanted a Humanist ceremony because values still aligned even though it wasn't a religious ceremony and there was lots of scope for a bespoke ceremony and something that they could have that wasn't just 15 minutes down the registry office'.
- 1.46 Among our interviewees, 009 (female, 26, spiritual) had similarly been planning to have a Humanist ceremony.<sup>25</sup> As a Sikh woman marrying a Hindu man she was unable to have any kind of ceremony in her local gurdwara,<sup>26</sup> but her 'forward-thinking' father had suggested that a 'Humanistic ceremony is a way that everybody would be able to see it.' In discussing the overlap between her beliefs and those of her husband, she emphasised that '[w]e are both individuals who just believe in the goodness of all and align on our Humanistic principles of just, you know, karma and just being a good human being.'
- 1.47 It should be noted that the willingness of Humanist celebrants to conduct ceremonies *for* couples who held religious beliefs did not mean that they were willing to conduct ceremonies *according to* religious beliefs. As G-177 noted, while they valued other faiths 'there is a difference between what we would include in terms of a religious line'. G-173 explained this in terms of the difference between an act of worship and a ceremony that included elements of the 'cultural heritage' of the parties:

we are in the main a secular society. The majority of people are non-religious in some way. But the difficulty in a post-religious society in this way is that culture and religion is still quite velcro'd together. And I often deal with the blurred lines between cultural significance and cultural qualities and gestures in a ceremony that matters with families throughout the ages. And actually, what people believe. Because there are people who are culturally Jewish, and they do want to have Jewish cultural gestures in their wedding ceremony but that doesn't mean that they believe in God. It means that this is part of their heritage and this is part of their cultural observance and respect towards their families. But it doesn't mean that it's actually religious ... And it should, and can be, recognised without it being an act of worship, which is what I do. And have done.

- 1.48 The same act may of course have different significance for different individuals, as may be illustrated by the use of handfastings in different types of ceremonies. For G-

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<sup>25</sup> In the event the Humanist ceremony had been cancelled on account of Covid.

<sup>26</sup> How far this prohibition reflected the view of this gurdwara, and how far it reflected a more general practice, is not known. Existing research into Sikh weddings has tended to focus on other controversies: SS Thandi, 'What is Sikh in a 'Sikh Wedding'? Text, Ritual and Performance in Diaspora Marriage Practices', (Spring/Fall 2016) 23(1/2) *Journal of Punjab Studies*, 131-161.

174 – a Pagan independent celebrant – a handfasting was of profound religious significance: ‘I can’t explain to you how important it was to me to get married in a handfasting. It meant more to me ... it was almost as if I was pledging myself to my religion and my beliefs as well as to my husband’. Others, such as 024 (female, 34, no belief), had had a handfasting without according it any such significance.

- 1.49 The significance attached to religious content was one of the differences between ceremonies led by Humanist celebrants and those led by independent celebrants. G-172 noted that she worked with couples who wanted ‘elements of religion’. F-162 referred to conducting interfaith ceremonies, while F-161 specialised in ceremonies for South Asian communities and explained that ‘we can still include some of the religious parts but ... the translation would be more modern’. 067 (female, 37, Hindu) had a celebrant-led ceremony that included a nod to her faith: ‘so with Hinduism light and a candle is really important because for Diwali, it’s a celebration of light and moving darkness away. So, what we had asked the celebrant to do is, when people were coming into the barn, they all had a candle to light’.
- 1.50 As with Humanist ceremonies, the key characteristic of ceremonies conducted by independent celebrants was that they were tailored to the couple. Independent celebrants spoke of couples wanting something ‘personal’ (F-163), ‘a ceremony that was really about them and affected them’ (H-186) and being ‘able to do what they want to be able to do in the ceremony’ (F-162). As a result, as H-181, noted they were all very different, depending on the couple’s views and personalities.
- 1.51 In the light of some of the concerns that have been expressed about celebrant-led ceremonies, it is worth noting how seriously our participants took their role. First, they spent a considerable amount of time with couples prior to the ceremony. G-173, a Humanist celebrant, explained that ‘we will be meeting them for six months plus and discussing them and their marriage and their commitment together’ and described the process as ‘pretty much like an extended wedding therapy relationship assessment’. I-193, an independent celebrant, asked couples to complete a questionnaire ‘so I can really get to know all the ins and outs of their relationship, what they love about each other, the things that maybe grate on each other. All of those things can be woven into the ceremony and make it really, really personal to them.’ In a similar vein another independent celebrant, H-181, spoke of getting couples ‘to think about what they’re doing and their commitment’ and saw the personal dimension of this as making them ‘stronger’.
- 1.52 The scope for personalised ceremonies to strengthen the commitment that the parties were making was also linked to the vows that they made. As F-165, an independent celebrant, described:

this is a day when the couple are making a commitment that is going to form the foundation of their future life together and everyone deserves to make those in a way that has meaning for them ... at the heart of what we do is a commitment. A heartfelt and a deeply felt commitment between these couples ... making vows that they intend to fulfil. Not saying words that they just have to repeat. It was not, as she emphasised, merely a ‘party’ but a day that brought everyone together on which they could look back ‘when times are tougher, when you’re having your disagreements or Lockdown is getting all too much. And you pull on the vows that you made and say, ‘this is what we said we would do for each other’. That’s why it’s important.’

## Out of step with modern society

- 1.53 Finally, a constant refrain among our participants was the current laws governing weddings were outdated and needed to be reformed to reflect the changes in society since they were made.<sup>27</sup> As 004A (female, 44, Pagan) noted, 'some of it I just couldn't believe was as it is. And based on decisions made in 1836. How are we still using that?' 047 (male, 35, Jewish) similarly felt that the law was 'archaic' and that the Marriage Act 'was still primarily aimed at stopping clandestine marriages, you know, you still feel that's its aim'. As he added, 'there's such a diversity of things these days and it's just not understood, I think, by people. And so, to try and do something which resolves all of that is really worthwhile.' 020 (male, 35, Muslim) pointed out that 'there's a reason why we don't have medieval law or law from the dark ages because, you know, time moves on. And similarly, you know, marriages the way they were and the way they have been conducted in the past, doesn't necessarily apply to today.' As 059 (male, 36, no belief) asked, why are we only talking about this in 2021? Why were we not talking about this in 1961?<sup>28</sup>
- 1.54 The Commission highlighted both religious and cultural diversity and the increasing number who do not identify with any religion at all as key aspects of modern society. The perception that non-Christian wedding ceremonies were not accorded legal recognition was discussed above. Below we highlight the comments that were made about the decline in religiosity.
- 1.55 Some participants defined themselves as atheist or agnostic and were explicit that they did not want a religious ceremony. 015 (female, 25, atheist) noted that religion was not 'part of her identity' and that she therefore 'wouldn't want it to be a part of any sort of ceremony that was part of my life, if you see what I mean?' 052 (female, 42, no belief) similarly explained that '[w]e are not religious, me or my husband, so for us, a church wasn't something we were interested in'. 039 (female, 40, no belief) had attended church as a child but now felt that she would 'feel like a complete hypocrite' getting married in a church.
- 1.56 Others, while describing themselves as agnostic, identified a faith which had had an influence on their lives in some way. 062 (female, 30, agnostic) had been brought up as a Catholic and still regarded herself as 'culturally Irish Catholic, but probably a bit more on the agnostic side now, I would say'. 080 (male, 36, agnostic) described himself as agnostic but explained that his religious background was Muslim: '[i]t's not very important to me, personally, as a set of beliefs, but it's very important to my family'. 043 (male, 32, agnostic) explained that he didn't 'subscribe to a lot of the ritual and ceremony of it all, but I subscribe to the fundamental meaning of the religion.'
- 1.57 027 (female, 44, Christian) still defined herself as Christian but largely non-practising, explaining that 'I stopped going to church probably as I came out of my teenage years, mostly because I didn't find somewhere ... a community, a church community where I felt I fitted in. But that didn't change my belief structure and what I believed. It just meant I couldn't find the right fit of community.' 072B (non-binary, 28, spiritual) described her position as 'a bit complex', explaining that 'I was raised Christian and still very much have faith in a higher power of some shape or form but my understanding of Christianity and the way it's impacted the world and how it's actually a very man-made constructed thing has adapted. So, I would say I'm probably ... I

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<sup>27</sup> This was a point made by 001, 002, 004, 015, 019, 020, 022, 026, 028, 036, 039, 047, 052, 063, 076, and 077.

<sup>28</sup> There have, of course, been numerous suggestions for reform over the years – not just in the 1960s but even in the 1860s – the issue has been that they have not been implemented.

have a faith rather than a religion.’ 067 (female, 37, Hindu) defined herself as Hindu but ‘not overly practicing’ and felt that ‘it would be a bit hypocritical for me to go into a Temple and have a big Hindu ceremony’.

- 1.58 For all three of these participants, their choice of wedding was complicated further by the fact that their spouse did not share their faith. 067’s husband was an atheist ‘and he doesn’t know anything about the faith and isn’t really that interested ... So, it didn’t really cross our minds to do a Hindu ceremony’. 027’s husband would have been happy to have married in a church but she felt that it was wrong to put him in a position of making vows in the name of a god in which he did not believe. 072A (female, 27, no belief) and 072B did not mention whether they had looked into the option of marrying in a religious wedding, perhaps because they had assumed that this option would not be available to them.<sup>29</sup> Nonetheless, it was important for both of them to have a Christian element to their non-legally binding ceremony: for 072A it was a means of demonstrating to 072B’s family that ‘whilst I am not religious, I respect and understand that you are and that that’s important to you and so important that I even have it on my wedding day because we are getting married, the two of us’.
- 1.59 The decline in religiosity was also identified by H-184 as a key driver of the demand for celebrant-led ceremonies. As he put it, ‘more and more people are turning away from the church, but they don’t want this completely sterile, almost irreligious service at the Registry Office’. 078 (female, 36, spiritual) similarly spoke of how different traditions and rituals might resonate with individuals regardless of their beliefs or lack of beliefs:

I think we’re becoming more diverse and multicultural all the time and I think that, you know, it’s great. I think it’s really exciting to blend different traditions and rituals together and for some of those to be really ancient traditions. Or really well known within a particular culture and then you might have something completely radically different from a different tradition. So, for me, I think it’s exciting and I think it is changing. But I think also, what’s happening is that we have a huge population in the UK who don’t identify or don’t believe ... don’t feel they come from any particular faith path at all. And so, you can get ... I suppose some people might argue that it’s cherry-picking different things but actually, you know, people connect in different ways and if they see something like they’ve seen people jumping the broomstick and they think, ‘Oh, actually, something about that resonates for me.’ And they might not be able to put words around that for why that is, but they’ll choose to do that even if they might not say that they’re Pagan. And likewise, you know, I think there are some rituals, like there’s the Scottish one of having a loving cup, which is the idea that everybody shares from one cup, which are kind of universal and some people just really like the idea of that, irrelevant of where it comes from. So, I think, for me I see it as this kind of great big melting pot where all these different ideas are coming in and people are going, ‘Oh, actually, I love the idea of that and that means something to me.’

## Conclusion

- 1.60 Our sample was not intended to be representative of couples getting married in England and Wales but to explore why some couples are having a non-legally binding ceremony before, after, or in the absence of a legal wedding. In many cases, the very fact that our interviewees had had a non-legally binding ceremony was an indication that the law did not work well for them or did not offer them the opportunity to marry in a way that was meaningful to them. The chapters that follow – in particular those on

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<sup>29</sup> 072B was legally classified as female but identified as non-binary.

officiants, ceremony, and location – will provide further details of their ceremonies and how they had wanted to marry. First, however, we turn to the issue of the preliminaries that are required before a legal wedding, and the challenges that many faced in navigating them.



## 2. Preliminaries

### Introduction

- 2.1 Since the majority of our interviewees had had a legal wedding at some point, they had experience of navigating the legal preliminaries, whether civil or Anglican. Some of those who were, or had been, in a religious-only marriage also had experience of the preliminaries, particularly where they had been planning to have a legal wedding. A few of those involved in conducting non-legally binding ceremonies also conducted legal weddings, and so could speak about the preliminaries from a different perspective. In addition, many of those who were not authorised to conduct legal weddings still had considerable knowledge of the preliminaries, and views about how they might be contributing to the number of religious-only marriages.
- 2.2 We begin with some general points made by participants about the competing factors to take into account in devising a system of preliminaries, their concerns about the time period and the documentation required, and the extent to which those conducting ceremonies engaged with the couples they were marrying in advance of the wedding. We then go on to provide evidence of participants' experiences to illustrate both how the law operates at present and the potential impact of the Commission's proposed scheme. While our focus will primarily be on the civil preliminaries that are required to be completed before all non-Anglican weddings (as well as those Anglican weddings involving one or more parties who are not relevant nationals), brief consideration will also be given to Anglican banns and common licence.
- 2.3 Throughout this chapter we use the legal terminology for the different processes rather than that used by the participants themselves. While it was interesting to see how many used the term 'banns' to refer to the civil preliminaries,<sup>30</sup> or 'special licence' to refer to any form of expedited notice,<sup>31</sup> following their usage would risk confusion.<sup>32</sup>

### By way of preliminary

#### *The importance of preliminaries*

- 2.4 There was a clear recognition of the importance of preliminaries in ensuring that proper checks were carried out. As D-132, an imam noted, 'there might be people who are not in the right frame of mind to do the right things, will manipulate things'. 049 (female, 28, Christian) also saw the formalities of getting married as important in underlining the fact that the couple were making a legal commitment: 'you want people to be aware that they're entering into something that has very significant legal consequences'.

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<sup>30</sup> 045, for example, commented that 'I can't remember the last time I went near a registry office to look at anybody's banns of marriage', while 041 – who married in a registered place of worship – told us how he had 'ended up getting our banns done where I live locally, which was in a different parish and area to the council where we were actually getting married ... They were done where I lived, but not where my wife lived. It's one set of banns where the wedding is going to take place, because that's where they announce it, isn't it?'

<sup>31</sup> L-221, for example, referred to the abolition of 'special licences', by which he meant the abolition of the superintendent registrar's licence that had previously allowed non-Anglican weddings to take place upon one clear day's notice. This option was abolished by the Immigration Act 1999.

<sup>32</sup> And had in fact confused some of our participants: in the words of 039, 'then they were like, "You've got to get the banns read," and I was like, "What is that??!" I thought that was a thing that they did in the 17th century where they put a piece of paper on the church wall saying 'these two are getting married, if anyone's got a problem with it, then shoot the groom in the face?'

- 2.5 Alongside this, there was also a view that they should be as simple as possible. L-224, a minister in an independent Evangelical Christian fellowship, favoured ‘anything that makes it easier for couples to, you know, actually take that step of formalising their relationship ... anything that removes any of those obstacles and hoops and barriers that they have to jump through would be very, very welcome’. Other participants in this focus group agreed, with L-223, an Anglican clergyman, describing the current notification requirements as ‘anachronistic, needlessly complex and really off-putting and unhelpful’.
- 2.6 P-261, a Sikh priest, raised the possibility of religious groups taking responsibility for the preliminaries: ‘just like we have like civil marriage officiants from the Gurdwara, we could have certain people trained by the government to ask the couples certain questions to make sure certain things are in place before even the Gurdwara wedding day’. While he saw this as part of Sikh wedding ceremonies becoming ‘one of the official ceremonies accepted by the British government’, it would be a radical change from the current position under which only the preliminaries used by the Anglican church are legally recognised.
- 2.7 Religious groups may of course carry out *additional* checks, for example to ascertain whether a couple are eligible to marry according to particular religious rites. This was something that L-221 identified as usual practice in the context of Jewish weddings. However, many of those conducting religious ceremonies of marriage did not necessarily see it as part of their role to meet with the couple beforehand, although some did make this a requirement. Hindu priests such as K-212 viewed meeting with the couple’s families as important in the preliminary stages, viewing the wedding as the responsibility of the family rather than the couple.

### *The notice period*

- 2.8 A couple of participants had perhaps not appreciated that there would continue to be a waiting period between giving notice, expressing concerns about individuals rushing into marriage and taking it too lightly as a result.<sup>33</sup> Conversely, a number of imams voiced concerns about the duration of the notice period. While this is not something that fell within the Commission’s terms of reference, their comments are relevant to the potential impact of its proposals on religious-only ceremonies of marriage, or, rather, the likelihood that the proposals will encourage couples to have a legally binding marriage.
- 2.9 D-134, D-137 and D-144 confirmed that the existing culture was one in which the *nikah* could be organised at short notice; as D-144 noted, ‘I just have to call the Imam and “boom” he will come to my house’. Nonetheless, D-132, D-134, D-137 and D-142 all took the view that requiring a period of notice would not be problematic and that the practice of organising weddings at short notice could change.<sup>34</sup> Some even implied it would be beneficial: as D-137 noted, ‘this way they will have to ... pre-plan ... So, it will delay, or it will help people to not too quickly decide the marriage is happening’. In a similar vein, D-132 said that ‘I think the notice period is fine. To be honest, it’s a good ... 28 days is very good.’

<sup>33</sup> 049, for example, was concerned about ‘Las Vegas’ style weddings ‘where you can get wasted and get married in a day and then get divorced straight after’, although she did acknowledge that the Commission’s proposals were not that ‘extreme’, while 065 worried that ‘people may rush into it’.

<sup>34</sup> Whether they *would* change is another matter, which we explore further in the chapter on validity (para 6.62). In addition, a *nikah* may have different meanings within different cultures: D-142, for example, noted that a *nikah* might in some cases be more akin to an engagement: ‘some people when they go to propose, they will like to do a *nikah* straight away. Like a small *nikah* straight away. So, in that case ... but I think that would be, because that is private, and no one knows about it. I think it is OK for that one’.

2.10 D-135 also saw the benefits of a waiting period, but also the downside:

that might be a little bit of an issue for some people. Some are keen to get married quickly. Sometimes, it might be an issue, but I think ... I suppose it's good to have that, because it means that people are not rushing into a marriage that they are considering. But it might just mean that people might ... they have to give a longer time then obviously it means that they have to ... not everybody wants to wait.

D-144 similarly thought that couples might not take that extra step: 'it's not that they don't want to. It's just more a lazy kind of a thing.' Others were not opposed to the idea of couples giving notice before the *nikah* but had concerns about the timeframe. B-111 thought that the waiting period was 21 days and argued that 'it should not take that long.' D-140 similarly expressed the view that 'the waiting period, frankly, is too much ... You know, sometimes people need to get married in a week ... Not in three months.' This was not necessarily an exaggeration of the waiting period, since where a wedding is being investigated by the Secretary of State as a potential sham it will be extended to 70 days.

2.11 Among the individual interviewees, similar views about the length of the waiting period were expressed by two women whose initial (and, in the case of one, only) ceremony had been non-legally binding. 042 (female, 26, Sikh) who had given notice but ended up having a non-legally binding ceremony in a different gurdwara from that stated in the notice, commented that 'in some cases people do need to get married in quicker than 30 days'. And for 082 (female, 37, Muslim), whose religious-only marriage had since ended, the 28-day period had proved an absolute barrier to getting married legally when her husband-to-be failed to attend the appointment:

that was the last date that we could have booked on ... I didn't see an issue then because I just thought, it's ok, we'll just ... we'll still get married, we'll still going abroad, we'll come back and get that done ... of course hindsight's a wonderful thing and I'm not the only one in this situation with this type of case, so I think that there shouldn't be that kind of restricted window because it's got to be per case. It's got to be tailor made to what the case ... if they'd said to me, ok, 'it's ok, on your basis we know that you're flying abroad doing this, why don't you guys come next week and we'll just do your registration' that would have been much easier.

As she added, 'I don't understand what that 28 days was for.' A third woman, 049 (female, 28, Christian), had also experienced problems with the 28-day waiting period when getting married in 2020, commenting that it had been 'quite a barrier to us in the sense that we might have had our legal wedding even sooner if we hadn't had to wait for 28 days'.

2.12 It was also noted by 042 (female, 26, Sikh) that that certain councils were willing to expedite the process for a fee of £60. Under the Marriage Act 1949 it is indeed possible for one or both of the parties to apply for the 28-day waiting period to be shortened, but they must show that there are 'compelling reasons' to do so 'because of the exceptional circumstances of the case'.<sup>35</sup> While the statute refers to the application being made to the Registrar-General, it also envisaged that the decision might be taken by a superintendent registrar, and regulations have since been made to allow

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<sup>35</sup> Marriage Act 1949, s 31(5A).

that.<sup>36</sup> The risk is, as 042's comments suggest, that practices will differ between registration districts in terms of the ease or otherwise of satisfying this test.

### *Immigration control*

- 2.13 The particular difficulties facing those subject to immigration control were noted by D-140:

You have people who may face problems if they're going to, you know, I don't know about the law but does the law recognise someone who's an asylum seeker? Okay, who wants to get married. And no, you cannot ... you have to ... I'm sorry, you know ... that requirement is not there. So, the conditions for a legal marriage, a civil marriage, are sometimes difficult to approve or to have.

- 2.14 Again, while these rules are not within the scope of the Commission's project, we would like to highlight the negative experience of 034 (female, 28, Muslim). She described her interview as 'quite horrible, to be honest ... it was a man who was trained to intimidate us, and we are both kind of conservative and it was like, "Bullshit!" Like he was using strong words and everything.' While she agreed that there needed to be checks to ensure that marriages were genuine, she felt that the 'the whole suspicious attitude ... should change, basically. We are talking about weddings. People should be a little, little bit nice ...'

### **The residence requirements for giving notice (CQ4)**

- 2.15 Participants provided a number of practical examples of the negative impact of the current requirement that each of the couple be resident in the registration district where they are giving notice for the preceding seven days.

### *The complexity of the current requirements*

- 2.16 E-152, a Baptist minister, noted that '[i]t confuses couples greatly about where they need to go, and they've got to go to different places if they're living in different places. What counts as their home'. Some individuals were clearly baffled by being required to give notice in separate places. 014 (male, 41, Muslim), for example, commented that:

They did have some silly things where they ... because we're both from two different cities, they couldn't amalgamate the information. It was like, 'Really, are you serious?' They said, 'Oh yeah, one has to go to ...' So I was from [city 1], missus from [city 2]. She had to go to the [city 2] office and register there. I had to go to [city 1] and register there. And then, their system had to amalgamate the two files online and that was an issue for them. We had to go back and forth a few times. It's supposed to be such a simple admin matter.

- 2.17 Others had clearly not understood what the requirements were, with 041 (male, 31, Christian) being under the impression that what he called 'banns' were announced in the area where the wedding was going to take place:

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<sup>36</sup> Marriage Act 1949, s 31(5D) ('The Registrar General may by regulations make provision with respect to the making, and granting, of applications under subsection (5A)' and (5E) 'The regulations (a) may provide for the power conferred by subsection (5A) to be exercised by a superintendent registrar on behalf of the Registrar General in cases falling within a category prescribed in the regulations'. See also Proposed Marriages and Civil Partnerships (Waiting Period) Regulations 2015 (SI 2015 No 159).

It's kind of weird, we ended up getting our banns done where I live locally, which was in a different parish and area to the council where we were actually getting married ... They were done where I lived, but not where my wife lived. *[turns to speak with his wife]* It's one set of banns where the wedding is going to take place, because that's where they announce it, isn't it? The problem was that the wedding was taking place in *[city]*. So, we actually had to have two different interviews in two different places for our banns. My local one was *[town]* and her local one was ... oh, the chapel was in a different country altogether because the chapel was in *[area]*, which is obviously part of *[city]*. Well, it's part of the *[city]*, but not part of *[city]* Council *[area]*. As you can see, it was very convoluted to try and get it organised ... It was not easy.

### *An impediment for parties living abroad*

- 2.18 Four of our participants – 011, 039, 050A and 050B – had all been living outside England and Wales at the time that they were planning to marry here and so had had to make a special trip to establish the necessary seven days' residence to give notice. 039 (female, 40, no belief) was originally from England but was living in Germany at the time; having rented out her house, she explained that they had 'stayed at our friend's house for ten days, down the road from our house, and we put their address on our wedding certificate'. 011 (male, 32, Muslim) was resident in Ireland and had similarly stayed with friends of his future wife; as he acknowledged, 'it was made a lot more difficult because obviously that wasn't my place of residence either'. 050A (male, 43, Buddhist) and 050B (male, 46, Buddhist) were a same-sex couple who had been living in Italy prior to getting married; they too had stayed with a friend in order to establish residence. The fact that they had all had someone to stay with is significant, since staying in a hotel for a week would obviously add considerably to the cost of the wedding.
- 2.19 Others identified how the time needed to establish residence could be a disincentive to getting married in England and Wales, or lead to non-legally binding ceremonies. 079 (female, 40, Hindu) – who lived in England but whose partner was resident in America – had married in Scotland because her partner would not have been able to take the necessary time off work to establish residence in England. They had been looking into the possibility of marrying in England, and she would have been very happy to be able to do so. As it was, her Scottish wedding was by way of an elopement, and she had a further ceremony in England (in fact two further ceremonies, one Christian and one Hindu) to enable their respective families to attend.
- 2.20 L-221, an Orthodox rabbi, also identified the residence requirement as a particular problem for a number of Jewish marriages:

quite a significant number of the marriages taking place under our auspices involve one of the partners living in Israel, South Africa, America, various European countries, and the requirement to be in the country for eight days to give the notice and then, you know, the month's delay before registration can take place, does impose problems for people. You know, practical problems ... if you are a working person who has three weeks' annual holiday or maybe even two weeks' annual holiday in some countries, you've got to sit around here for a week to give your notices and everything. So, practically your holiday entitlement for the year goes out the window.

As he explained, this had led him to be 'a bit more flexible' in such cases and to conduct a ceremony without the couple having given notice if they were going to be living abroad and had made arrangements for a legal wedding to take place there.

### *An additional hurdle for those wishing to marry in a specific church*

- 2.21 Participants also provided evidence indicating that the residence requirements were a hurdle for couples wishing to marry in a specific church that lay outside their district of residence and was neither their usual place of worship nor the closest available one. O-251, a Roman Catholic priest, thought that couples might wish to marry in a particularly beautiful chapel, or in the district where their parents were living rather than their own district, and commented that the easing of the rules would be appreciated. He noted how at present couples had to 'jump through hoops' and potentially 'go and stay in a certain place, for a certain period of time'. 076 (female, 43, Humanist) reported that this was what she had done for her first marriage: as they had wanted to get married in a particularly beautiful Catholic church that was not in their district of residence, she had gone to live 'in a youth hostel for a week beforehand to actually go and get married there'. This suggests that removing the residence requirements would, independently of any other changes, give couples more choice of religious venues.

### *The ease of providing evidence of residence*

- 2.22 At the same time, one interviewee also revealed that it is very easy for couples to provide evidence that makes it appear that they are resident in a particular district even if they are not. She and her husband-to-be were planning to marry in January, on a date that held some personal significance for them, but only became aware of the need to give notice mid-December. With his local council office already closed for Christmas, but the one in her home town open for another two days, they changed his address with his bank to that of her family home, printed out a bank statement with the new address, and gave notice in the district where it was located.

### **The possibility of starting the notice period remotely (CQ5)**

- 2.23 The Law Commission's provisional proposal was that it should be possible to start the notice period by giving notice online, by post, or in person at any registration district, with a separate in-person interview where notice had been given remotely.
- 2.24 In brief, the option of giving at least initial notice online found favour across the board among participants. Support for the idea was expressed by a number of those involved in conducting ceremonies, including imams (D-133, D-142), Hindu priests (J-202, J-203), a Baptist minister (E-152), independent celebrants (F-162, I-191, I-192, I-193) and by the overwhelming majority of interviewees. The comment by 061 that giving notice online was 'much more compatible with modern lives, busy lives, working lives, especially if you're travelling' concisely summed up a number of the ways in which it was seen as modernising and simplifying the process. In addition to the greater convenience in terms of time and timing, the option of giving notice online was also seen as relieving some of the stress and anxiety associated with the process and removing some of the barriers to giving notice. A few participants also made comments about the need for the option of giving notice online to be accompanied by other options, and about the continuing need for an in-person meeting.

### *The advantages of giving notice online*

#### **Modernising the process**

- 2.25 Giving notice online was seen as a welcome modernisation. F-162, an independent celebrant, who was a former superintendent registrar, described it as 'a real step

forward' (with lots of nodding from the rest of the group). Interviewees made similar comments about the existing processes being outdated or the ubiquity of online processes: as 072B (non-binary, 28, spiritual) put it 'the world we live in is so online nowadays it just makes so much sense for people to be able to give notice online'. 001 (male, 40, Muslim) similarly thought that the process could be made much easier if it was possible to 'just go online, put your details in, then somebody puts those details into their system ... for me and my wife, yeah definitely, that would have worked better'.<sup>37</sup>

### Greater convenience as to time and timing

- 2.26 The greater convenience of giving notice online related both to the time involved in giving notice in person and to the implications for the timing of the wedding. Alongside the removal of the residence requirements, being able to give notice online was seen as making it easier for those who were not in the country at the time. The idea was welcomed by 050A (male, 43, Buddhist) and 050B (male, 46, Buddhist); as the former noted, it would have meant that they would not have had to travel from Italy to England to plan their wedding here. 061 (female, 46, Muslim) and 072B (non-binary, 28, spiritual) similarly commented on the benefit to those working abroad or temporarily out of the country.
- 2.27 It was also seen as making it easier for those in employment. Many participants commented that they and their partner had had to take time off work in order to give notice. As 022 (female, 38, no belief) and 028 (female, 31, Muslim) both noted, register offices only tended to be open during normal office hours, limiting the times when notice could be given. For 052 (female, 42, no beliefs) taking time off had not been too much of an issue because the register office was close by and they had only needed to be away from work for a couple of hours. By contrast, 078 (female, 36, spiritual) reported that 'it wasn't ideal having to drive backwards and forwards to the registry office because we were in quite a remote part of [county] and so we had to make two, you know, 45-minute trips essentially'. 067 (female, 37, Hindu) regarded taking half a day off work as being 'part and parcel' of getting married, but 046 (female, 39, Pagan), 054 (female, 33, Hindu) and 063 (female, 29, Christian) all reported having to take the entire day off and for 007 it had been 'two days, one day in each borough'.
- 2.28 While the Commission's scheme would not remove the need for couples to have an interview at a register office at some point, it would at least provide more flexibility as to when (and where) this could take place. Such flexibility would have been particularly welcomed by those who had struggled to get an appointment to give notice in time for their wedding. 004A (female, 44, Pagan) had been unaware of the need to give notice; as she noted, 'we very nearly didn't get in time to be married on the date we wanted'. 024 (female, 34, no belief) had booked the appointment in time but reported that there was then 'an awful drama about not being able to find my passport, which meant that we wouldn't be able to go to declare our intent, which meant that the knock-on effect was that we wouldn't be able to get that slot the day before our wedding'. As she noted 'it was really frustrating to have so many requirements of documents at a particular slot.'
- 2.29 Giving notice online would also have been welcomed by those had had to make multiple trips to the register office where additional information or documents were required. 042 (female, 26, Sikh), for example, reported that the registration officer had forgotten to tick the box to confirm whether the gurdwara in which they were planning to marry was their local or usual place of worship, and had emailed them the day after

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<sup>37</sup> Similar points were made by 002, 007, 009, 016, 019, 022, 030, 043, 061, 063 and 067.

they had given notice to tell them that they would have to come back. 032 (female, 59, Druid) had similarly had to make two visits to the register office because she had not taken a particular document with her. She was particularly irate about this because the website of the register office had not stated that this was necessary. As she told us:

I am very meticulous over everything, research everything. I look at everything, I read everything. And I make a list of what I need to take. So, I had got everything that I felt I needed, checked it, went in and then I was told I didn't have one piece of paper ... I think I had the passport but I didn't have my driving licence ... or I didn't have a bill with my address in it. I didn't have something. And I argued with the lady because I said, 'well, it doesn't say that on your website. It doesn't tell you to bring that.' And she was adamant, 'I can't go ahead now because you haven't got this bit of information'. And I looked on their website again and it wasn't there. They hadn't written it there, so I was not happy about that. Because then I had to make another appointment to go in again.

- 2.30 022 (female, 38, no belief) had also been asked for the certificate of her first marriage as proof of her original surname:

So, I had to get a copy of the certificate, which did make it a little bit frantic. And having to book another appointment to go, which is 15 miles away from me and it was a bit of a pain, to be honest.

- 2.31 004B (female, 34, Pagan) had at least been able to send her mother's birth certificate by recorded delivery when it transpired that this was needed as additional evidence, but as her wife noted, it would have been even easier if this could have been done online 'by her scanning it in her own home and uploading it'. And 009 (female, 26, spiritual) praised the fact that it had been possible to send certain documentation to their registrar by email; as she noted, 'that was really good, and it was really flexible, the fact that he was able to send the documentation to a Registrar personally ... I think if Registrars are available for you to email, it makes it a bit more of a personal experience'. She did however note that her husband had had to make a separate trip to show his passport.
- 2.32 Of particular importance are those comments that indicated how online notice might make getting legally married easier for those whose first ceremony had been a religious-only one. Among those who had had a *nikah* first, very few would not have had time to complete the preliminaries within a month, rather than having to make an appointment with the register office first and then wait for a month. 036 (female, 27, Muslim), who was engaged for four months before her *nikah*, and had married in a register office around a year later, commented that had the option of giving notice online been available, 'we probably would have done it sooner'.
- 2.33 In addition, two of those who had been in a religious-only marriage that had since come to an end identified the preliminaries as having been a hurdle to them having a legal wedding. 035 (female, 36, Muslim) commented that '[p]eople are busy, it's not always convenient to go down to the office, which we felt was an issue for us.' And the option of giving notice might have led to a different outcome for 082 (female, 37, Muslim). She had been expecting to marry legally but her partner had made an excuse not to attend the appointment to give notice and this had left them with insufficient time for the notice period to be satisfied before their *nikah* took place. In hindsight, she had realised that this may have been a deliberate strategy on his part: in the interview she also commented that he may have still been in a legally binding marriage with another woman and therefore probably had no intention of legally marrying her at all. Of course, a person who does not want to be legally married may come up with excuses



however easy the legal process is, but such excuses are more likely to be seen for what they are if the process itself does not create unnecessary hurdles.

### Making it easier to get married

- 2.34 The greater ease of giving notice online was noted by many participants. As 043 (male, 32, agnostic) commented, 'the online bit is obviously very welcome. Making it simpler, the process is very welcome.'<sup>38</sup>
- 2.35 There were also some indications that the greater convenience of giving notice online might make it easier for those who had not had a legally binding wedding at all. 003 (male, 33, Muslim), who had entered into a *nikah* during 2020 and who described himself as being on a 'waiting list' for the legal ceremony, said that being able to give notice online would have made it much easier for him to get married; as he added, 'in big cities, it's more difficult to get married because ... just of general population'. While the law allows couples to marry in any register office, regardless of where within England and Wales they are resident, giving notice can only be done in one's district of residence, creating a bottleneck when demand is high.
- 2.36 One imam, D-142, also thought that giving notice online would remove one incentive to have a religious-only ceremony. As he pointed out, within certain communities it would be difficult for the couple to go to the town hall together without a *nikah* having been performed 'because obviously, they can't be together or walking around together'. While there is no requirement that a couple *have* to give notice together, many had done so.
- 2.37 Of course, making it easy to get married may also have negative connotations for some. There is a balance to be struck between making it easy for couples to get married who wanted to get married and making it easy for someone to be forced into a marriage against their will. 066, for example, welcomed the fact that she and her husband could have given notice remotely together because he had not known a certain piece of information about her when he went to give notice. While in that case there was no sinister reason behind the fact he did not know, it is all too easy to imagine a reluctant individual to be compelled to provide the information where the form is being completed online in the privacy of their own home. As noted below, however, there would still be an interview at which issues of capacity and choice would be checked.

### Making the process more efficient

- 2.38 There were also suggestions that giving notice online would make the process more efficient. 007 (female, 28, Bahá'í) thought that it would be 'so much less admin' for everyone, including local authorities. 022 (female, 38, no belief) similarly noted that she was 'all for "online-ness"' and that as part of her own job she was 'constantly striving to get rid of paperwork to just makes things easier and quicker for everyone'. As 005 (female, 34, Zoroastrian) commented, 'everything is online now and yeah, it's probably more cost to everybody to do that physical, going in'.
- 2.39 060B (male, 39, atheist) drew a parallel with what was already happening in the context of birth registration, noting that 'registering our daughter ... we did that pretty much online. I had to obviously still go for a meeting to register the birth but pretty much most of the information I had done was there'. Drawing on this, he concluded:

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<sup>38</sup> The greater ease of giving notice online was also noted by 013, 014, 019, 060B, 063, 066, and 081.

[a]s much as you can do online ... makes a hell of a lot of difference ... it makes it a lot more seamless. So, for example, and again that's from a time perspective, you're not waiting and being interviewed. It's all there, done. You literally go there, get everything ticked, bang, you're out. Because it's all information led.

- 2.40 Being able to enter the information in advance would have been welcomed by 014 (male, 41, Muslim), who recounted how one registration officer had struggled with spelling his name: 'they had to re-spell my name about three times ... I felt like saying to her, "If you want to give me the keyboard, I'll put in my details and then you can just check it out"'.

### *Relieving stress and uncertainty*

- 2.41 A few of our participants identified the process of giving notice as particularly stressful. 021 (female, 32, Muslim) commented how 'this whole idea of making things official can really cause anxiety for a lot of people'. 072B (non-binary, 28, spiritual) thought that having the initial part of the process online would be beneficial. As she put it:

it will hopefully help to lower the stress when it comes to actually going in to have the interview process because they've at least got through some of the process already ... And ... if you've done that process online you've probably got a bit more clarity then in terms of what the rest of the process is going to be ... It can be very stressful to do something new if you have no clue what's going on about it.

- 2.42 Along with 072A (female, 27, no belief), 072B also identified that the process might also be particularly challenging for trans people or those in the LGBT Plus community. They identified as non-binary, and commented that:

I've experienced it a lot where dysphoria makes it very hard to want to be out in public sometimes. It makes you not want to have to have these sorts of conversations all the time in person. So, being able to just do that little bit of the process online ... I think would help a lot of people in terms of dysphoria and stress.

- 2.43 072A similarly spoke of the uncertainty of going to have a conversation with an unknown person and the anxiety engendered by not knowing what their attitude to trans people or those in the LGBT Plus community might be.
- 2.44 Giving notice online was also seen as providing an opportunity to give an explanation of the process. As 024 (female, 34, no belief) put it, this would mean 'that those hoops that we have to jump through make more sense'.

### *The need for other options to be available*

- 2.45 As noted above, the Commission's proposal was that giving notice remotely would just be one way of starting the process. A couple of participants commented on the need for there to be other options: 061 (female, 46, Muslim) noted that a couple 'might want to be traditional and want to do it in person', while 039 (female, 40, no belief) thought that some older people – for example those in their 70s – might struggle with giving notice online.

- 2.46 D-133, 028 (female, 31, Muslim) and 055 (male, 38, Hindu) all also commented that, as the Commission had proposed, it should be possible to give notice at any register office. As 028 (female, 31, Muslim) added, in apparent bafflement, 'if you're getting married and it's recognised ... nationally that you've signed up to this contract of marriage, then why do we have to go to these specific locations to hand in our Notice?'

### *The need for an in-person meeting*

- 2.47 004B (female, 34, Pagan) was one of the few to have a positive memory of the meeting with the registration officers. As she noted, 'it was like the first time someone had asked me if I wanted to get married. And that, in a way, felt kind of important, at the time.' 072A (female, 27, no belief) also reported that the registration officer who did the interview 'was really funny and really nice and he was like, "I'm just checking that this is legit", sort of thing ... So, that was made quite easy and it was a happy encounter and that was fine.'
- 2.48 Others, while less positive, accepted that it needed to be done. As 039 (female, 40, no belief) noted, 'I get why they do it ... because they're trying to avoid people getting married where they're being forced into it'. 059 (male, 36, no belief) similarly noted that '[i]t was inconvenient but I understand why it has to be done.' 016 (female, 35, Christian), however, did regard it as '[a] bit over the top, especially given if you're getting married in the Church of England, you don't have to go through that'.
- 2.49 Two main reasons were put forward by participants to reinforce the continuing need for an in-person meeting. The first was the need for verification of the identity of the parties (013 (female, 31, Muslim), 036 (female, 27, Muslim)) and whether they were telling the truth (005 (female, 34, Zoroastrian)). The second was the importance of ensuring that neither was being forced into the marriage.<sup>39</sup> 004A (female, 44, Pagan), for example, suggested that 'it could be that for the future they made it a stage along the way where, you know, it being a requirement to build in that ... speak to each partner in advance of the ceremony to check that everybody is okay'. 023 (female, 58, no belief), a former policewoman, identified the importance of interviewing the parties in person, drawing on her experience of dealing with the victims of honour-based marriages. 046 (female, 39, Pagan) similarly commented that from 'a background of knowing what that looks like for women especially, I think it is important to have that face-to-face conversation without the partner there'.
- 2.50 Where the interviewer had the opportunity to confirm that there would still be an in-person meeting their concerns were generally allayed. However, 052 (female, 42, no beliefs) did raise questions about how effective the current processes were; she and her husband had been interviewed together, and she described the fact that he had been asked to leave the room briefly so that she could confirm that she was not being coerced as 'a bit of a charade'. As she pointed out, 'if someone is being coerced, are they really going to, at that moment, break free?' 025 (female, 61, Christian) also provided evidence of a lack of privacy, noting that she had been sitting outside the room and had been able to hear everything her husband had said.
- 2.51 While 023 (female, 58, no belief) had initially suggested that the in-person interview should be carried out by the 'celebrant' rather than an officiant, she seemed to become less convinced by this idea as she talked, first acknowledging that it would require formal training 'so that they can spot what's going on', and then identifying the potential risk: 'what if you get somebody who's a celebrant who's actually been trained

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<sup>39</sup> Issues about safeguarding in the context of online notice were raised by 002, 023, 030, 037, 052, 077, and 080.

to be a celebrant but have done that for the purposes of trying to get people into illegal marriages, just for the purposes of actually living in this country?’

- 2.52 How that in-person meeting is carried out is obviously an operational matter for local authorities. That said, some participants had comments on the process that may assist local authorities in reviewing their practices. D-138 provided useful feedback on the factors that should be taken into account: ‘the culture. Differences. [T]he language barrier. The lack of [knowledge of] how the system works. All this stuff needs to be really taken into account.’
- 2.53 Some participants had had rather negative experiences of the interview, referring to feeling that they were being ‘interrogated’ (013 (female, 31, Muslim), 015 (female, 25, atheist)), ‘policed’ (026 (female, 33, no belief)), or ‘grilled’ (078 (female, 36, spiritual)), in a process that was trying to catch them out (011 (male, 32, Muslim)). ‘007 (female, 28, Bahá’í) worried about not being able to recall key information: ‘I was like, “I’m going to fail this test.”’ And 032 (female, 59, Druid) had been very indignant at being told that she had not said her address correctly (having given the postcode rather than the name of her house), reporting that this had resulted in an argument with the registration officer in question:

I was made to feel like I was trying to do a scam wedding. That’s how it made me feel ... we had to say, without looking, we had to say what our address was. So, I said what my address was and she looked at me and she went, ‘hmmm. No, no, that’s not right.’ And I said, ‘what do you mean, that’s not right? That’s where I live.’ ‘Hmmm, you haven’t said it correctly.’ And I said ... of course it was like a red rag ... I said, ‘what?’ And she said, ‘well, what else is there?’ And I said the cottage name and she said, ‘yes, yes’. And I said, ‘but if you look up the postcode, the cottage name is just a name. If I don’t say that, that’s ridiculous. Look at the postcode. I’ve given you the postcode.’ And we had this argument about it. And she was very condescending ... The whole experience was very unpleasant.

- 2.54 It is also worth recalling the many comments that were made about the inconvenience of taking time off work to give notice. 017’s (male, 30, Muslim) suggestion of ‘making it easier such as having appointment times at weekends and the evenings’, to accommodate those who are working or have caring responsibilities, applies equally to the in-person meeting and would be a useful practice for more local authorities to implement.

### **The possibility of the interview taking place remotely (CQ7)**

- 2.55 A few participants commented on the possibility of the interview taking place remotely. 063 (female, 29, Christian) suggested that interviews could be done by Zoom – ‘like we’re doing right now’ – as did 030 (female, 37, atheist). 011 (male, 32, Muslim) took a similar view, noting that:

being present or being absent really is kind of ... it doesn’t really mean very much in my opinion. The questions are the questions. We are having a conversation here and we are able to get information across electronically as well, so I think me being present doesn’t add any value to that. I mean we’re stating we’re going to be there anyway on the day and my willingness to participate is me showing that I want to participate in ... say, if I was online in the ceremony ... so, I mean whether I was online or in person I don’t think that that matters, I guess.

2.56 Interestingly, 011 was under the impression that this was an existing option: ‘as far as I recall now ... I could be wrong on this; I think there was an option perhaps where we had to go in and get interviewed in the Registry Office. I think there was an option to do that online. I could be wrong on that though. Or maybe that could have been an option that might be more accessible for people if they were outside the county or outside the jurisdiction’.

### Displaying notices online (CQ9)

2.57 The Commission’s proposal that notices of marriage be publicly displayed online, save where this would expose either of the couple to a risk of harm, attracted some discussion, primarily among individual interviewees. While there was a consensus that displaying the notices in the register office was an ineffective way of publicising an intended wedding, a significant number did not welcome the idea of additional publicity.

#### *The lack of efficacy of displaying notices in the register office*

2.58 A common theme among participants was that displaying notices of marriage in the register office was ineffective because no one would see them there (D-132, D-133, 016 (female, 35, Christian), 032 (female, 59, Druid), 039 (female, 40, no belief), 045 (female, 55, spiritual), 059 (male, 36, no belief), 070 (male, 35, Hindu), 072B (non-binary, 28, spiritual), 073 (female, 37, unclear), 076 (female, 43, Humanist)). This, it should be noted, is not a new concern. The practice of displaying notices in the register office was originally introduced only as a stop-gap measure for districts that did not have a Board of Poor Law Guardians before whom notices could be read. When it was extended to all districts in 1856 this was not because it had worked well, but simply because of opposition to the link with the Poor Law. Suggestions that notices could be displayed outside the register office were resisted. Even at the time, then, MPs appreciated that they were putting in place a mode of publicising a wedding that did not necessarily achieve publicity.<sup>40</sup>

2.59 The process was seen as particularly artificial where the notice was displayed in a location where they were unknown (015 (female, 25, atheist), 042 (female, 26, Sikh)) or, as in the case of 049 (female, 28, Christian), in a building that was actually shut on account of COVID-19. As she put it, ‘that was a bit of a farce!’ L-221, an Orthodox Jewish rabbi, similarly questioned how effective the system was, dryly asking:

if anyone in the last hundred and fifty years has actually run into the registry office to scream and object to, you know, a marriage going ahead because it’s about to be incestuous or something.

2.60 For these participants, displaying notices online was, as 076 (female, 43, Humanist) put it, a ‘no brainer’. She drew an analogy with planning applications being online and searchable. In a similar vein, 032 (female, 59, Druid) suggested that it was ‘about time they came out of the Ark and did that’. Support for displaying notices online, or a willingness to have their notices so displayed, was also expressed by D-132, 001 (male, 40, Muslim), 008 (male, 35, Zoroastrian), 026 (female, 33, no belief), 027 (female, 44, Christian), 049 (female, 28, Christian), 052 (female, 42, no beliefs), 055 (male, 38, Hindu), 063 (female, 29, Christian) and 073 (female, 37, unclear), with 002

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<sup>40</sup> See Probert, *Tying the Knot*.

(female, 32, Muslim), 016 (female, 35, Christian) and 063 (female, 29, Christian) all expressing surprise that this was not already the case.

### *The concerns about greater visibility*

- 2.61 By contrast, some participants preferred the current system of displaying notices of marriage in the register office precisely *because* fewer people would see it (012 (female, 36, Muslim), 017 (male, 30, Muslim), 071 (female, 35, Hindu)). Concerns about privacy were also expressed by 012, 013 (female, 31, Muslim), 018 (female, 32, Hindu), 053 (female, 24, Muslim), while 079 (female, 40, Hindu) raised the possibility of online notices being hacked and 002 raised a question about data protection.
- 2.62 For some, the concern related primarily to what information would be available online. 046 (female, 39, Pagan), who shared the fact that she was a survivor of domestic abuse, was concerned that the notice would give information about where and when the wedding was taking place. While the Commission had already identified the risk to those who had experienced abuse and made it clear that such information would not be required (CP, para 4.83), her reaction nonetheless underlines the importance of ensuring that those in this position are afforded due protection and reassurance.
- 2.63 For 009 (female, 26, spiritual), the concern was about the use to which the information might be put, and the possibility of people expressing their view on the suitability of her intended partner: 'I don't really see why anyone would need to get involved.' While this concern was largely because she had misunderstood the interviewer's explanation that the notice was intended 'so that people in your community can come forward if there's a reason why you shouldn't be able to marry the person that you're wanting to marry', it again reflects the need to be clear about why information is being published, and what a legitimate reason for objecting to an intended marriage would be.
- 2.64 For others, it was the very fact of the information being online that was problematic. 018 (female, 32, Hindu) indicated that she was not a fan of online announcements and that an online notice was not 'very respectful'. She also thought that it could have longer-term consequences for people who decided not to marry at the last minute and who may not want the evidence of the near-wedding out in public: 'I know of people that have been engaged and been looking to get married and things have fallen through and with people taking screenshots of things and being able to forward things and ... I think that could really hinder people's progression'. This could of course be addressed by having a secure portal with a lock on the ability to screenshot notices. Potentially less easy to deal with is the concern of 017 (male, 30, Muslim) about 'digital footprints'; as he put it 'if it's posted on the world wide web, you almost feel like that's there forever'.

### *The purpose of displaying notices online*

- 2.65 Alongside these diverging views about whether notices should be displayed online, participants also commented on the purposes of publicity, and whether displaying notices online would achieve those purposes.
- 2.66 Only a few participants engaged with these issues, but those who did all identified bigamy as their key concern. 045 (female, 55, spiritual), for example, commented that '[i]t's important that people don't go around committing bigamy. So, that information ought to be accessible in a modern and meaningful way.' However, it was not always obvious how displaying the notices of an intended marriage online would address the particular concerns being expressed. For example, the concern of 020 (male, 35,

Muslim) was not with long-term relationships but with 'the practice of very short-term weddings that happen ... for the purposes of sex'. Even setting aside the fact that it is not possible for individuals to enter into explicitly time-limited marriages, it is unlikely that such intentionally short-term marriages would ever be formalised and so there would be no reason for notice to be given. Other participants seem to have envisaged that the notices of marriage would be available to be checked at a later date: 053 (female, 24, Muslim) gave the example of a married man trying to marry another woman, suggesting that 'it would be quite hard for him because he's already been published as someone who's married'. If the notice is only displayed for 28 days, as suggested, it may be hard to find it at a later date.

- 2.67 One alternative, raised by 068 (female, 38, Christian) and 059 (male, 36, no belief), was that checks should be carried out by someone in an official capacity rather than relying on a third party identifying an issue. Underpinning this was, first, the assumption that the relevant information was already there to be checked and, second, a suspicion that publishing notices online might not be effective in identifying impediments. In relation to the first point, 068 assumed that a database of 'everyone that's been married and divorced' already existed and that it 'should be a question of just putting your name in the system, like they do a police check, the same sort of system', while 059 thought that any potential issue relating to sham marriage 'just needs to go to the right authorities for them to check'. In relation to the second, 068 noted that:

Because even putting it up on a website ... it's not like people spend their lives searching to see if their friends are getting married or every month are you meant to check if your husband is trying to marry someone else.

- 2.68 D-133 had had similar questions about how the process would work:

I would wonder how the upcoming marriages online would be flagged up. How would they be flagged up to the wider community and to what extent would we be able to go through the lists and so on and so forth? Would the Registry Office send out details on a regular basis and have a very large database of people? How would it work? I'm not sure how it would work. You would just personally have to take it upon yourself to go into the site and see who's getting married? Would you be bothered? I don't know. I mean would you be bothered before?

### **Authorising an officiant to act (CQ11 and CQ12)**

- 2.69 At present, the authority to marry indicates where the wedding is to take place. The Commission's proposal – linked to its proposed shift from regulating the location of the wedding to an officiant-based system – was that the schedule should identify who will officiate at the wedding.

- 2.70 L-222, an Anglican clergyman, raised a specific issue about the lack of flexibility implicit in naming the officiant in advance:

if I fell ill on the day of a wedding, I would nab my colleague from a neighbouring parish and he'd just come and do it ... Or she would come and do it. And that flexibility is very helpful. If it does specify a person a month in advance, that's very unhelpful actually.

- 2.71 The possibility of the named officiant being unable to attend was anticipated by the Commission in its proposals for (1) an amended schedule to be issued naming a

substitute officiant at the request of the parties (CQ11) and (2) a substitute officiant being able to act without the need for the schedule to be amended in the case of unavoidable delay, illness or death (CQ12).

2.72 In this context, it is worth noting the discussion within focus group H about how independent celebrants dealt with such problems. The issue arose as part of a more general discussion about the importance of meeting with the couple before the wedding, with H-184 noting that the only situation they could imagine where the celebrant had not done so 'is if someone has to step in because of sickness or traffic jam or whatever'. As others confirmed, it was a rare occurrence. H-182 had had to ask someone else to cover for her only once in her seven years as a celebrant, this being when she had flu. H-183 reported covering for somebody else 'once in five years' and for H-186 it had been a couple of times in the past six years. H-181 noted that she had 'never had to stand in due to sickness or anything for myself or myself for anybody else'. Despite its rarity, all were confident that they would be able to find someone to take their place if necessary (and emphasised that both they and their replacement would liaise with the couple). H-187 reported that he had been asked only a couple of weeks' earlier whether someone would be able to take his place if he was ill, and had been able to reassure them that he knew of other celebrants through being a member of the Association of Independent Celebrants. H-182 reported that the Fellowship of Independent Celebrants had a 'buddy' system for such contingencies, and H-184 confirmed that most celebrants 'have trained with a training body and ... most of us will have a backup if necessary. So, if we're stuck ... we can go to our training body and they will basically find someone close by who can take it over'. H-188 also reported the informal support mechanisms that existed, for example through Facebook groups, concluding that:

there is always somewhere, I think, you would be able to get a backup. Generally, I think, we're all that sort of ... we're all that sort of people, aren't we? So, if somebody is in need we say, 'yeah, yeah, yeah, of course. We can do it. We can do it.' So, I think that's a really good backup plan as well.

### Anglican preliminaries

2.73 Only a few of our participants had married in, or conducted weddings in, the Anglican church. Nonetheless, they provided some useful insights into how the preliminaries operated in practice. In particular, they highlight the absence of the checks and safeguards that form such an important part of the civil preliminaries.

2.74 083A (female, 33, Muslim) and 083B (male, 34, Christian), for example, had had to obtain a common licence to be married, since there had not been time for the banns to be called in the church on account of COVID. In some respects, the process had been relatively simple, at least compared to giving notice. The vicar who was conducting the wedding had guided them through the process and provided a letter of support. They had simply had to make an appointment with the local office, which took place a week and a day prior to the wedding and at which 083B swore an oath that there was no impediment to the marriage, and paid the necessary fee. Both then had to sign a document. However, as 083A explained:

I'm not sure why I signed this document because I don't appear in any part of it ... the form itself had two columns and as far as I could tell, it was asking basically what is the connection to the church, [083B] obviously said he went for Sunday service, my column was blank ... yet I still had to sign it, so that was a little bit odd ... I've read the whole thing because I was interested in why I had to sign this. I never found out. It almost felt like I was there just to prove that [083B]



was marrying me (laughs) and that was it, so I just seemed a little bit redundant that I was there? Because I didn't – I didn't say anything, I didn't have a conversation because the solicitor that was there ... she was clearly someone who went to church, because she was talking about how she couldn't, sing in the choir anymore because of COVID. So [083B] and her seemed to have conversation and a connection, where as I was just kinda sat there not saying anything ... so yeah, I felt like it was quite exclusionary!

- 2.75 There were no separate interviews to ensure both were consenting, no publicity, and no waiting period, with the licence being granted there and then.
- 2.76 Had the banns been called in this case, then it would have been necessary for them to be called in the church in their parish of residence (which neither attended) as well as in the church where they were planning to marry. The latter, it should be noted, was a tiny church with an even tinier congregation that just happened to be located next to the venue where they were holding their reception. 083B had established a qualifying connection by attending services there, but there was nothing to suggest that other members of the congregation had any knowledge of him that would have made calling the banns there a useful exercise.
- 2.77 068 (female, 38, Christian), who had also married in an Anglican church, reported needing to have banns called in different places. Where the banns had to be called was complicated by the fact that she and her husband were out of the country in the run-up to the wedding:

it was a little bit confusing because we were doing six months in Africa and then renting here for six months and then six months in Africa and then renting here. So, we didn't really have a fixed address particularly or we would be at our parents' places and actually we moved to [town], where we ended up living, about three weeks before the wedding. We started renting a place there. But I'm not sure ... so, I don't remember if we had to have things read there as well. Maybe not. But I do remember we had to do it in a number of places. I don't totally remember all of this. So, I know we had our banns read in [town] and I think maybe that was where my technical address was at that point. Because, also, we came back from Zambia in the July and then got married in the September. So, we had only been back in the country for six or seven weeks. So, I think when we were doing everything, my official address was my parents' and that was the town where the church wedding was. So, that was all done through that. So, that wasn't a problem. I think when we started planning the wedding before we went ... because we were in Zambia from January until July. I think we had done the majority of the planning before we went. So, I've got a feeling we might have had our banns read in [area], where we had been renting and we had been going to church there. And I've got a feeling there had been a third thing.

- 2.78 The fact that couples were often marrying in a church some distance away from where they were living led L-222, an Anglican clergyman, to describe the process of banns as 'increasingly ridiculous'. 068 (female, 38, Christian) similarly doubted the utility of banns as a means of securing publicity. As she explained:

we went to church every week and they would always read the banns out. And I just find it such an odd thing because there would be 50 people in the congregation who have never met these people, but that was the legal bit of it. Like, if anyone knows any reason they shouldn't get married, come and tell us ... And it just seems so archaic and just pointless to me because obviously that

started when people didn't move around much. Everyone knew each other, everyone went to church, everyone lived in the same small town. So, if someone wanted to get married, you're going to hit 90% of the people they know. By doing that, it makes sense. But nowadays it's total nonsense. Most of the people that the banns were read out for ... everyone in the church would be sitting there going, 'we don't know who these people are'.

- 2.79 F-161, an independent celebrant who had been a superintendent registrar but who also had an administrative role with her local Anglican benefice, also drew a contrast between the relative rigour of the civil and Anglican preliminaries. As she put it:

they're just not comparable at all ... it seemed to me, even when I was in registration, it always seemed to me that the Church of England couples could get away with murder. And having had a few policemen coming in about bigamous marriages that had occurred in Church of England churches, it's strange how it was normally Church of England churches where they had Banns called, where that wasn't actually ... because they weren't looking at divorce documents. They were taking people's words for it.

- 2.80 She endorsed the idea of civil preliminaries for all weddings, not just because of the deficiencies of Anglican preliminaries but also 'so that they're completely fair and even, across the board'. For 016 (female, 35, Christian), who had married in a Catholic church, it was also a matter of equity. She explained that she hadn't realised the necessity of giving notice because this was not required of those marrying in the Anglican church, and that she felt it unfair that they were exempt from 'this whole rigmarole'.
- 2.81 Perhaps understandably, the two Anglican clergymen did not directly state whether Anglican preliminaries should be retained. L-222, however, commented that he would often encourage couples to get married – rather than just give notice – in the register office for the sake of simplicity. As he noted, banns are now limited to those cases where both parties are British subjects. His view – with which L-223 agreed – was that the current process was 'needlessly complicated' and that 'a simpler process is good for everybody'.

## Conclusion

- 2.82 Our research was largely conducted before the introduction of the schedule system.<sup>41</sup> However, the substitution of the schedule as the authority for the wedding to proceed will not have made any difference to the process of giving notice or resolved any of the problems identified by our interviewees. There is clearly scope for the preliminaries to be modernised and simplified. Doing so would make the process easier for couples to navigate.<sup>42</sup> Having considered the preliminaries, the next chapter turns to the Commission's proposals as to who should officiate at a legal wedding.

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<sup>41</sup> Only 083A and 083B married after the introduction of the schedule system, and as their legal wedding was an Anglican one they were issued with a marriage document rather than a schedule.

<sup>42</sup> On the extent to which couples are put off by the current processes see paras 6.16-18.

## 3. Officials

### Introduction

- 3.1 The idea of regulating the person officiating at the wedding rather than the place in which it occurred was one that found widespread support among our participants. It was seen as making it easier for couples to be able to marry in the location – and have the ceremony – of their choosing. It was also seen as important in terms of recognition for a wider range of religious groups. At the same time, it was acknowledged that the change would not be simply a matter of removing restrictions but of changing what was regulated.
- 3.2 In this chapter we begin by discussing our participants' comments about the current restrictions on who can conduct a legal wedding – or rather whose presence is necessary in order for a marriage to be legal. These restrictions are then contrasted with the comments that were made about the importance of the person conducting the ceremony and the relevance of regulating that person rather than the place. We then focus more specifically on the concept of an officiant. Two issues are considered here: first, how the concept of an officiant is distinct from that of a celebrant, and the implications of this for our participants; second, whether the concept of an officiant was seen as distinct from that of an authorised person, and whether those differences would encourage more individuals to become officiants. Finally, we address the Commission's consultation questions, drawing on our participants' comments and experiences to show how different elements of the proposed scheme were perceived, and how they might work in practice. For convenience we have grouped the questions into those relating to the duties and responsibilities of officiants, and those relating to the process by which different types of officiants would be authorised to act.

### The current law and its restrictions

- 3.3 Anglican weddings aside, the law says nothing about who is responsible for *conducting* a wedding. All of the focus is on who *registers* it. This distinction appeared in the responses of a number of those involved in conducting legally binding weddings as well as non-legally binding ones. As we noted in the introduction, these included individuals who conducted the ceremony and were also responsible for their registration, those who conducted the ceremony alongside another person who was responsible for their registration, and those who were responsible for registering the marriage but not conducting it.
- 3.4 An example of the first category was provided by E-152, a Baptist minister who was also an authorised person. As he noted, however, his role varied: he might be asked to perform both roles, or just one as the occasion required:

although I am the minister and I am doing the legal part of it as well, there are plenty of church situations, not Church of England but free churches and so on, where it's not the minister who's actually the person who is the authorised person and does the legal part of the paperwork, and we certainly don't view that it has to be the priest or the minister who would need to be that person. And I have been involved in weddings where another minister has come and led it and I've just been there to be the authorised person and to deal with the paperwork side.

L-221, an Orthodox rabbi, similarly explained that when he had been attached to a particular synagogue, the community felt that it was important that he should be

appointed as secretary (with responsibility for registering the marriage) as well. As he added, 'I think there are probably some communities where the rabbi himself isn't necessarily also a secretary for marriages but I think, in most of our communities, that does apply.'

- 3.5 One of our interviewees, 045 (female, 55, spiritual), was also an interfaith minister and told us that she had previously been an authorised person for an independent chapel. As she explained, 'I was its licensed celebrant. So, we came as a package. If you had your wedding there, you could have me and we could make it legal.' However, she also mentioned that the chapel had what she described as 'a registrar ... a licensed stand-in for the registrar for those ceremonies'. This suggests that it may have been the latter who was the authorised person whose presence was needed for the marriage to be legal and that she conducted the ceremony rather than being responsible for its registration.
- 3.6 A few told us that they conducted the ceremony alongside another person who was responsible for their registration. These included O-252, a Roman Catholic priest, who explained that he was not himself authorised because 'the priest I worked with was quite insistent that I shouldn't be, as he wasn't, because he didn't want to mix up the roles of Church and State, you know, to roll them up into one person. He wanted to keep them separate.'<sup>43</sup> His parish had 'three or four people' who were authorised to complete the registers, who held no specific role but were just regular attenders at Mass. Similarly, L-225, a progressive rabbi, explained 'I've always felt that I have enough to do with the Jewish stuff ... whichever synagogue I've been in, we've had our lay members who have been secretaries for the marriage'. L-224, the minister of an Evangelical Christian fellowship, noted that they had 'a very good relationship with the Baptist Church where they do actually have it as a licensed place and a licensed registrar, who will be there listening and will actually do all the legal side of it'.
- 3.7 By contrast, M-231 and M-232 were responsible for registering the marriage but not conducting it. Both were Buddhists who were authorised persons for their places of worship, and both made it clear that their role was not that of a celebrant. M-231 explained that she worked at the organisation's national headquarters to coordinate weddings and 'would do all of the background administration for the couple including liaising with our local register office'. There was a separate celebrant who conducted the ceremony. As M-232 noted: 'ever since we've done weddings, just religious ones or religious combined with legal, we've always had a celebrant'.
- 3.8 Other participants also provided examples of the authorised person not being a priest or minister or the person leading the ceremony. As A-103 explained, the authorised person would often be a member of the Management Committee of the mosque rather than the imam conducting the ceremony: 'they will take them into a room upstairs and will just get them to sign the marriage register, as they would sign at the Registrars'. K-212, a Hindu priest, similarly referred to the 'appointed assistant registrar' witnessing the religious ceremony and then coming up 'to do the usual civil ceremony vows with the couple and the signing of the register'.
- 3.9 The fact that the law does not regulate who conducts the ceremony had provided some scope for a wider range of ceremonies to take place. H-182 reported an initiative involving registration officers and independent celebrants. This had involved Staffordshire registration services working with Civil Ceremonies Limited to provide what were termed 'combined ceremonies'. As she explained:

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<sup>43</sup> J-201, a Hindu priest, similarly explained that 'it is purely religious for me'.

the Registrars would agree to be in the same room, at the same time (shock, horror!) as celebrants, so that both parts of the wedding ceremony could be conducted. Both the legal and the celebratory side.

The main reason why this had not taken off was, she suggested, the cost: 'in order to get the Registrar out and have the celebrant, it really was a bit of a double hit for them financially'. F-163 – a former registrar who had become an independent celebrant – also provided an example of leading a ceremony on approved premises alongside registration officers:

I started the wedding ceremony in the wedding room, and we got past the ring exchange and then they went out to another room to do the legal bits and pieces with the registrars and then they came back. I announced them back in and they came in and we did a handfasting to complete ... It was unusual to have the registrars there at the same time. But it worked on this occasion. It worked very well.

- 3.10 There were similar examples of flexibility in terms of who conducted weddings in registered places of worship. N-242, a Pagan priest, had conducted one wedding in a Buddhist temple 'for a pagan-Buddhist wedding with a Buddhist bride' and noted the possibility of conducting a Pagan wedding in 'an appropriate friendly unitarian church'.
- 3.11 The flexibility of the current system – and its constraints – were summed up by 078 (female, 36, spiritual), an interfaith minister: 'the trouble is that we can legally marry people in places of worship, but the places of worship won't let us in.'<sup>44</sup>

### The importance of the person rather than the place

- 3.12 Participants welcomed the idea of future couples having a wider choice of persons able to officiate at weddings. The inequality of the current law, and its differential treatment of different religious groups, was highlighted by 007 (female, 28, Bahá'í), whose legal wedding had taken place in a register office just prior to her Bahá'í ceremony. As she commented 'there's so many people of so many faiths that ... aren't recognised. Or ... humanist ceremonies ... I'm totally on board with the idea that people should be able to do it how they want to do it'. This idea of respecting how individuals wished to marry was also articulated by 071 (female, 35, Hindu), suggesting that people should be able to choose who they would like to marry them. 061 (female, 46, Muslim) similarly welcomed the possibility of people having a wedding conducted by someone who was 'meaningful' to them.
- 3.13 Few, it should be noted, had had their *legal* wedding conducted by someone who was meaningful to them. This was primarily because of the nature of the civil wedding. Of the 66 couples who had also had a legal wedding, 52 had been married by registration officers. While they were generally full of praise for those conducting the wedding, they had had no say in *which* registration officers did so. As 004B noted, 'it felt like we were just going to this person who gets to decide who we are and how we are, which felt really weird'.
- 3.14 This lack of control had been an important consideration for 062 (female, 30, agnostic) in deciding to have a non-legally binding ceremony. As she explained, they were worried about the idea of a registrar coming out to their venue:

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<sup>44</sup> As discussed later in 5.18.

it seemed like you didn't have a lot of control sometimes, or you didn't have a lot of creativity. It felt like, 'Okay, you have your registrar and they're going to come, you're going to meet them about 15 minutes before you get married.' And I felt really anxious about that. And I think so did [husband]. We both felt quite anxious about it. Because we just thought the idea of meeting the person who's going to marry us 15 minutes before we do so; we just felt a bit like 'oh, I don't know, I think that's ... I think that's a bit that's a bit intimidating. That's a bit nerve wracking.' We just liked the idea of knowing who was going to do it. And then also as well, what if the ... the registrar could be lovely, but then what if they're not? You know, and we just thought 'We don't know what we're going to get, is the thing. We don't know who we're going to get.'

- 3.15 By contrast, interviewees had often spent some time choosing who was to conduct the non-legally binding ceremony. For a few, the desire to have a particular person conduct their ceremony had been a major factor in their decision to have a non-legally binding ceremony in the first place. This was the case for 064 (male, 42, Muslim). As he explained, while he was aware that it was possible to be legally married in a mosque:

We just chose to have a sheikh that I kind of respect a lot and my wife respects a lot and he came, and he presided over the Islamic *nikah*. ... So, it wasn't like intentional not to do it properly, but it was just ... the person [we] wanted to do the *nikah*. Cos for me, whoever does the legal registration of marriage, I'm not really bothered about that. It doesn't have any consideration for me. But who recites the Islamic one, I want to have someone that I have respect for and someone that my wife has respect for and our families.

Similarly, for 022 (female, 38, no belief), whose non-legally binding ceremony had been conducted by a celebrant that she knew and worked with, it was 'about having somebody there that really knew us, got us and wanted to join us in the next stage of our life, really'.

- 3.16 Many others had chosen someone that they knew to conduct the ceremony. In several cases this was a family member<sup>45</sup> or a friend.<sup>46</sup> Where the person conducting the ceremony was a minister, priest or imam the relationship was often more formal but no less meaningful. In some instances, there was a long pre-existing relationship between these celebrants and the individuals or their families. As 003 (male, 33, Muslim) commented, people might want to be married by an imam that they had known since childhood: 'you have a spiritual, religious relationship ... why would you not want him to marry you?' In some cases the use of the term 'my' or 'our' in relation to the priest or minister denoted the depth of the relationship,<sup>47</sup> while in others individuals emphasised how long they had known him or her.<sup>48</sup> In addition, a number of those who had been

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<sup>45</sup> These included 026 (outdoors ceremony beside a lake after civil wedding: 'I've got two older brothers and they both conducted the ceremony for us'); 040 (*nikah*, no legal wedding: 'it was conducted by my father, so very simple'); 072A and 072B (ceremony with Christian dimension conducted by brother of 072B after civil wedding).

<sup>46</sup> These included 013 (*nikah*, no legal wedding: 'he's a family friend'); 030 (back garden ceremony after civil wedding: 'we got [friend playing vicar] to be the celebrant person'); 032 (Druid ceremony after civil wedding: 'two friends ... who had both done the same course as me'); 046 (Wiccan ceremony after civil wedding: 'our friend ... did the ceremony for us'); 048 (*nikah* followed by civil wedding: 'He was a close friend of mine. He was actually one of my teachers in [university], so I knew him very well.');

<sup>47</sup> 005 (Zoroastrian ceremony after civil wedding: 'our priest'); 049 (Christian ceremony after wedding in a registered place of worship: 'it was always going to actually be my Minister ... doing the Christian ceremony').

<sup>48</sup> 017 (*nikah* after civil wedding: '[h]e was known to my wife's family more directly so he was their local Imam'); 043 (Hindu ceremony in registered place of worship: 'we've both known [name of priest] for a long time); 055

married by independent celebrants had known the person in question for some time. 015 (female, 25, atheist) reported that her ceremony was conducted by 'an independent celebrant who was actually a friend of my mum's who lived in the village, kind of knew me growing up'.

- 3.17 Others had built a relationship with the person who was to conduct the ceremony prior to it taking place. 079 (female, 40, Hindu), who had both an Anglican blessing and a Hindu ceremony, noted that they had met with the vicar 'a few times beforehand to discuss the proceedings and we really liked her as a person as well'. 039 (female, 40, no belief) found a Humanist celebrant online and reported that when they had met to discuss the possible options ['w]e got on really well. He was lovely, and he was the guy who agreed to do it for us.' The importance of having a rapport with the person conducting the ceremony was also reflected in case of 044 (female, 44, unclear), who had initially looked for a Humanist celebrant but reported that 'we had an interview with him, and he put together some wording for us, and we didn't like it at all. And I don't know if that was him, or if it was the Humanist side of it, I think it was probably him more than the Humanism bit. But it just didn't feel right for us.'
- 3.18 Those involved in conducting non-legally binding ceremonies similarly saw the proposed reform as making it easier for them to officiate at legal weddings. A-104, an imam who had previously been an authorised person, welcomed it on the basis that it would make 'many more of us' able to conduct weddings. This was also seen as a confirmation of their status. One imam, D-143, was particularly eloquent on this point:

[I]t would give us some sort of authority and significance ... It would give us some recognition. It would make us feel as if we are part of the community a lot more. It would make us feel appreciated and then show that, you know, we're not just a people that live here. We are an important part of the community.

In a similar vein, C-121 suggested that the imam's role 'would be appreciated', while J-203 thought that the proposals 'would go a long way forward in creating the uplifting of our Hindu culture and respect to the Hindu priests'.

- 3.19 There were occasional suggestions that a ceremony conducted by a faith leader should be recognised without further regulation. One Muslim male, 014 (male, 41, Muslim), pointed out that since in addition to the imam there would be two witnesses from each side, 'it should just be accepted the same as a normal civil registry'. Others, however, were deeply opposed to this idea. Another Muslim male, 064 (male, 42, Muslim), suggested that 'if a sheikh just comes out and gives a paper and he has the power to do divorce and wedding at will, a lot of things that I've seen in the community, unfortunately women's rights are abused. Their voices are not heard as much.'
- 3.20 Others similarly emphasised the importance of having a process of regulation. 019 (male, 40, Muslim), for example, noted that 'in America, you can get a priest qualification on the internet and then marry two people off; he described this as 'ludicrous', and indicated that he 'would like to see some regulation to make sure that only specific persons have the authority to marry two people'. 022 (female, 38, no belief), who worked for an organisation that trained celebrants, similarly took the view that it was important for those conducting legal weddings to have some 'awareness of what they are actually undertaking' rather than it being a 'free-for-all', while 078 (female, 36, spiritual), who was also an interfaith minister, spoke of the need for 'some

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(Hindu ceremony after civil wedding: 'we always wanted [name of priest] to do it because he's known [name of wife]'s family for a very long time a very long time'); 081 (*nikah* after civil wedding: 'I knew him quite well').

kind of accountability'. 082 (female, 37, Muslim) – who had ended up in a non-legally binding marriage – was particularly keen on the idea of imams being regulated:

if we have more of an authorised legalised way and auditing and monitoring of Imams that can read your *nikah* and are registered to ensure that what they're reading meets the criteria to be legally recognised as married in this country, I think we need more of that and it would reduce the number of cowboy Imams we have in the UK as well. So from safeguarding perspective I think it's wonderful that they should all be registered. And as I say I think the long term of it, it would save I'd say the framework and the foundation of the justice system a lot of money and time ... I think it gives peace of mind to everybody involved and as I say it reduces the element of any fakery, snakery or any, you know, anything else that could go wrong in that stage.

- 3.21 Given that many participants were baffled by many of the requirements of the current legal framework, it was significant that the idea of regulating the person rather than the place was seen as a sensible measure. In essence, while participants saw little point in 'licensing' the place, they could see many reasons for regulating the person officiating at a wedding. 044 (female, 44, unclear), for example, commented that it was 'bizarre' that a building needed to have a licence, but added 'I can understand people needing a licence so that they say the right things, and they do the right checks.' D-134 similarly viewed the current emphasis on place as 'just silly, adding that 'the person should be registered to do the marriage not the four walls, what relevance do the four walls have?' And 019 (male, 40, Muslim) commented that 'if you focus on the person who needs to be qualified and regulated and all the rest of that, then the 'where' you get married is not really important.'
- 3.22 As might be expected, many participants did not engage specifically with what the role of the registered person would be. Their concern was generally with the person conducting the ceremony. Some, however, did expressly consider the difference between a celebrant and an officiant, or made comments that were relevant to that difference, to which we now turn.

## The concept of an officiant

### *The difference between being an officiant and being a celebrant*

- 3.23 The fact that the role of the officiant was not necessarily the same as that of a celebrant was welcomed by a number of participants. For some this was particularly important because their theological position was that no celebrant was needed. E-154, a representative of the Bahá'í faith explained that they had not appointed authorised persons because they had no clergy and that the Bahá'í did not require a third party to conduct a wedding. He described his role as essentially that of a Master of Ceremonies. However, he added that they had marriage officers in Scotland and Northern Ireland who were able to conduct legal weddings, and if the law was reformed along the lines that the Commission had proposed, 'that would be great. We would do the same thing. We would have a bank of appointed marriage officers'.
- 3.24 Within those faith traditions that did usually have a third party conducting the marriage, some saw the possibility of splitting the roles of 'celebrant' and 'officiant' as potentially convenient, enabling each to focus on different aspects. Two imams, D-131 and D-139, separately commented that it would be convenient to have the imam performing the ceremony and the officiant doing 'the paperwork'. Perhaps understandably, imams tended to be less keen on the idea of someone else conducting the ceremony and



emphasised the benefits of a *nikah* being conducted by an imam, even if this was not necessary to its validity within Islam.

- 3.25 Independent celebrants tended to view the possibility of splitting the roles of ‘celebrant’ and ‘officiant’ less positively. Only one, H-181, made it clear that they would prefer to remain as a celebrant even if they had the option of becoming an officiant; as she noted, ‘personally, I don’t want to become a Registrar’. Similarly, only one, H-183, indicated that she would be happy to oversee the legal side if the couple wanted someone else – for example a friend or member of the family – to conduct a particular ceremony, in order to provide ‘another avenue of choice for couples’. Indeed, this provoked a rare moment of disagreement in this particular group, with others making it clear that they would want to lead the ceremony rather than simply being there to ensure that the legalities were completed – otherwise, as H-184 noted, ‘it isn’t something special that we’ve trained for and are passionate about’. They also saw a difference between friends and family being involved in the ceremony (which many actively facilitated), and friends and family leading the ceremony. As H-182 put it, ‘whilst it might be a lovely notion to have a family friend do it ... it can often go disastrously wrong’.
- 3.26 Nonetheless, it is clear that this was what some participants wanted. A number gave the examples of individuals who might be conducting a wedding as a one-off and so might not want, or be able, to be authorised as an officiant. 061 (female, 46, Muslim), for example, had the idea of her uncle conducting the *nikah*. 032’s (female, 59, Druid) Pagan ceremony had been conducted by two friends, and she felt that even having a ‘licensed Druid’ conduct the ceremony would not have been as nice for her as having these ‘two very special people do it’. The possibility of the roles of officiant and celebrant being split would mean that couples would be able to have the ceremony conducted by the person of their choosing, even if they were not authorised, as long as an officiant was present to ensure that the legal requirements were met.
- 3.27 Of course, as 032 also noted, having a recognised officiant would be more expensive than having a friend conduct the ceremony. However since having a recognised officiant would remove the need to have a separate legal wedding, it might well prove less expensive overall, save for the very few who had married in a £46 ‘statutory ceremony’ in the register office.<sup>49</sup> Financial considerations were also raised by G-171, who suggested that an officiant might be more affordable than a registrar where the wedding was taking place outside the register office.
- 3.28 A few participants considered the alternative option of a registrar being present as an officiant alongside a celebrant of the couple’s choosing. Indeed 076 (female, 43, Humanist), who had had a Humanist ceremony after her register office wedding, took the view that the officiant should *always* be a registrar. As she explained:

I appreciate the training that they go through and the experience that they have, particularly when it comes to, you know, sham marriages or forced marriages. I would hate to think that the responsibility would be taken away from the registrars and moved to a celebrant of some sort, whether they be religious or non-religious, and then the priorities change ... So, yeah, I think that that's probably a good idea if the sort of the legal aspect of it, the registrar aspect of it is still maintained by a professional registrar.

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<sup>49</sup> This was not the case for 032, who, from the details she gave of her ‘registry office’ wedding, would have paid upwards of £300 for it.

- 3.29 Of course, requiring a registrar to be present at all weddings would be considerably more restrictive than the current law. While she was not alone in expressing concerns about sham and forced marriages, the Commission's scheme envisages that the checks would be carried out at the stage of giving notice which would remain under the purview of registration officers.
- 3.30 Others, while willing to have a registrar present to deal with the legal aspects, expressed a preference for this being done by someone of their own choosing. For example, 029 (female, 30, Muslim) noted that while they would not have an issue with a registrar attending, it would be 'awesome' if an imam could take on the role of the registrar. 024 (female, 34, no belief), who had had a Humanist ceremony after her register office wedding, would also have been prepared to accept the presence of a registrar as a means of giving that ceremony legal status, as long as they were just 'making it official, but not playing a role of anything more controlling than that'; her preferred solution, however, would have been for the Humanist celebrant to 'do exactly what he did but have the status of Registrar'.
- 3.31 Other participants were averse to the idea of registrars attending their weddings even if their role was limited to ensuring that the legal requirements were met. 078 (female, 36, spiritual), for example, was clear that she would have preferred for her interfaith minister to officiate; as an interfaith minister herself, she referred to having led weddings at which registrars had been present:
- They just come in like MI5. You know, black suits. And their, you know, fastidiousness about pens and what pens people are allowed to hold for photographs ... they don't integrate, and they don't gel, and they come as strangers into a very intimate setting.
- 3.32 Not having to have a registrar present at a wedding in a registered place of worship was also identified as making it easier to get married. As D-142 noted, 'yeah, I think it would be easier instead of ... because at the moment, you have to call someone from the council, which I think you have to pay them as well, for them to come there'.
- 3.33 Given that this is already an option under the existing law, at least for weddings in a registered place of worship, it is worth exploring why those who could in principle have become authorised persons had not done so.

*The difference between being an officiant and being an authorised person*

- 3.34 For a number of those involved in conducting non-legally binding ceremonies, the issue was not that being an officiant was seen as being different from being an authorised person but rather that they were unaware of the option of being authorised. D-137, for example, had only become aware that this was a possibility when reading the briefing that the team had sent him. He was both delighted by the idea and concerned about the lack of awareness of it among other Islamic organisations, noting 'if you don't know, how can you do this?' D-138, D-143, and D-144 were similarly unaware of the option, with the former adding that none of the mosques with whom he was connected were aware of it either.
- 3.35 Others, by contrast, were aware of the option but did not want to be authorised. Three main reasons were put forward for this: the fear that they would be compelled to conduct same-sex weddings; the sense that the role was administratively burdensome; and a sense that their religious role should not be mixed with a legal one. Of these, the first is based on a misunderstanding; the second has been addressed by recent

changes to the law; and the third could potentially be addressed by the difference between being an officiant and being an authorised person.

3.36 The mistaken belief that authorised persons might be compelled to conduct same-sex weddings was clearly a significant deterrent to some. It was noted as a concern among a number of the imams, including A-103, A-104, and D-135.<sup>50</sup> In addition, A-101, A-103 and D-132 all suggested that the issue of same-sex weddings was a factor deterring mosques from being registered for weddings in the first place. One Muslim male, 014 (male, 41, Muslim), similarly thought that as a result of the state imposing 'terms and conditions', a lot of mosques were 'just too afraid' to conduct legal weddings. While the exemptions afforded by the Marriage (Same Sex Couples) Act 2013 and the Equality Act 2010 are clear,<sup>51</sup> the frequency with which this concern was voiced suggests that this is an area where more work needs to be done to provide accurate information. It also underlines the importance of terminology. It is likely that this particular belief has been fostered by the tendency to refer to any authorised person – or indeed any person with the responsibility for registering a marriage – as a registrar, combined with the widely publicised *Ladele* case, in which it was held that a (civil) registrar could not refuse to conduct a civil partnership.<sup>52</sup> Under the Commission's scheme, it should be noted, religious officiants would be able to refuse to officiate at same-sex weddings, and would be continue to be specifically protected from any potential claim under the Equality Act 2010 on account of that refusal.

3.37 The sense that being an authorised person was administratively burdensome was voiced both by some individuals who were already authorised persons and by some of those who had looked into the option of being authorised but decided against pursuing it. Among the former were the two Buddhist authorised persons. M-231 commented that filling out the quarterly returns was:

a huge thing we have to do. 232 and I check each other's work on that. And, you know, you have to do it in church ink and if you make a mistake, you have to start all over again. And, you know, that could be a whole morning's work.

C-123, who had looked into becoming an authorised person, had been deterred by the training that this would entail: 'I just couldn't do it because it was too much involvement'. A-103 similarly noted that some imams were averse to getting 'bogged down with red tape'. However, the new schedule system may make a difference to individuals' willingness to become authorised by making their role less onerous.<sup>53</sup> D-133 noted that she was only waiting for its implementation in order to apply:

So, now we won't have to hold all this stuff in the safe and make sure ... because it is a big ordeal, you know, to make sure that all the names are spelt correctly, dates, everything is filled in correctly and the certificate is registered properly. ... So, we're just waiting until this happens.<sup>54</sup>

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<sup>50</sup> D-135 also noted that being required to conduct same-sex marriages was the only thing that would prevent him from becoming an officiant under the new scheme, although he added that 'I don't think it is an issue, because as I understand there's nothing forcing that person that if it goes against their religious doctrine'.

<sup>51</sup> See Marriage (Same Sex Couples) Act 2013, s 2, and the Equality Act 2010, Sch 3, r 25A.

<sup>52</sup> *London Borough of Islington v Ladele* [2009] EWCA Civ 1357; *Eweida and Ors v UK* [2013] ECHR 37.

<sup>53</sup> The schedule system would also mitigate the concerns expressed by 023 'about recording information, making sure that that information is correct, that it's actually deposited in a specific area, that is kept secure'.

<sup>54</sup> C-123 also thought that the new schedule system would make a difference: 'I think probably in the 5, 6 months within this new legislation, with the new law that's coming into place there will be more focus on having maybe both ceremonies at the same place, the civil and the religious *nikah* ceremony'.

However, that change alone may not be sufficient to encourage all those currently involved in conducting non-legally binding ceremonies either to become authorised under the current law or to become an officiant were the Commission's proposals to be implemented. For many participants their religious role was not their primary occupation, and even in the context of their religious role, conducting weddings was not their primary function. Among the imams, A-105 only conducted a *nikah* 'from time to time', A-101 'just when people ask me, mainly friends for favours', and D-141 'once in two years or once in a year'. B-115 similarly explained that as he was attached to a university it was not practical for him to be 'registered', while C-122, who worked for a hospital, conducted *nikahs* 'as a service ... it's not my sole ... it's not an income-based service, if you know what I mean'. In a similar vein, J-201, a Hindu priest, only conducted 3-4 marriage ceremonies each year, E-151 was a part-time Parsi priest, and N-241, a Pagan celebrant, described himself as 'an occasional celebrant rather than a regular'. Among our interviewees who also conducted ceremonies, 045 and 078, who were interfaith ministers, both had other employments, 010, who conducted Pagan ceremonies, only worked as a celebrant on a part-time basis. There was also data to suggest that non-religious celebrants were not necessarily conducting weddings as their primary occupation: 023 and 025 both had additional sources of income and G-171's celebrancy work focused on funerals rather than weddings.

- 3.38 The third objection was based on a sense that their religious role should not be mixed with a legal one. As noted above, this was a concern for O-252 and J-203. E-153 also identified principled reasons for differentiating between the legal and religious aspects of getting married. As she noted, the communities that she worked with had been denied marriage in the past:

They had been denied the officiation of their relationship for so long that ... there's often a rush to do it ... So, it's almost really useful for us to be able to say, 'this is not your legally binding ceremony. We recommend that you go and do the bureaucratic stuff to get your legally binding ceremony', because it slows people down a little bit in a useful way.

She also added that she was 'uncomfortable with how this country's laws would permit me to marry some people and not others'.

- 3.39 However, some saw the role of officiant as being compatible with a religious role in a way that being an authorised person was not. As J-203 commented:

we would be able to conduct a wedding ceremony not according to just a Hindu ceremony, but also officiate and pronounce them as husband and wife, and make it as a legal binding wedding ceremony. That side of it really attracts me. I'll be all for it.

The implication is that he saw the proposals as conferring recognition on the religious ceremony – and on his religious role – rather than as requiring him to take on a legal role.<sup>55</sup>

- 3.40 A final group consisted of those who were willing to become authorised, but who had faced specific obstacles. Since an authorised person needs to be appointed by the trustees of a registered place of worship, being authorised was not an option for those whose religious group had no places of worship that could be registered for

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<sup>55</sup> This perception was also influenced by the proposal that the ceremony would no longer have to include prescribed words and that couples would be married once the requisite religious rites had been performed: see further below.

weddings,<sup>56</sup> those who were not affiliated to a specific place of worship at the present time,<sup>57</sup> and those whose place of worship had not been registered for marriages.<sup>58</sup>

- 3.41 The limitation of an authorised person's sphere of authority to the registration district in which the registered place of worship was located was also identified as problematic. As J-203 noted, Hindu priests travelled all over the country and indeed all over the world to conduct marriage ceremonies.
- 3.42 Finally, the imams in particular tended to report more scrutiny, less support, and in some cases a strong sense that their application to be authorised was not welcome.<sup>59</sup> The starkest evidence came from D-131, who reported that his local register office had actually refused to accept him as an authorised person:

[W]e've registered our mosque nearly ten years ago as a place of marriage. Rotten civil marriage people [haven't] given us the register. So, every time, people have to ... they still have to go to the marriage registration, and then the registrar or the superintendent comes to do it ... They've been so ... you know, it's that idea of not trusting the Muslims to give us the certificate ... the register. And so, as a consequence, that's again an off-putting factor for people to register there and then pay extra for the superintendent to come into the mosque and to do both the civil and the Islamic *nikah* ... They've been very rotten with us, but that's I presume, they're just saying, 'Oh, we want to keep our hands on our register ourselves and not give it to ...' Yet we fulfil all the conditions. We've got a safe, proper safe. I know what I'm doing very clearly. I've done it a couple of times with the superintendents and well, I conduct it all. But no, they've been a nasty bunch ... But they said, because you don't get enough ... you don't get lots of people coming to you. That is one of the reasons why we're not giving the register to you people.

- 3.43 Overall, in terms of the likely take-up, those who were already authorised saw no challenges in becoming an officiant, while a number of those who were not authorised expressed their willingness to become so. As one imam, D-143, put it: 'I definitely would consider it, yes, in fact I want that because that would mean, you know, Muslims will want to get married and be legally known in British law as a married couple'. Another, C-124, was a little more cautious, noting that it 'comes down to what the process is behind that, how easy or difficult it is'. This provides a useful reminder of the balance to be struck in devising any scheme of regulation. It is not an end in itself. If it is made too difficult for individuals to qualify as officiants, then they will simply not engage with the system. The result will not be that they do not conduct weddings, but that the ceremonies they conduct will not have legal status.

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<sup>56</sup> These included E-153, a female imam, and L-224, the minister of an Evangelical Christian fellowship.

<sup>57</sup> These included A-104, who had previously been an authorised person for a mosque, B-115, a resident imam at a university, and C-122, who was linked to a hospital rather than a mosque.

<sup>58</sup> These included C-121, C-123, D-136, D-139. D-134 noted that he had applied for the mosque to be registered 12 months earlier but was still waiting for the application to be processed.

<sup>59</sup> B-111, for example, reported the local register office carrying out checks (which were not reported by other authorised persons), B-113, B-114 and C-123 had all looked into the possibility of being authorised, and C-122 felt that there was no 'concerted effort to incorporate approved personnel from other religions to be able to register a civil marriage' but rather a sense that 'it needed to be kept within the host community'.

## The role and responsibilities of an officiant

### *Prior engagement*

- 3.44 While there is no formal requirement within the Commission's scheme for the officiant to have met the parties before the wedding, it is implicit that there will have been some prior engagement. The fact that it will be the responsibility of the officiant to ensure that the schedule is signed assumes that there is a schedule to be signed – which in turn requires the parties to have given notice naming the intended officiant.

### *Being present at the ceremony*

- 3.45 A legal requirement to be present at the ceremony – or at least that part of the ceremony that effects the marriage – already exists for Anglican clergy, registration officers, and authorised persons. It does not, however, apply to Quaker registering officers and Jewish secretaries. In practice, however, the person responsible for registering the marriage will almost invariably be present at the ceremony. L-221, an Orthodox rabbi, noted that when he was the secretary of a synagogue, he would be there 'at every ceremony'.
- 3.46 Just how exceptional it was for the secretary *not* to be there was clear from the account given by L-225, a progressive rabbi, of the 'ghastly' occasion on which she had had to conduct a ceremony in their absence:

I was being taken ... to do a wedding down in Surrey and I was meant to be picked up by the registrar to go with me with the books and he wasn't in the car. I said, 'Well, what's happened to him?' And they said, 'Oh, he's got a bad throat. And he's in, you know, his late eighties and we didn't want to take him out in this weather.' And I said, 'Well, you know, but I can't do a wedding without a registrar. So, you know, what are we going to do?' So, I rushed into the house, consulted my husband who's also a Rabbi. He said, 'You can't do this wedding.' I rushed out. Phoned the ... Eventually I said, 'OK, let's go towards the wedding,' because it would take us an hour and a bit to get there. 'And let's see if we can sort something out on the way.' And I tried a local synagogue to see if I could borrow a registrar. I tried everything and eventually the chair of the synagogue managed to get in touch with the emergency registrar somewhere in Surrey. And they said we could do the wedding provided, within a few days, the couple and the witnesses would present themselves to the registrar and sign the documents. But it was very odd, and I didn't feel comfortable doing it at all because, you know, I do feel a great responsibility to make sure that I have obeyed the law. I don't want to produce a couple that aren't married.

### *Ensuring that consent has been given and the schedule signed (CQ19)*

- 3.47 The Commission's proposal was that an officiant should have a legal duty to ensure that the parties freely express consent to marry each other, that any other requirements of the ceremony are met, and that the schedule (or marriage document is signed). How couples might wish to express their consent is considered further in the chapter on 'ceremony'. Here our focus is on whether those conducting non-legally binding ceremonies – in particular religious-only ones – already took steps to ensure that both were consenting to the marriage.
- 3.48 The importance of ensuring that both parties were freely consenting to the marriage was highlighted by 076 (female, 43, Humanist). As she noted, her concern with

potentially widening the pool of persons who could officiate at weddings was with ‘the forced marriages, arranged marriages, that kind of thing, whether or not the person that's conducting the ceremony would necessarily be in a position to make that differentiation’.

- 3.49 Celebrants addressed this issue by pointing out the amount of time that they spent with couples prior to the ceremony. G-171, a former registrar and now independent celebrant, sought to pre-empt any argument that celebrants might be used to circumvent laws on sham and forced marriages:

if I'm sitting down with somebody for three hours, plus I've met them on Zoom, plus I'm emailing them, plus I have follow-ups, I could very much more easily work out whether there was a bride who was maybe being forced into the situation or whether it was a completely sham marriage, than I could if I was a registrar spending five minutes with them.<sup>60</sup>

Prior knowledge of the couple can, of course, cut both ways. Those who have known the parties or their families for a long time are less likely to be looking out for signs of forced or sham marriage and perhaps also less likely to spot such signs. The need for an independent assessment is one of the reasons why the preliminaries are so important.

- 3.50 Among those conducting religious ceremonies, the issue of consent was primarily discussed in relation to the *nikah*. There were a number of reasons for this. One was the simplicity of the *nikah* itself: in contrast to the Hindu, Sikh, or Zoroastrian priests, who described the ceremonies they conducted in terms of rituals or language, for many imams, consent *was* the ceremony. Another was the fact that the mechanisms for ascertaining consent differed within different schools of thought. As D-144 explained:

if it was done within the Shafei school of thought, then the father would speak on behalf of his daughter. So, I wouldn't really meet his daughter and I wouldn't really know of her consent. I would have to trust the father that his daughter is okay with it ... Whereas the Hanafi school of thought, actually you have to get the girl's permission, regardless of the father being there or not.

- 3.51 Against the background of these different approaches and views within Muslim communities, and perhaps also a perception among imams that they were suspected of conducting forced marriages, it is unsurprising that many were keen to emphasise that they spoke directly to the bride to obtain her consent. This was a point that was emphasised by B-111, B-112, D-131, D-134, D-139, D-140, D-142, and D-143.<sup>61</sup> D-134 contrasted what he thought had happened ‘traditionally’ – with the groom being asked whether he accepted the bride to be his wife and the bride ‘just sat on the side’ – with his ‘very different’ practice. D-140 and D-141 stressed that they would not conduct marriages if either party was unwilling, with the latter also making it a condition that ‘the couple have seen each other’. D-139 and D-143 additionally mentioned the need to speak to both parties to ensure that they had the mental

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<sup>60</sup> In a similar vein, H-187, an independent celebrant, commented that it was easier for celebrants to detect whether there was any coercion because they got to know the couples they married, comparing this to someone being ‘primed to answer the questions that they're asked by the Registrar’. All celebrants, independent and Humanist, emphasised the time that they spent getting to know the couple.

<sup>61</sup> Obtaining consent from the bride was, however, usually a separate process from obtaining consent from the groom. The implications of this for the Commission's scheme are considered further below in relation to CQ45, which deals with how consent would have to be expressed.

capacity to consent to a marriage. Only D-135 spoke of the offer and acceptance being made by the guardians of the parties.

- 3.52 However, also D-134 reported that on occasion he would continue with the *nikah* even where the bride was not present or he had not met her, if the families were known to him and conservative in their practice of faith. There is perhaps a risk that familiarity may cloud an individual's judgement and make it harder for them to make an independent assessment. At the same time, it would be inappropriate to insist that the officiant is unknown to the family. After all, as discussed above, many couples want to be married by a person that they know. Moreover, as we discuss elsewhere, the risk of an individual being forced into an unwanted marriage is lessened in the context of legal weddings because of the necessity of the couple giving notice and each having a separate interview with a registration officer.
- 3.53 Among our participants who had a *nikah*, all had done so willingly, and most had been asked for their consent directly. 058 (female, 32, Muslim), however, had not even met the imam who conducted her *nikah*. While the ceremony had taken place in a mosque, she had remained within the women's section and had had no direct contact with him. Nor had there been any male witnesses, as is generally required by Islamic law; instead, her father had come in with the book in which *nikahs* were recorded and asked her to sign it. As she described, 'that was a bit dodgy for me but I kind of just went along with it anyway, if I'm being honest'. Tellingly, however, she described this as 'strange' and reflected that 'I don't feel like I had a traditional *nikah*'. There were, moreover, particular reasons why this *nikah* was conducted so quietly; far from being a case of a young woman being forced into marrying the person of her parents' choosing, this was someone whose choice of spouse was not endorsed by her family, and she accepted that her *nikah* was not going to be celebrated in the same way that those of her older sisters had been.
- 3.54 Nonetheless, her experience, and the fact that imams are often called upon to conduct a *nikah* for a family they know, highlights the need to make it very clear that someone entrusted to officiate at a legally binding wedding would have certain responsibilities and that these cannot be abrogated.

#### *Upholding the dignity and solemnity of marriage (CQ35)*

- 3.55 The proposed responsibility of the officiant to uphold the dignity and solemnity of marriage attracted some discussion among Humanist and independent celebrants in particular. There were a number of different elements to this.
- 3.56 Both Humanist and independent celebrants used the terms 'dignity' and 'solemn' in relation to the commitment that the couple were making in getting married. G-175, a Humanist celebrant, referred to 'the solemnity of the process' and the role of the celebrant being 'to conduct something that is a commitment between two people that is vitally important and is hopefully for life'. In a similar vein, F-162, an independent celebrant, acknowledged that 'yes, we have fun, and we have joyful moments, but equally we have those solemn moments when they're saying their vows to each other'. Another Humanist celebrant, G-173, suggested that allowing bespoke ceremonies would help to promote 'the dignity and the sanctity of marriage' because of the time that would be spent meeting the couple 'and discussing them and their marriage and their commitment together'.
- 3.57 More divisive was the issue of what dignity would mean. G-175 noted that she didn't want 'to see it move in a direction where we have Las Vegas type ... you know, Elvis



imitator weddings and that kind of thing. I think, for me, that's a stage too far. I'm all for choice but I'm actually for choice in the context of these being key rituals'. G-172 and G-174 – independent celebrants who conducted Pagan and Humanist ceremonies – indicated that they agreed with this. In another focus group, however, I-192, described the Elvis-themed ceremonies he conducted, emphasising that 'my ceremony is a proper ceremony, but I add some "Elvisy" things'. I-194 also questioned the idea of 'solemnity', explaining that 'if there's one thing that a celebrant-led wedding is going to have in it, it's going to have some fun ... We don't want something which is so dry and dusty that it becomes sonorous', while I-193 raised the question of what 'proper and dignified' might mean in the twenty-first century as compared to the nineteenth.<sup>62</sup>

3.58 A couple of independent celebrants, F-167 and I-193, also questioned whether a duty to uphold the dignity of marriage would preclude alcohol being drunk. This was particularly significant because of the use of alcohol in certain unity rituals. I-193 described in a wine or cocktail unity ceremony, different elements 'represent different aspects of the couple's relationships. So, for instance, white wine represents the sharpness and the bitterness that life can bring, and the red is the mellow and the sweetness of life and you pour them together and it represents life's ups and downs.' While she accepted the need for there to be 'some rules and regulations', she hoped that they would 'give us the freedom to be able to do what we need to do'.<sup>63</sup>

### Registration officers

3.59 Since the Commission's scheme assumes that registration officers will continue to play a key role in conducting civil weddings, it is worth noting that many of our participants were full of praise for the registration officers who had conducted their weddings.<sup>64</sup> In fact, 'lovely' was the word most commonly used in relation to registration officers. This included the one who conducted the wedding of 063 (female, 29, Christian), although, as she recounted, 'when we got there on the day for our wedding, it was a bit unfortunate but the Registrar that we got, she didn't know she was doing a wedding that day'.

3.60 Indeed, no one reported having met the registration officers who conducted the wedding prior to the event. 030 (female, 37, atheist) reported that she 'didn't mind that it was a stranger being the celebrant', as she viewed this as normal practice; as she acknowledged, 'it would have probably been nice to have met them before but, like having said that, the lady was lovely who did the ceremony'.

3.61 In relation to CQ21, which proposed that only one registration officer should be required to attend a civil wedding, it should be noted that the presence of two registration officers went unremarked by most participants. However, to 030, whose 10-person wedding had taken place in what she described as a 'tiny conservatory', the presence of a registrar – and a 'big desk' had been very obvious. His purpose, however, had been less obvious: as she told us, 'I was like, "Who are you?" ... I didn't

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<sup>62</sup> This suggested that she assumed that the Marriage Act 1836 had required a wedding to be dignified, but in fact the only reference to dignity in the current law appears in the regulations governing weddings on approved premises and relates to the premises – being a 'seemly and dignified venue' – rather than to the ceremony itself: Marriages and Civil Partnerships (Approved Premises) Regulations 2005 (SI 2005 No 3168), Sch 1, para 1.

<sup>63</sup> It should be noted that alcohol also featured in some legal weddings. 050A, 050B and 074 described how their Buddhist weddings involved drinking sake; as the latter explained, drinking from a series of cups of increasing size was intended to represent 'your increasing respect for each other and the effect of your partnership and the people around you at the time'.

<sup>64</sup> I-194, an independent celebrant who had attended the register office wedding of a couple whose ceremony he was conducting, noted that the registrar 'did a really, really good job. They had an absolutely wonderful ceremony').

really know who he was or what he was there for'. Among those conducting ceremonies, F-163, a former registrar, also commented that 'for the couples it's expensive to pay for two registrars, especially if it's at a registered premises'.

- 3.62 While the Commission made no proposals for the appointment or training of registration officers, this was on the basis that processes were already in place. However, G-171 did suggest that those conducting weddings were often employed on a casual basis and had had limited training:

The registration service, they send out celebrants nowadays ... They don't send out registrars. They send out casual celebrants who are on an incredibly low wage, who have probably two days of training.

F-163 also referred to registration staff being cut to 'an absolute minimum'. Her account of conducting eight weddings on Saturdays highlighted both the pressure that registration officers are under and the implications for their ability to engage with the couple in any meaningful way; as she noted, 'you get to the point where you don't really even see the couple in front of you'.<sup>65</sup>

- 3.63 In addition, some of our participants reported negative experiences of the registration officers who had conducted their civil ceremony.<sup>66</sup> Other points that local authorities might wish to take into account in training include the issue of what constitutes an individual's name for legal purposes,<sup>67</sup> and the need to avoid assumptions about how the couple might wish to be addressed once they are married. On the latter point, two separate interviewees raised the issue of the wedding certificate being addressed to 'Mr & Mrs'. As 015 (female, 25, atheist) noted, 'at no point did they ask if I was taking his name'. For 075 (male, 61, Christian) and his husband this represented an even more significant blunder. As he noted:

We did write in and ... said how marvellous the registrars were and what a great celebration it was, but that this had happened. And we just got a reply saying, 'We were sending them out on a Friday afternoon, we were in hurry to get them sent out.' ... [name of husband] was not very pleased at all with that response.

### Anglican clergy

- 3.64 The only person to be critical of the Commission's proposal that clerks in Holy Orders within the Church of England and the Church in Wales should be authorised automatically by virtue of their office (CQ22) was a Pagan priest, N-242. He regarded this as 'offensive', on the basis that all religious groups should be treated equally, and thought that they should go through the same nomination process, and be subject to the same training requirements, as others. His view was that 'the appropriate legal oversight should apply to everyone, whatever their religious background'.

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<sup>65</sup> The tendency of registration officers to conduct multiple ceremonies in a day was also noted by I-193 (6-8 ceremonies) and G-172 (3-4).

<sup>66</sup> These are explored in more detail in the chapter on [ceremony].

<sup>67</sup> 073, for example, noted that throughout the ceremony her partner was identified by his first name, rather than his middle name, by which he was known. She identified this as one of the aspects that made the civil wedding meaningless to her: 'to go through the legal ceremony, with this, you know, "I take thee, [name]." I thought, "Who's [name]?" I don't have a relationship with [name].' Given that a person's legal name is the name by which they are known, it would have been perfectly legitimate for his middle name to be used, and doing so would have removed her sense of disconnect from the ceremony.

- 3.65 There is, it should be noted, already a double layer of authorisation for Anglican clergy. When L-223 commented that ‘we become authorised ... by virtue of our ordination’, L-222 quickly added ‘[a]nd by license of the Bishop’.

### Nominated officiants

- 3.66 The category of nominated officiants includes both religious and (if enabled by Government to officiate at weddings) non-religious officiants. That caveat is an important one to note, as it was not within the Commission’s terms of reference to recommend whether non-religious belief organisations *should* conduct legally binding weddings, but rather to devise a framework within which they *could* do so.

#### *The need for a nominating organisation (CQ23)*

- 3.67 The Commission’s proposal was that the nomination should be made by the relevant governing authority of the nominating organisation. What would constitute a nominating organisation is addressed elsewhere (CQ25); here, we focus on whether those conducting non-legally binding ceremonies were already part of an organisation and what participants said about the possibility – and desirability – of there being a process of nomination rather than individual applications.
- 3.68 Even though our focus was on those conducting non-legally binding ceremonies, they were not necessarily operating on an individual basis. Some had links to, or were subject to the governance of, world-wide organisations. N-242 was an ordained priest of the Fellowship of Isis, E-151 conducted ceremonies for the Zoroastrian Trust Funds of Europe and the World’s Zoroastrian Organisation, and P-261 noted that the Sikh wedding ceremony was governed by the Sikh Code of Conduct, issued by their highest authority, the Akal Takht, based in Amritsar.
- 3.69 Several referred to UK-wide organisations. E-154 was a member of National Spiritual Assembly of the Bahá’ís of the United Kingdom, M-232 gave details of the governance structures of her particular branch of Buddhism within the UK, and G-173, G-175, G-176, G-177 and G-178 were all Humanist celebrants accredited by Humanists UK.
- 3.70 Others were linked to local organisations or places of worship. L-224 explained that he was part of an independent but non-denominational Christian Fellowship that stood within the Evangelical tradition but did not have any affiliations to any particular denomination. Many imams also noted that they were affiliated to a particular mosque, and would only conduct *nikahs* via that mosque.<sup>68</sup> As C-123 put it, ‘I don’t perform *nikah* on my own, in my personal capacity, rather it’s always through the *masjid*’. P-261, a Sikh priest, also held a formal role in a gurdwara.
- 3.71 Others operated on a somewhat different organisational basis. A-106 noted that ‘our *nikahs* don’t come through a mosque or anything ... we have our own company, so to speak’, while D-142 had started his own organisation and had been conducting *nikahs* for family and friends.
- 3.72 A few were entirely independent. This was the case for D-141, who explained that as a Nigerian he would connect with those from his community back home who had relocated to the UK because of their shared cultural background. While he would usually direct couples to the local *masjid* for a *nikah*, he would conduct the occasional

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<sup>68</sup> This was the case for A-101, B-115, D-132, D-134, D-136, and D-137. In addition, E-153 was affiliated to the Inclusive Mosque Initiative, a virtual rather than a physical mosque.

one for those who were not attached to a *masjid* or who lived in a remote part of the country. N-241 had been part of the Pagan Federation and the Order of Bards, Ovates and Druids in the past but now described himself as 'a solo practitioner'; he too only conducted the occasional ceremony.

- 3.73 The only group to make no mention of any organisation or links to particular places of worship was the Hindu priests. In this they were not necessarily typical of Hindu priests in England and Wales; J-203, for example, noted that one Hindu temple that was registered for weddings had 'their own group of priests'. The fact that he added that they did not allow other priests to conduct the ceremony 'even if it's the bride and groom's wishes' perhaps hinted at rivalries between priests and provides a reminder that there will always be individuals who remain outside the system for one reason or another. At the same time, he was also very positive about the idea of there being a clear process of nomination:

This is the beginning of making any wedding ceremony official. I thoroughly welcome this wholeheartedly because there are so many people out there who put their hands up to say that they're a Hindu priest. Well, how? A Hindu priest or anyone who's going to belong to his organisation must have some basic understanding and knowledge of what they're doing. They must be brought forward with confidence from the members of the community who have heard about them.

- 3.74 Indeed, the need for there to be some oversight of who was nominated was emphasized by participants from a range of different faiths and beliefs. G-177, a Humanist celebrant, noted that their main concern when thinking about the questions 'was about quality and accountability'. C-123, an imam, also raised 'the issue of who would oversee the ceremonies', noting '[t]hat is a very, very important factor for me'. Another imam, D-133, was worried about the possibility of 'any Tom, Dick or Harry Muslim' being 'picked out of a group to conduct a marriage' and suggested that there would have to be discussions 'so that the community would be able to set up a kind of a structure around that, which would give it that importance and responsibility and ceremonial effect'.

- 3.75 However, a different view was taken by the Pagan celebrants. N-241 commented that many Pagans 'are solo pagans. They're not necessarily part of an aligned group. They may well be part of a community, but not necessarily an aligned group.' N-242's preference was to allow individuals to apply to be officiants. As he commented, when he had applied to be a prison chaplain, he had simply been required 'to provide a couple of referees to certify my general moral good character'; these referees had not had to be people who shared his religion but simply 'other human beings who ... [d]idn't have a criminal record and could be considered reasonably upright members of the general community.' He felt that something similar to that would be perfectly reasonable.

Just as we have for most other things in life. We have witnesses for our wills and any other legal documents. The fact that somebody in the community is prepared to sign their name for you and perhaps say, not more than 50 words, to say yes, this is a good person, you know, I trust them to be a wedding celebrant. That ought to be sufficient rather than any complicated rules about what is and what is not an acceptable group to do a nomination.

### *Religious and non-religious belief organisations (CQ24)*

- 3.76 While participants did not engage with the definitions proposed by the Commission, they did pose questions about how different groups would be categorised. 032 (female, 59, Druid), for example, was uncertain as to whether Druidry would be classified as a religion for the purposes of the scheme, commenting 'it's classified as a religion now. But it doesn't really ... nobody really says much about that. Legally it doesn't'. 078 (female, 36, spiritual), who was also an interfaith minister, commented that 'you're always being forced down two routes which is, "Well, are you a religious minister? Or are you a humanist?" And I'm like, "Well, I'm neither of those things."' While she later noted that she was classified on most forms as a religious minister, she also added 'that sits uncomfortably with me'.

### *The criteria for nominating organisations (CQ25)*

- 3.77 The Commission's proposal was that religious organisations and (if enabled by Government to officiate at weddings) non-religious belief organisations should be able to nominate officiants if the organisation has 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.
- 3.78 P-261, a Sikh priest, noted that he would favour Sikh wedding ceremonies becoming 'one of the official ceremonies accepted by the British government'. Underpinning his proposal was not just the desire to ensure the status of Sikh weddings but also a perception that it would now be easier to identify particular religions than it had been in 1836. As he put it:

Civil marriage only came in because there were so many different types of ceremonies and it was to make weddings official in this country. But, at that time, they didn't have time to look at all the hundreds of different types of religions and ceremonies. But now they can sort of compartmentalise, they look at a few of the main religions. They can look at the Hindu religion. The Muslim. The Sikh. OK, we have like three or four major religions.

This, however, rather overlooked the continuing diversity of belief within religions, including Christianity, to say nothing of the difficulty of identifying who within that religion would be responsible for overseeing weddings. Extending the model that currently applies to Jewish and Quaker weddings, for example, would require identifying an overarching body or bodies responsible for identifying who is responsible for registering the marriage. While he noted that he was one of the secretaries of the British Sikh Consultative Forum, a country-wide forum, and that they would be able to assist the government in carrying out consultations, there is a crucial difference between being able to contact members of a particular religious faith, and having the standing to represent and regulate the entirety of that faith.

- 3.79 The comments from other participants underlined the importance of not requiring a single umbrella group for any given faith group. Any religion will almost inevitably encompass a range of different traditions and beliefs. As M-231 noted, 'we wouldn't think of conducting other Buddhists' weddings because they have a different way of worshipping and different understanding'. N-241, who conducted Pagan weddings, similarly confirmed that 'any idea that any one group could nominate pagans would be absolute anathema'; as he noted, 'there's probably somewhere in the region of about at least a dozen different orders of druids in Britain', as well as a variety of different traditions including Wiccans, Gardnerians, Alexandrians, native American Shamans

and Celtic Shamans, '[a]nd you will always have someone walking away saying, "We're not represented."'

- 3.80 Other complexities arose for those holding non-religious beliefs such as Humanism. A number of participants identified themselves as members of Humanists UK and emphasised how it was well placed to take on the role of nominating officiants. As G-173 noted, 'a lot of couples are uninformed about what they can have. And therefore, it just has to be better regulated and that's the reason that Humanists UK has more advantages in that because it's just simply been around for longer. It's been around for 100+ years'. By contrast, G-171 and G-172 described themselves as offering Humanist weddings, but both operated as independent celebrants. G-172 explained that while she was a member of Humanist UK in a personal capacity, she had chosen not to be a Humanist UK *celebrant* because she felt that it was the couple's beliefs, rather than her own, that should determine the form of ceremony.
- 3.81 Some welcomed the idea of setting the minimum number of members at the same level as that required for a place of worship to be registered for worship under the current law, in that this was seen as promoting local autonomy. D-139, for example, was reassured by the possibility of each masjid deciding for itself: 'I guess that makes it okay, actually, because then at least that makes the process known and easier to do.'
- 3.82 However, the threshold of 20 members did generate some concern. J-201 expressed his concern that under the proposed scheme '20 people from non-Hindu believing background can ... come together, nominate somebody and then he actually puts some non-religious, non-Hindu symbol over there and performs a Hindu wedding'. It was not clear whether this was a concern about breakaway groups who would not be recognised as Hindus by more orthodox ones, or about the appropriation of Hindu traditions by essentially non-religious groups. If the former, there will always be the possibility that one group will not recognise the marriages performed by another as valid in religious terms. If the latter, then it should be noted that non-religious belief groups would by definition not be claiming to conduct religious weddings, and independent officiants would only be permitted to conduct civil weddings.
- 3.83 Two Pagan celebrants took the view that the threshold might be simultaneously both too easy and too difficult to satisfy. N-242 argued that '[a]nybody could form a nominal group of something' and asked whether '20 people on Facebook' would be sufficient as a nominating group or whether it would 'have to be legally constituted in some way with a chairperson, ... a treasurer and all that sort of nonsense?' N-241 similarly speculated whether the group might be 'a community of interest for a particular ... fans of a manga character or the Church of Darth Vader or whatever'.
- 3.84 One example of a religious community operating partially online was provided by 078 (female, 36, spiritual), who was an interfaith minister as well as having had an interfaith ceremony. She identified her roots community as her Shamanic community and described herself as part of a virtual community 'who I connect with and who I've known from the very beginning':
- ordinarily that looked like going on two or three retreats a year with people ... we have that time that we spend together physically ... and then we connect virtually, so we have kind of online circles and of course, that's all had to go online in the last year anyway.
- 3.85 There was also concern that requiring nomination by a group would exclude many Pagans from becoming officiants. 004B (female, 34, Pagan) gave the example of a

'standard reclaiming witch', while N-242 doubted 'if any pagan celebrant would feel happy about an overly formalised nomination process'. The result would be, as N-241 noted, that if an individual wanted someone to do the handfasting for them who was part of their group or the network but who was not able to become an officiant, 'they would still need, therefore, to have an officiant from elsewhere that they'd have to bring in'.

*Excluding organisations that promote purposes that are unlawful or contrary to public policy or morality (CQ26)*

- 3.86 003 (male, 33, Muslim) did raise concern about which groups would be deemed acceptable to nominate officiants. As he explained:

it could be the case that, for example, a person that is loved by the government one day, by another government, they're not loved and how do you put a ... how do you restrict the power of the government in that sense? I know we have civil servants and governments don't have complete power, but ... if someone joined a specific group and that group suddenly was outlawed in one country but was recognised in another country ... I'll give you an example, if you take the Muslim Brotherhood for example, in the UAE they're outlawed, but in Qatar they have a government office where they have liaisons with the government, so it just depends.

*The role of the GRO in maintaining a public list (CQ28)*

- 3.87 While the idea of having a public list of officiants did not feature on the 'At a Glance' summary that we had shared with participants, 003 (male, 33, Muslim) did raise this as an idea. He thought that having a recognised database would be a useful means by which couples could choose an imam who was able to officiate at legal weddings, or for individuals to check the credentials of the person conducting their wedding.
- 3.88 004B (female, 34, Pagan) also alluded to the challenge within certain communities of finding someone to conduct weddings.

it's a question that comes up quite regularly ... Someone asking, 'do you know any celebrants in and around the [city] area who can do Pagan weddings?' And I think it's quite common for people to cast around. I think we cast around a little bit to see if there was someone. Because it's not an official title, it can be quite hard to find.

*The responsibility for ensuring that officiants are 'fit and proper' persons (CQ30)*

- 3.89 The Commission's proposal was that religious organisations and (if enabled by Government to officiate at weddings) non-religious belief organisations should be responsible for ensuring that the persons they nominate as officiants are 'fit and proper' persons, that is to say, 'that the individual in question should understand what is required of them and be able to fulfil the legal requirements of an officiant' (CP, para 5.157).
- 3.90 There are two elements to this: first, the steps that the organisation must take to satisfy itself that any given individual is an appropriate person to be nominated, and, second, what might be required of the individual in terms of being able to demonstrate that they understand what is required of them as an officiant.

- 3.91 The proposed system of nomination is essentially that which already exists for Jewish groups and for the Society of Friends in terms of the nomination being made by an organisation. Both L-221 and L-225 spoke of the processes in place by which Jewish secretaries were nominated. Within Orthodox communities, as L-221 explained:

one simply makes an application via the Board of Deputies which is a representational secular organisation in the Jewish community. They make a recommendation to the registrar general office and usually ... I've not known anybody to be refused, but usually it's ... pretty straightforward but it takes a few weeks to do.

A similarly straightforward system was described by L-225:

we have a slightly different system because in the progressive world, we have our own acts of parliament. So, in reform synagogues, if you want to be appointed as a secretary for marriage, you have to apply to West London synagogue. In the liberal movement, you have to apply to the Liberal Jewish synagogue. But again, I mean, I remember sitting at council meetings at West London synagogue and we got a paragraph about this person who wanted to apply, and we all agreed. That was it.<sup>69</sup>

- 3.92 For other religious groups, the fact that authorised persons are appointed by the relevant governing authorities of individual buildings has meant that there has not been any *legal* need for any overarching organisation to scrutinise the application. In addition, since our project was primarily focused on non-legally binding ceremonies it was not designed to elicit information about organisational structures and practices. Nonetheless, some participants did refer to there being a degree of organisational oversight of appointments beyond the specific place of worship. 045 – appointed as the celebrant for an independent chapel – reported that '[t]here's a charitable organisation that protects independent chapels and they had to scrutinise my suitability and validate it basically'.
- 3.93 Given the proposed threshold of 20, a nomination could still be made by the relevant governing authority of a specific building. M-232 noted how this worked within their specific Buddhist group: 'the board of trustees fill in an application form to the General Registry Office and they recommend a person.'
- 3.94 Among those groups that do not currently have the option of conducting legally binding weddings, there was also evidence of structures being in place to ensure the suitability of celebrants. G-177, a celebrant who was accredited by Humanists UK, helpfully outlined the processes that it already had in place:

as a Humanist celebrant we have our interviews and then we have training and assessments. Then we have a probationary period where we're observed. We have peer reviews. We have to log all our ceremonies. We have to provide evidence of professional development.

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<sup>69</sup> The possibility of the West London and St John's Wood synagogues certifying their own secretaries and those of other Reform or Liberal synagogues was introduced by, respectively, the Marriage and Registration Act 1856, s 22, and the Marriage (Secretaries of Synagogues) Act 1959, s 1; see Marriage Act 1949, s 67. The model adopted echoed the rules that applied to registered places of worship as the identity of the synagogue's secretary had to be certified to the Registrar-General by 'twenty householders professing the Jewish religion' who were members of the West London or St John's Wood synagogue. That secretary could in turn certify to the Registrar-General that a particular person was the secretary of another synagogue connected with it, as long as that synagogue consisted of 'not less than twenty householders professing the Jewish religion' and had 'been established for not less than one year.'



Among our interviewees, 009 (female, 26, spiritual), who had been planning to have a Humanist wedding, also commended their processes and organisation, commenting that 'I don't really think it would be a problem to combine them with a Government body that regulates them too.'

- 3.95 078 (female, 36, spiritual), an interfaith minister, noted that she had already undertaken two years' training and that the OneSpirit Interfaith Foundation were already 'investigating having a kind of CPD which would be learning how to do the legalities, if we get to that point. So ... if you know you want to do legal weddings, you'd go off and do this extra piece of training that then qualifies you for that'.
- 3.96 Of those that did not have such structures in place at present, the Hindu priests were perhaps keenest on the idea of training, seeing it as a way not only to ensure that officiants understood their legal responsibilities but also as a means of standardising practices within the Hindu community. As J-203 put it:

We would be able to standardise some kind of ceremony in terms of timing and the content, but also, very important, we would be able to train these people in the areas of risk assessment, whether it be a Havan fire or Covid, and it'd be much more of a regulated system.

He saw an individual's knowledge and understanding of the ceremonies they would be conducting as a necessary prerequisite to their being nominated, suggesting that lists of possible names could be given to the organisation for it to filter. As he added:

In the past, we have always selected Brahmins. Brahmins are the ones who are able to conduct this ... But a Brahmin is a person of not a caste, of knowledge, right. That knowledge can be achieved by anyone.

- 3.97 There was also a recognition that experience in conducting ceremonies was not the same as knowledge of the law governing weddings. 078 (female, 36, spiritual), who as noted above had already undertaken two years' training, commented that she would not want to do any more. By this, however, she clearly meant training in being a celebrant rather than training to be an officiant, since she went on to note that it made sense to have an additional piece of training to cover this.
- 3.98 In assessing how would-be officiants might be able to gain (and demonstrate) the necessary knowledge of the law governing weddings, it is helpful to look at what training had been completed by those who were authorised persons, and whether any training had been completed by those involved in conducting non-legally binding ceremonies.
- 3.99 Three of those who were authorised persons – E-152, O-251 and M-232 – all mentioned that they had received training directly from their local register office. M-232 had been invited to train as an authorised person, O-251 had been offered training upon being appointed, and was under the impression that he 'would have been expected to do it in order to be deputised as an authorised person'. E-152, meanwhile, noted that he had been 'unsure about all the requirements and how the legal bits are done' and so had spent a couple of hours with the local registrars. These different accounts – together with the fact that other authorised persons did not report being trained – suggests a degree of variation in practice as to whether training is offered or required.

3.100 Such training as they had received was primarily focused on the paperwork. E-152 noted how the local registrars had gone through ‘all the particulars for how certificates are filled out, mainly, and corrections are made, should any be required and the role that I had to play as an authorised person’. O-251 similarly described ‘look[ing] through the forms:

Much of it was just explaining the rules, being clear about the rules, what could and couldn’t be done. About the forms, how to fill them in, when to fill them, never to fill them in before the day and all those kinds of things before the actual ceremony. A lot of it was fairly technical ...

3.101 Among those involved in conducting non-legally binding ceremonies, the range of formal training mentioned by participants varied considerably. Admittedly, their answers do need to be treated with a degree of caution. Many clearly interpreted the question as being purely about whether they had been trained to conduct wedding ceremonies, and made no mention of the training that they had gone through in order to hold a particular position. Thus L-223, an ordained Anglican clergyman, simply wrote ‘observation of experienced priests’ rather than mentioning the training he had undergone to be a clergyman in the first place.

3.102 There are, of course, important differences in how individuals come to hold a particular position within a religious organisation, and these differ even within faith groups. Within Christianity, for example, there is a considerable difference between the approach taken by the Roman Catholic church and the Baptist church. Within the Roman Catholic church, ordination is a sacrament and the church ‘has the duty and right to train persons for sacred ministries’.<sup>70</sup> Both of the two Roman Catholic priests – O-251 and O-252 – referred to studying for the priesthood.<sup>71</sup> Within the Baptist church, by contrast, whether or not a minister needs to be ordained is a matter for the local church to decide.<sup>72</sup> Within Judaism, too, the qualifications required to be a rabbi differ between Orthodox, Reform, and Progressive movements, as does the process of ordination.<sup>73</sup>

3.103 Within Islam, there is no formal process of ordination, and no concept of a particular person having to act as an intermediary between God and man: an imam leads prayers, but there are ‘no sacraments or rites which only a religiously sanctified person may perform’.<sup>74</sup> Nonetheless, there was some evidence of a greater trend towards training among those who had begun to conduct ceremonies more recently, at least among the imams. None of those who had begun to conduct *nikahs* before 2000 identified any specific training other than observing others.<sup>75</sup> While this was still the case for some of those who had begun to conduct *nikahs* after 2000,<sup>76</sup> a number did

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<sup>70</sup> N Doe, *Comparative Religious Law: Judaism, Christianity, Islam* (Cambridge, Cambridge University Press, 2018), 93.

<sup>71</sup> O-252 had actually trained as an Anglican clergyman first and had attended theological college to that end; he had subsequently studied at a Catholic seminary.

<sup>72</sup> Doe, n 69 above, 96. E-152, a Baptist minister, left his status somewhat ambiguity by writing ‘n/a’, but it appears this was because he assumed the question was asking about non-legally binding ceremonies alone.

<sup>73</sup> Doe, *ibid*, 91-2.

<sup>74</sup> Doe, *ibid*, 97.

<sup>75</sup> A-104 (male, 50, began conducting ceremonies in 1992, no training); A-105 (male, 60, began conducting ceremonies in 1981 ‘after observing many *nikah* officiants’); A-106 (male, 48, began conducting ceremonies in 1992, ‘learnt from accompanying my father, a senior Islamic scholar, to dozens of *nikah* ceremonies that he conducted’); B-113 (male, 48, began conducting ceremonies in 1997, did not answer question on training); D-131 (male, 62, began conducting ceremonies in 1994, described himself as ‘self taught’); D-134 (male, 46, began conducting ceremonies in 1994, no training);

<sup>76</sup> B-114 (male, 30, began conducting ceremonies in 2017, training ‘from the books and then the Senior Imam’); C-124 (male, 36, began conducting ceremonies in 2007, ‘personal training from senior co-imams’); D-133

mention specific forms of training.<sup>77</sup> Three had been trained at 'Darul Uloom';<sup>78</sup> located in Bury, *Darul Uloom Al-Arabiyyah Al-Islamiyyah* (House of Knowledge of Islamic Arabic) is the UK's oldest Islamic seminary, founded in 1973. Three others had undertaken training in other jurisdictions,<sup>79</sup> and a further five referred more generally to religious training.<sup>80</sup>

3.104 The Hindu priests mostly spoke of learning from family members, from their gurus or masters, from the scriptures, or from a combination of two or more of these.<sup>81</sup> K-215<sup>82</sup> noted that he was trained in Hindu rituals at Benares Hindu University, while K-213 may also have been trained by an organisation.<sup>83</sup> E-151, a Zoroastrian priest, spoke of 'father to son learning + Priesthood Initiation Ceremony in India'.

3.105 P-261, a Sikh priest, had similarly not undergone any specific training in conducting ceremonies. He also explained that within Sikhism, 'any lay person can also be a priest'. He described those conducting weddings in gurdwaras as religious workers who 'need not be very much educated' and just needed 'to know the sequence of the wedding ceremony'. However, he also identified that at his new gurdwara 'we've already got lined up two or three young people who are educated who'll be like able to do official civil weddings', reflecting his sense that being an authorised person called for different skills.

3.106 Among those who identified themselves as Pagan celebrants,<sup>84</sup> neither N-241 nor N-242 had undertaken any training. I-194 noted that he had been 'ritually trained by the Servants of the Light in the mid-1980s'. The existence of training to be a celebrant within certain Pagan associations was mentioned by 004A (female, 44, Pagan), who was contemplating training with OBOD (the Order of Bards, Ovates and Druids).

3.107 Perhaps because of their more informal training, it was the Hindu priests who were particularly keen that the training in the legal responsibilities of being an officiant should be delivered by an official body. J-202, for example, suggested that:

there should be a short course identified by law, so that a recognised Hindu priest by their association should be able to enrol on that course. It can be a one-

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(female, 65, began conducting ceremonies in 2017, 'experience on a personal level'); D-134 (male, 39, began conducting ceremonies in 2005, no training).

<sup>77</sup> B-115 (male, 36, began conducting ceremonies in 2015) did not answer the question on training; C-123 (male, 40, began conducting ceremonies in 2010) wrote 'not applicable' and D-142 (male, 29, began conducting ceremonies in 2013) just wrote 'no'. In addition, D-132 (male, 59), D-138 (male, 53), D-140 (male, 52) and D-143 (male, 50) did not say when they began conducting ceremonies.

<sup>78</sup> A-101 (male, 41, began conducting ceremonies in 2000); B-115 (male, no age given, began conducting ceremonies in 2004); C-122 (male, 52, began conducting ceremonies in 2010).

<sup>79</sup> These included B-111 (male, 43); D-135 (male, 46); and D-144 (male, 35).

<sup>80</sup> A-102 (male, 27, began conducting ceremonies in 2016) noted that he had studied the Alimiyyah Programme for 6 years but noted that this was not specific to officiating ceremonies; A-107 (male, 49, began conducting ceremonies in 2010) referred to 'religious training', and C-121 (male, 39, began conducting ceremonies in 2002) also referred to training being 'part of my Islamic Studies education and training'. In addition, A-103 (male, 40, began conducting ceremonies in 2005) referred more generally to 'traditional Islamic jurisprudence' and D-137 (male, 45, began conducting ceremonies in 2017) to 'Islamic training of conducting *nikah*'.

<sup>81</sup> K-211 (female, 68, learnt from father); J-201 (male, 53, learnt from 'two masters'); K-212 (male, 69, learnt 'from the scriptures'); K-214 (male, 71, learnt from father and brother, plus self-training); J-202 (male, 47, learnt 'from parents and gurus'), J-203 (male, 64, learnt 'from father and books').

<sup>82</sup> (male, 56, British-born of Indian descent)

<sup>83</sup> He referred to 'Kutchi Desiya Saraswati Brahman Samaj' – *Samaj* is Gujarati for 'society', while Kutchi is a language spoken in Kutch (India), and in Sindh (Pakistan). Saraswati is the name of the Hindu goddess of (cosmic) knowledge, music, art, speech, wisdom, and learning.

<sup>84</sup> By this we mean those who formally identified themselves as Pagan priests or who exclusively performed Pagan ceremonies. As we discuss below, some independent celebrants also described themselves as Pagan but also performed other types of ceremonies.

week intense course, where they are taught legally binding rules required. Some basic framework that you have to take these names on, you have to take this paperwork on, this is what you have to guide the couple through. So, handhold them through the whole process and there's an evaluation sheet at the end saying that 'Yes, this gentleman or a lady has understood all of it and they have passed it, and they are now legally authorised to conduct weddings in line with the law.

As he added, '[t]hat would've helped me. I would like to go on a course like that.' J-203 concurred, '[w]e have to come across as someone who are professional and who know what they're doing'.

### *Beliefs and profit (CQ32)*

3.108 There was relatively little discussion of the Commission's proposal that officiants nominated by religious and (if enabled by Government to officiate at weddings) non-religious belief organisations should be prohibited from making a business of officiating at weddings, by elevating the making of profits above the expression of their beliefs.

3.109 This was perhaps because it was generally consistent with the ethos of those conducting weddings. As J-203, a Hindu priest commented, their approach was to conduct weddings 'not on a business-minded approach, but on a religious and spiritual approach'. C-122, an imam, asked couples to make a donation to the charity he was associated with rather than charging a fee. And L-224, the minister of a Christian evangelical fellowship, noted that he charged nothing for conducting a wedding ceremony.

3.110 Such comments as there were about fees did not suggest that the Commission's proposal would cause any problems. One imam, B-114, mentioned that the fee charged depended on where the *nikah* was taking place:

The mosque has a fee. It's a hundred pounds if it's in the centre. A hundred and fifty if they request the Imam to visit their house. Or outside the centre. Of course, if it's in a different location, different city, that also differs as well.

It seems unlikely that a modest fee of this kind – that clearly varied according to the time and effort involved – would fall foul of the Commission's proposed prohibition.<sup>85</sup>

3.111 E-153, a female imam, acknowledged that the organisation to which she belonged did make money from conducting weddings, but that it was 'very transparent' about its charges and would also tell couples that 'if that's not affordable for you, just pay whatever you think is reasonable and we're not going to ask any questions'.

3.112 However, G-173, a Humanist celebrant, did express a certain amount of antagonism towards the proposal as she perceived it as 'some sort of pay cap'.

I don't charge more than is reasonable anyway. I work like crazy. But ... it seems rather odd to me that just because I am under a distinct belief system and am accredited with that belief system, that my mortgage apparently doesn't require to be paid in the same way as an independent celebrant.

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<sup>85</sup> D-132 similarly referred to ensuring that the imam's expenses were paid if the wedding was taking place somewhere other than the mosque.

3.113 There were also a couple of additional comments by imams that potentially indicated a more commercial approach. A-106, for example, noted that the *nikahs* he conducted ‘don’t come through a mosque or anything ... we have our own company, so to speak’. Another imam, D-132, commented that when a *nikah* was conducted, the family was ‘very happy’ and ‘the imam’s pocket is lined up very well’.

#### *Monitoring and de-authorisation (CQ37 and CQ38)*

3.114 The Commission’s proposal was that the primary responsibility for monitoring religious or belief officiants and requesting withdrawal of authorisation if they fail to comply with the fit and proper person standard or their duties and responsibilities should lie with the organisation that nominated them, with the GRO having the power to de-authorise such officiants whose organisation had failed to act.

3.115 Again, it was the Humanist celebrants who provided the clearest examples of processes already being in place to monitor them, and Humanist UK’s requirements for continuing professional development (G-175, G-177).

3.116 The only person to express any concern about de-regulation was N-242, a Pagan priest. This was linked to his doubts about whether officiants should be nominated by an organisation in the first place. His view was that ‘unnomination would be an issue and shouldn’t be applied unless somebody had behaved improperly and could be, whatever, unfrocked anyway’.

#### **Independent officiants**

3.117 Again, the role of the Commission was not to recommend whether independent celebrants should be able to become officiants, but to devise a scheme within which they could do so.

3.118 Independent celebrants are a diverse group, united by their desire to conduct the wedding ceremonies of each couple’s choice and often describing their role as ‘personal’ (F-167). While some may specialise in a particular type of wedding, all emphasise that each couple is unique and that the ceremony should be tailored to them.

3.119 The range of celebrants – and the consequent range of choices available to couples – was noted by I-193 in relation to the other members of her focus group:

You’ve got 194 who’s incredibly spiritual, you’ve got 191 and 192 who are offering Elvis and you’ve got me and I’m pretty much a standard celebrant, but I like to make sure that everything is incredibly personalised. We are catering for all different couples.

#### *Authorisation (CQ29)*

3.120 The Commission’s proposal that (if enabled by Government to officiate at weddings) independent officiants should be able to apply to the GRO to be authorised and included on the public list of officiants.

3.121 Most independent celebrants were also keen to become authorised, if this were to be an option for them. The comment of F-162 that she ‘would be delighted to be able to conduct the legal ceremonies’ was met with lots of nodding and smiling from other participants in the group. As H-182 noted in a separate group, ‘as celebrants, we are

passionate about ensuring couples have the choice but be able to combine the legal element. We've been campaigning for this for years.'

3.122 The specific proposal that, if they were to be authorised, it would be by GRO, was also welcomed. F-162, for example, 'was really pleased to see that the General Registry Office would be the overarching arbiter of independent celebrants rather than being agreed to by the Local Authorities and the Local Registration Service.'

### *Criteria (CQ31)*

3.123 The Commission's proposal was that independent officiants applying to be authorised should be required to demonstrate that they are 'fit and proper' persons by proving that they (1) are aged at least 18; (2) understand the legal requirements for being an officiant and performing the role; and (3) have undergone mandatory training and continuing professional development in the legal aspects of being an officiant, with the content to be determined by the Registrar-General.

3.124 It is worth noting that independent celebrants have usually gone through specific training in celebrancy. In Pywell's large-scale survey of celebrants, only six of her 287 respondents indicated that they had received no relevant training. The majority had been trained by one of the organisations affiliated to the Wedding Celebrancy Commission.<sup>86</sup>

3.125 Within our study, independent celebrants were the most likely to mention not only that they had been trained but also that such training had led to a formal qualification. Six referred specifically to having a Level 3 qualification – equivalent to an A-level – in celebrancy. This is a reference to the NOCN Level 3 Diploma or Certificate in Celebrancy. The NOCN, or National Open College Network, is an awarding organisation that is regulated by Ofqual. It offers both an 18-credit Certificate in 'Civil Celebrancy'<sup>87</sup> and a 41-credit Diploma in 'Celebrancy: Naming and Couples'.<sup>88</sup> Some celebrancy organisations are accredited by NOCN to provide training for both of these qualifications,<sup>89</sup> and others for the certificate alone.<sup>90</sup> This, however, is a relatively recent innovation: as F-164 explained, it had not been an option when she trained as a celebrant, and 12 celebrants noted that they had been trained by one of the celebrancy organisations without mentioning a specific qualification.<sup>91</sup> Of the remaining three who did not refer to being trained by a specific celebrancy organisation, F-161 belonged to the English Toastmasters Association, F-163 had been a registrar for ten years and F-162 had been a superintendent registrar for nearly 19 years.<sup>92</sup>

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<sup>86</sup> S Pywell, 'Beyond beliefs: a proposal to give couples in England and Wales a real choice of marriage officiants' [2020] 32 *Child and Family Law Quarterly* 215. These organisations are Civil Ceremonies Ltd, the International College of Professional Celebrants, the Fellowship of Independent Celebrants, the Fellowship of Professional Celebrants, and the UK Society of Celebrants.

<sup>87</sup> <https://www.nocn.org.uk/products/qualifications/601-2508-1-nocn-level-3-certificate-in-civil-celebrancy-in-the-uk/>.

<sup>88</sup> <https://www.nocn.org.uk/products/qualifications/601-1586-5-nocn-level-3-diploma-in-celebrancy:-naming-and-couples/>.

<sup>89</sup> For example Civil Ceremonies Ltd (<https://www.civilceremonies.co.uk/train-to-be-a-naming-and-couples-celebrant>), by whom two participants had been trained, and the Fellowship of Independent Celebrants Ltd (<https://www.foic.org.uk/nocn.php>), by whom three of those who had obtained a Level 3 qualification had been trained.

<sup>90</sup> For example the International College of Professional Celebrants (International College of Professional Celebrants (<https://www.internationalcollegeofprofessionalcelebrants.org/UK-celebrant-training>)).

<sup>91</sup> Half had been trained by the Fellowship of Independent Celebrants Ltd, three by the UK Society of Celebrants, one by the Institute of Professional Celebrants and one by the Fellowship of Professional Celebrants. F-166 referred to 'full ceremony and funeral celebrant training' without giving details.

<sup>92</sup> While no further celebrancy training was outlined by these participants, it does not necessarily follow that all Toastmasters or former registrars do not undergo training. Indeed, a further three participants also identified

- 3.126 Of course, such training relates to being a celebrant, rather than conducting legal weddings, although the professional standards set out by the Wedding Celebrancy Commission do require celebrants to be aware of, and advise couples as to, the legal status of the weddings they conduct.
- 3.127 Independent celebrants recognised that the training required in order to be authorised as an officiant would be different. As I-194 noted, ‘registration and accreditation will be two very important parts of the Legal Commission’s recommendations and I don’t think there’s any proposal to just open it up willy-nilly’. In a similar vein, G-172 emphasised the importance of officiants being ‘qualified, registered, legally insured and monitored’, adding that ‘there should be strong, legal surroundings and should be monitored and it should have a very good structure’. I-191 – who had already undergone training with FOIC – was particularly enthusiastic about the prospect of training, commenting that she ‘would love to be trained ... to be able to register a wedding myself. I would like there to be a course that we have to attend, something we have to sign to prove that we are ... we know what we’re talking about.’
- 3.128 Equally, there was also a clear view that any training required to be an officiant should be limited to what was necessary for them to fulfil their legal duties and responsibilities (H-182, H-187) and that the cost of any such training should be ‘sensible’ (H-185), ‘not financially prohibitive’ (H-187), and not a recurring expense (H-182, H-183). The concern was expressed that they might be charged high registration fees like those required for venues to become approved premises (H-182) and be used as a ‘moneymaking scheme’ by local authorities to make up for what they would be losing by not conducting as many weddings (H-186, with H-187 and H-188 agreeing).
- 3.129 Training was also seen as a way of differentiating ‘professional’ celebrants from those who were, in I-193’s words, just ‘playing at it’. This was reinforced by the comments of those interviewees who had invited a friend or family member to conduct their non-legally binding ceremony. Since their experiences help to underline the difference between having a ‘fun’ ceremony conducted by anyone and having a trained celebrant, it is worth exploring them in a little detail.
- 3.130 052 (female, 42, no beliefs), for example, had had what she described as a slightly ‘irreverent’ ceremony in their local park. As she explained:

we looked at all our friends and said, ‘Who’s got the right mix of, you know, good speaking voice, won’t make inappropriate jokes and would be willing to do it?’ And one of his good friends fit the bill. And is also not religious, so as a joke, we got him certified as a minister in the Pastafarian church. We didn’t tell him this, so we registered him, and we sent the certificate to his house and he phoned up one day and was like, “I’ve got this certificate. I feel like you two have something to do with it.” Yeah, so we had a little fun with that side of things.’

Asked whether this friend would have been willing to become an officiant, had that been an option, 052 (female, 42, no beliefs) acknowledged that they might have been willing to do something ‘lightweight ... you know, if it was two, three hours of online training somewhere’, but not anything more serious. While she liked the idea of an individual being ‘certified as a one-off thing to help their friends and family’, it is also worth noting that for her it was very clearly the attributes of the person, rather than

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themselves as having worked for the registration services previously, but had undertaken additional training to be celebrants.

their identity or existing relationship, that was important. She would have been just as happy for a registrar to have attended:

it is nice to know that the person who is doing your ceremony, knows what they're doing, and you would expect them to have a good public speaking voice. It's putting on a show, right? It is a 20-minute show and, you know, you want to know that the person standing at the front knows what they're doing and will lead everyone through this lovely occasion.

Indeed, her original plan had been for a legally binding wedding at the approved venue in the park, but that had proved impracticable because of the non-availability of registration officers.<sup>93</sup>

3.131 For 059 (male, 36, no belief), the choice of ceremony – and celebrant – had been driven by the choice of venue. This was an 'idyllic' spot close to where his wife's father lived, on the edge of a cliff. In the absence of any approved structure, they knew that they could not get legally married there, and so had asked a friend to conduct a ceremony for them. He too would have been happy for a registrar to attend if this had been an option for them and did not envisage this friend wanting to become an officiant:

if it had meant him going off to a course and taking a day training, we probably wouldn't have done that, frankly.

A requirement for training, then, may play an important role in underlining the fact that being an officiant is a serious role.

3.132 F-165 raised a question about what the role of training organisations would be if this proposal were to be implemented.<sup>94</sup> G-172 thought that 'most reputable training bodies' were already putting mechanisms in place, suggesting that 'they are also raising their training standards from certificate to diploma and they are registering them nationally in order to make sure that when this happens, it's a legal transition that's easy and everyone will be accountable'. In a different group, however, another independent celebrant, I-194, was less convinced that mechanisms were already in place, commenting that:

I'm a little bit nervous about the idea that everyone has to be trained first because I don't think that industry-wide we have a sufficiently strong training process. We have a great many trainers out there. Some of whom offer accredited courses. Others don't offer accredited courses, and some are better than others.

3.133 This echoes Pywell's view that a degree of centralisation was needed in order for individuals to be able to officiate at legally recognised weddings.<sup>95</sup> However, there is of course a difference between the question of who determines the content of any training and who delivers it.

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<sup>93</sup> As she explained, 'we were planning it about nine months before the date and all the good slots had already sold out for the day, so we couldn't get someone for a Saturday afternoon in July'.

<sup>94</sup> A member of the advisory group on this project advised that mechanisms have not yet been put in place, but discussions are currently taking place with regards to this.

<sup>95</sup> Pywell, above n 85.



### *Conflicts of interest (CQ33)*

3.134 The Commission's proposal was that independent officiants should be prohibited from acting with a conflict of interest but that there should not otherwise be limits on the fees that they can charge for officiating at a wedding.

3.135 The rationale underpinning the different rule proposed for independent as compared to nominated officiants was that they would not be conducting weddings on behalf of a religious or non-religious belief organisation but as a business. G-173, the Humanist celebrant who had expressed her indignation at the idea of a pay cap on Humanist celebrants, was equally indignant about the implications for independent officiants:

apparently independent celebrants should be allowed to charge for profit. Because independent celebrants don't do it for belief reasons, they do it just to make money. I think that's equally a little bit rude to independent celebrants as well as to Humanist celebrants. Because you do it for the belief, you know? It's been so nice to be in this forum and to hear the passion and the glory of all of you here and I think we're all on the same side and that's the whole point of the whole thing.

3.136 One of the independent celebrants within that group, G-172, endorsed the view that they were not just doing it for the money:

most celebrants ... charge around about £500 for a ceremony and they do at least 8 to 10 to 12 to 14 hours of work for that ... you're doing it for pleasure ... you might be doing it to live, which I earn my living this way. But I'm certainly not doing it to make a profit.

3.137 There is no doubting that independent celebrants are passionate about what they do. Many spoke of how much they loved conducting ceremonies. F-164 explained that 'it's just something that I love. I had a passion. I had a wedding dress shop for a number of years. I've been in the wedding industry in one form or another for thirty years. And it was just something that I wanted to do.' F-161, who had been a public servant for over 20 years, spoke of how she 'knew whatever I did next had to be something that was about me, my passions, my dreams.'

3.138 While the occasional celebrant referred to their 'business'<sup>96</sup> or referred to the 'products' that they offered,<sup>97</sup> there was no indication that money was their primary motivation in conducting ceremonies. I-193 voiced her concern that prices would be pushed down but took the view that those who tried 'to get into the business for all of the wrong reasons' wouldn't be able to compete with the level of service provided by experienced celebrants. Another independent celebrant, H-181, expressed the view that if they were to become officiants the state should be paying them on the basis that they would be 'doing the legalities in replacing a Registrar', although H-182 recognised that this was 'highly unlikely'.

3.139 The Commission identified that the proposed prohibition on acting with a conflict of interest would 'preclude independent officiants from requiring couples to purchase other services from them' (CP para 5.180). One issue that emerged from both the focus groups with independent celebrants and the individual interviews was that many

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<sup>96</sup> For example, F-161 ('as a business I only started in September 2018'); F-166 ('whether you get the business, as a celebrant, or not'); and I-194 ('[m]y business was building quite nicely up until COVID and it's kind of fallen off a cliff').

<sup>97</sup> For example, F-166: 'I've just launched a brand-new product called Harmony Glass'.

venues had a list of 'preferred suppliers' for various services, including those of celebrants. I-193, for example, referred to venues 'now seeing the benefit of having celebrants on their suppliers' lists'. F-163 and F-168 both referred to having close links with particular venues, and G-172 described herself as the celebrant for a cave. However, none of them limited their ceremonies to these venues or referred to any benefits of the link other than the number of weddings that it brought to them.

## Conclusion

- 3.140 While our data shows that our participants generally supported the move to an officiant-based system, it also highlights the challenges in devising such a system. In terms of nominated officiants, some groups may not fit easily into the new legal categories, while others may meet the definition but struggle to meet the qualifying criteria for nomination, and some individuals who would wish to conduct legal weddings may not be affiliated to a group by which they could be nominated. For independent officiants, by contrast, the simplicity of being able to apply individually is balanced by the greater degree of oversight and direct regulation to which they will be subject.
- 3.141 All of those currently involved in conducting non-legally binding ceremonies will need to decide whether the advantage of being able to conduct legal weddings outweighs the potential disadvantage of being subject to legal regulation and taking on new administrative burdens. While our data suggests that many will embrace the option of being an officiant, it also indicates that others will not, whether because they conduct too few ceremonies to make it worthwhile undertaking the necessary registration or because they prefer to focus on the religious or ceremonial aspects rather than the legal ones. As the next chapter will discuss, the extent to which the ceremony itself is regulated will also play a role in their decisions.

## 4. The wedding ceremony

### Introduction

- 4.1 A wedding is not merely a mechanism by which a couple become legally married. For some it will also be an act of worship or have profound cultural significance for themselves and their families. Other couples may wish to have a ceremony that is more bespoke and reflects them as a couple. Moreover, what is said at the ceremony has implications beyond the wedding day itself: it is a reflection of their commitment for their relationship together.
- 4.2 The fact that a wedding takes place according to a prescribed form does not necessarily make it any less personally meaningful to the parties if they have chosen that particular form. If they have grown up within a particular religious tradition and seen weddings taking place in a particular form, that will shape their views of what a wedding should be. However, many of our participants felt that the law was too prescriptive and did not allow them to choose to be married in a form that was meaningful to them, whether religious or non-religious.
- 4.3 At present, only Anglican, Jewish, and Quaker ceremonies are exempt from the requirement to include the ‘prescribed words’ set out in the Marriage Act 1949. All other ceremonies – whether in a register office or in a place of worship – require the parties to make a declaration that they are free to marry, and that they consent to marry. This is just as true for Christian weddings in registered places of worship as it is for Muslim, Hindu, Sikh, Pagan or Buddhist ones. In practice, as we discuss below, those prescribed words are perceived and experienced very differently for couples marrying in a Christian ceremony. Moreover, couples do not have the option of being legally married in a ceremony conducted by a Humanist or independent celebrant.
- 4.4 Underpinning the Commission’s proposals on the content of the ceremony is the aim of creating a single set of rules that would apply to all weddings while allowing sufficient flexibility for couples to marry in a way that was meaningful to them. In this chapter we set out how the current options were perceived by different participants and what their views of the proposed reforms were.

### How consent to marry should be expressed (CQ42)

- 4.5 The Commission envisages a marriage being formed at the point when both parties have expressed their consent to be married to each other in each other’s presence. Such consent would not need to be expressed in prescribed words.
- 4.6 Three sets of findings are particularly relevant to this proposal. The first is the impact of the prescribed words on non-Christian weddings; our findings show how the removal of the need to include prescribed words is crucial not only to ensuring that the law is perceived as fair, but also to ensuring engagement with the law by both couples and those involved in conducting ceremonies. The second is that a *nikah* will often involve the bride and groom giving consent separately, and we explore how the Commission’s proposals would work with the practices that imams and individual interviewees described within different Muslim communities. The third illustrates the importance of making it clear that it is the expression of consent that makes the marriage in the eyes of the law, not whether all of the requirements of a religious ceremony have been fulfilled.

### *The prescribed words*

- 4.7 In this section we look first at the way in which the prescribed words were experienced in civil weddings in register offices and on approved premises, and then at how they were sometimes regarded as a separate civil wedding in a registered place of worship, rather than as a mechanism for giving legal effect to a religious ceremony of marriage. We then discuss participants' reactions to the proposed removal of the prescribed words.

### *Experiences of the prescribed words in civil weddings*

- 4.8 Among those who had had a civil wedding in a register office or on approved premises, experiences of the prescribed words differed widely. Some liked the fact that the words were prescribed, others did not, and a few identified very negative experiences. Similarly, while a few liked the specific words, others thought that they added little to the ceremony.
- 4.9 Turning first to the reasons that individuals gave for liking the fact that the words were prescribed, there was a revealing comment from 052 (female, 42, no belief) about the importance of being able to recognise an event as a wedding. As she explained:

We both liked that there is an available template that you can choose from cos, you know, we all recognise from tv and culture and whatever else, what we think a wedding is.

This reflected the importance of an individual's background and upbringing in how the words were perceived. They were not experienced in the same way by those for whom they did not have the same cultural resonance.

- 4.10 For others, by contrast, the meaning of the words was diminished by the very fact that they were prescribed. 013 (female, 31, Muslim) thought that it was hard for couples 'when it's almost dictated that you have to have it this way or that way'. 010 (female, 52, Pagan) had similarly disliked the lack of choice: as she put it, 'the challenge I think for us was not having much of a choice of what to say to each other because yet again it's the formalities of it and there's not much choice of what you can say, but you have to'.
- 4.11 For some the problem was not just the fact that there were prescribed words, but that they had to be spoken exactly as set out in the statute. 048 (male, 38, Muslim) who had had a legal wedding in the register office after his *nikah*, recounted that:

It was very formal and, you know, occasionally when we were obviously not reading exactly what was there on the paper, they asked us to repeat it. So, it was a little bit ... I would say the right word to use is tedious. It felt like it was quite a tedious occasion and for us, it was more a formality rather than an actual event.

For 010 (female, 52, Pagan) it was more of an ordeal than a formality. She had been told by the registrar that the prescribed words had to be repeated exactly:

We had to say it word perfect and if we said it wrong, she was going to make us say it again. Because it has to be said correctly for it to be legally binding. And I thought ... I'm all tongues, me, I've got verbal ... I'm dyslexic and I've got verbal dyspraxia and I just thought, 'oh my god, I'm going to get nervous and I'm not going to say this.' And I did, I said it perfectly first-time round. But I was very

slow ... said it slowly. And I did it, but I didn't think I was going to. And I was so nervous about that. That I was so busy concentrating on what I was saying that I didn't really feel the meaning behind it, as such.

- 4.12 072B (non-binary, 28, no beliefs), by contrast, had had a more positive experience and was full of praise for the registration officers who had conducted the legal ceremony:

They were very happy to refer to me as spouse, rather than wife in the ceremony, which was very, very good to have. So, that was one adjustment that they did make, which was really nice and meaningful because I would have felt very uncomfortable being referred to as wife, or bride.

The adjustment they were referring to, however, was to the words spoken by the registration officer, rather than to the words spoken by the parties. At present there is no option to use the neutral term 'spouse' there. 072B's wife, 072A (female, 27, no belief), similarly noted the importance of ensuring that non-binary people felt respected rather than being 'constantly misgendered'; as she noted, 'that's really, really challenging and that is not something that should be happening on your wedding day'.

- 4.13 For some, the shortness of the prescribed words was a positive. 018 (female, 32, Hindu), whose legal wedding took place a couple of days before her religious ceremony, said that she had enjoyed having separate ceremonies because they 'had very different tempos', with the civil ceremony being 'short and to the point and ... yeah, quite sort of snappy really'. Many of those who regarded the civil wedding as a formality before their 'real wedding' wanted it to be as pared down as possible. As 005 (female, 34, Zoroastrian) explained, it was her Zoroastrian ceremony that was important to her and she 'didn't want to say any vows'. 023 (female, 58, no belief), by contrast, thought that it was 'sad' that her stepson's register office wedding had been 'over in minutes'.
- 4.14 Similarly, while a number commented on the formality of the prescribed words, some had experienced this as a negative and others as a positive. 009 (female, 26, spiritual) thought that 'it did feel a little bit formal ... I will declare and I will do this, and it was lovely, yeah'. By contrast, 010 (female, 52, Pagan) described it as 'too formal', adding that '[i]t was almost like I was stood up in Court', while 048 (male, 38, Muslim) similarly found it a 'very formal experience' and 'not really like a wedding'.
- 4.15 The 'old-fashioned' nature of the words also attracted some discussion. Again, for 009 (female, 26, spiritual) this was a positive: '[t]hat was meaningful because it felt like it was really, really established'. 010 (female, 52, Pagan), however, reported laughing when reading the words as 'some of them are so old-fashioned and I'm certainly not saying that'. 070 (male, 35, Hindu) similarly commented that 'the language used is probably out of date and it's probably why a lot of people don't attach that much importance to it'.
- 4.16 Finally, it was particularly interesting that two interviewees thought that there was a religious dimension to the prescribed words. 052 (female, 42, no belief) referred to being given a choice of wording between three versions: one basic, one 'slightly flowerier', and 'one that might have had some God and religion-type aspects to it'. By this she presumably meant the option that involved a 'solemn' declaration that there is no 'lawful impediment' to being 'joined in matrimony'. 047 (male, 35, Jewish) went even further, commenting that it had always struck him as 'slightly ironic that even the sort of standard civil ceremony is very much aping the Book of Common Prayer, you know, in its wording. You know, one feels it and it's sort of there and present in the room'.

4.17 This reflects how structurally and linguistically similar the prescribed words are to the Anglican service. In structural terms, both involve establishing that there is no impediment and then exchanging words of consent. The main difference is that in the Anglican service the parties are asked to 'confess' if there is any impediment, but do not otherwise need to say anything, while the prescribed words require each to make a specific declaration that there is no impediment. Linguistically, the language of 'impediments' and being 'joined in matrimony' parallels that of the Book of Common Prayer. Moreover, in terms of the contracting words, the phrase 'I [name] take you/thee [name] to be my wedded wife/husband' is almost identical to that in the Book of Common Prayer. To put it another way, these words are not neutral, but steeped in a specific religious tradition. As the next section will show, that has important consequences for the way in which the words are experienced within different religious ceremonies.

### The significance of the prescribed words for religious ceremonies

4.18 The differential impact of the requirement for prescribed words was clear from our data. None of those who had married, or conducted marriages, in Christian places of worship identified the prescribed words as a problem, largely because the words were so well incorporated into their services as to have become invisible to them. By contrast, those who had had or been involved in conducting non-Christian weddings clearly saw the prescribed words as an interruption to the religious ceremony, with a number identifying them as a separate 'civil' ceremony. As 003 (male, 33, Muslim) put it:

you have people from different religions and they have sacred words that they deem ... are sacred to them and special to them ... but they're not allowed to use that in their religious ceremonies.

It is therefore worth looking a little more closely at participants' accounts of legal weddings in registered places of worship to understand how the prescribed words were experienced by Christians, Buddhists, Hindus, Sikhs and Muslims.

### Christian

4.19 It was very telling how few of those who had married, or conducted weddings, in Christian places of worship even mentioned or seemed aware of the prescribed words. Any discussion of the ceremony focused on matters of liturgy rather than law. The narrative was that Christian weddings were legally recognised in and of themselves: in the words of E-152, a Baptist minister, 'our weddings are normally at church and are legally binding themselves'.

4.20 Only 049 (female, 28, Christian) discussed the prescribed words in detail, and that was because she had had a deliberately pared-down legal wedding in a registered place of worship before going on to have a larger ceremony in another place of worship.<sup>98</sup> Because of this split they had tried to make the first ceremony as 'secular' as possible: for her, it was not a matter of including the prescribed words in the ceremony but the prescribed words *being* the ceremony. As she explained:

We found out the minimum legal requirement to be married in terms of the wording. And the lovely lady at the church, who is the approved person, she just

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<sup>98</sup> This particular wedding had taken place in 2020, and the combination of ceremonies had been dictated by the fear of weddings being cancelled altogether due to the Covid pandemic.

basically got us to say those words. So, we didn't do full vows or anything. We just said the declaratory words that we're free to marry and then whatever the other one was. Obviously, you know this well, but the words where you commit to each other. And so we didn't do for better or worse, richer or poorer. We didn't do any of that. We just said the bare legal minimum. And then she could say, 'legally you're married'. And then the Minister said that too. So, it was a really short service.

- 4.21 In her view it was 'quite cool that there were certain words that you would say and that would make you legally married'. However, it is worth noting that these were words with which she was already familiar. When she was asked by the interviewer whether, if given the choice, she would still have said the prescribed words or just the religious vows used in her second ceremony, she replied that she would have had all of them. Her reason was that she had always heard the 'traditional words' – by which she meant the prescribed words – interspersed with the religious ones. As a result, she thought that the form of Christian weddings would not change even if there was no longer a requirement to include prescribed words.

in terms of the Christian aspect of it, I think most people will continue having a traditional one. So, if the words ... if you didn't have to say those words I think there's just a force of habit, isn't there, that people want to have the ones that they've heard their friends and family have. So, even if those got cut out, they would probably continue with it.

### Buddhist

- 4.22 Our two Buddhist group interviewees were both authorised persons, and explained how when officiating in this capacity they would 'try and get the legal wedding sort of done first'. This meant that couples would be asked to say the declaratory and contracting words 'very near the beginning of the ceremony and then they are legally married within sort of five to ten minutes of the ceremony starting'. They would then 'do our Buddhist daily practice'. While this sounded straightforward, it was not how they would ideally have liked to have done it, or indeed how they had originally done it. As M-232 explained, 'we had to make some quite radical changes in how we did our weddings, which made it more ... not everybody finds it as comfortable as they would like it to be because we had to make sure we covered what we had to do legally'.
- 4.23 The prescribed words had originally come towards the end of the ceremony. This was the form described by 50A (male, 43, Buddhist) and 50B (male, 46, Buddhist), a same-sex couple who had married at a Buddhist centre in 2015. They described how they had had their religious ceremony and then signed their Buddhist certificate before shifting to a separate table for 'the civil one'. While 50A saw it as 'one ceremony', 50B saw it as two, with the Buddhist one being the more meaningful. As he noted, 'when I was stepping to [name of celebrant]'s desk, I felt already married, that's what I felt from the religious ceremony because my commitment in the religious part was 100% there'.
- 4.24 The change in the order within the ceremony had come about because they had been told by their local register office that they were not allowed to write anything in the marriage register until the prescribed words had been said. As M-232 noted, this had come as a surprise:

It was like, 'What?' ... Unless you're doing it every single day as a regular job, it takes about 20 minutes to do the paperwork that's necessary. So, by having done it in advance, you didn't hold up the wedding to do the paperwork ... Suddenly we had to completely turn our ceremony head on tail to be able to do

the legal part at the very beginning to give the Authorised Person enough time, during the religious part of the ceremony, to do the paperwork. So, we've done that ... and we're doing our best with it, but some couples are really like, 'Well, why don't we start with doing our religious prayers cos that's what we always start everything with. And we're having to put them halfway through the ceremony to give us time to do the other thing.'

- 4.25 This led, as M-231 confirmed, to a 'mismatch' between the legal and religious aspects of the ceremony, with the couple being legally married before the religious ceremony:

So, we can't, in terms of our faith, declare them married but they are legally married. So, it's like it's a bit of an awkward moment. It would just be much nicer to be able to focus on our religious ceremony because that's why they're getting married with us, you know, because that's their faith and that's how they want to celebrate their union.

- 4.26 Nonetheless, the view of 074 (male, 36, Buddhist), who had married in that place of worship after this change was implemented, was that the prescribed words were integrated into the ceremony. As he described, 'initially it was introduction and then ... I think the legal declaratory words and vows were said. And then it interweaved back into the religious parts.' He was one of the few to see them as having a role to play in giving the ceremony 'an appropriate level of seriousness or officialness'. As he noted, his feeling was that both the Buddhist part and the legally binding part were important, with the latter being 'about your place in the country'. His positive experience indicates the importance of a place of worship having its own authorised persons who can oversee the prescribed words.

## Hindu

- 4.27 None of the Hindu priests we spoke to were authorised persons themselves, whether because they were unaware of the possibility, regarded its restrictions as problematic, or saw a clear conceptual distinction between the religious ceremonies that they performed and the legal marriage. When they spoke of ceremonies being conducted in registered places of worship, they referred to a 'registrar' conducting a 'civil ceremony'. As J-203 described:

The wedding is taking place in a Mandap, and then a registrar comes there and carries out the civil wedding by taking the vows and so on, and announces them husband and wife. So, that happens consecutively at the same time.

- 4.28 This by itself would not necessarily indicate that the prescribed words were repeated before a civil registrar rather than an authorised person, but the way in which they spoke of this disturbing the religious ceremony certainly gave the impression that the person registering the wedding was not a Hindu. As J-202 put it:

it's dicing and splicing the Hindu wedding. It's getting disturbed. The ceremony is going on, we are doing, you know, Varmala is happening, the garland exchange is happening, we are going to prepare for the Hastmelap and religious ceremonies. And this ceremony is often put right bang in the middle of it, so we have to stop our doing religious ceremonies and then this unknown person comes in as a registrar and he says, 'Read the prescribed words and then I'll announce you as husband and wife.' Then they walk away. So, quite a few times, the family, the couple, and even ourselves, we feel not very happy about that process.



Among our interviewees, 043 (male, 32, agnostic), a Hindu male who had married in a registered place of worship, had a very similar perception of the ceremony: 'they almost pause the ceremony to then do the Registration. And then restart the ceremony. And that just seems really clunky and awkward.'

- 4.29 Others had been deterred from having their legal wedding in a registered place of worship for this very reason. 055 (male, 38, Hindu) had married in a register office and had a separate Hindu ceremony, noting that the alternative of incorporating the legal element into the Hindu ceremony 'seemed very messy'. 071 (female, 35, Hindu) had been deterred by seeing her sister's wedding:

She had a legal binding one in the same hall under the Mundap. And she didn't get to choose what she was going to say. So, she ... for her, she finds the Hindu one more meaningful than her legal binding one. Because she was told what to say and she said, 'well, that's not really meaningful'. So, that ... to hear my sister go through it, that's why I chose to do it this way. Because ... it's not just a piece of paper at the end of the day. It's a marriage.

Her choice was to have the non-legally binding ceremony in that hall, followed by a legal wedding on a beach in the Seychelles. 060A (female, 35, Jain) and 060B (male, 39, atheist), meanwhile, had decided to have a civil wedding on approved premises followed by their Hindu ceremony. As 060B described, much like J-202:

I've seen it happen and it ruins the actual ceremony because they stop ... all the Indian stuff stops and then you've got this Registrar turn up and he has to go through the legal stuff and it sort of ruins the ... the theatre of what you're trying to create. And obviously the whole point of an Indian wedding is the theatre, the magic, the going back to this tradition and it's all an auspicious occasion.

- 4.30 Where the temple had appointed its own authorised person, perceptions of the wedding were more positive. 055 (male, 38, Hindu) described how he had attended one such wedding:

they had two people from the mandir and they became registrars. So they were dressed up as per an Indian ceremony and it was really nicely done, that's the only time ... that's the one time out of every wedding I've ever seen where we thought actually that was quite nice as a registry wedding within the Hindu wedding.

Yet as these accounts indicate, even when the prescribed words were incorporated more smoothly into the process, they were still seen as involving a separate civil wedding rather than as a means of ensuring that the Hindu ceremony was legally recognised. There was a clear sense of a disjuncture between what mattered to the parties in religious terms and what mattered in legal terms.

### Sikh

- 4.31 P-261, a Sikh priest, was not authorised to register weddings himself, and referred to having to have 'these official people who conduct these civil marriages in the presence of the congregation and at the Sikh wedding ceremony'. Exactly when the legal element was performed varied – not, it seemed, on the basis of what the parties or the gurdwara wanted but depending on the requirements of the particular local authority:

some people have it at the beginning. Some people have it after. And some local authorities require us to have these civil weddings right in the ... bang in the

middle of the Sikh wedding ceremony, which we are very, very uncomfortable about.

- 4.32 As he went on to explain, this represented an unwelcome change in practice for Sikh communities. Previously the 'spiritual wedding ceremony' would take place in one hall and the civil ceremony in another. However:

Then the government stepped in about two years ago. They made this statement they said, 'If you want to have civil marriage certificate, then it must be in the presence of the congregation at the religious wedding' ... So, we were very, very uncomfortable at that, but then we compromised that OK, after the wedding ceremony is finished, after the final prayer, that we will have the civil ceremony within the same congregation ... the boy and girl will still be sitting together at the original place and they will go through the civil ceremony conducted by a separate officiant who'll get the signatures of the boy and the girl and the two witnesses in front of the congregation. We're not happy about that but that is like a compromise that we have agreed to.

- 4.33 The relative lack of importance attached to the 'civil', as compared to the religious ceremony, was also reflected by 042 (female, 26, Sikh), whose Sikh ceremony had taken place during lockdown, without a legally binding element. As she noted, if there had been a legally binding element, it would just have been 'five minutes in a different room in a Gurdwara, sign a piece of paper and it's just done'.

### Muslim

- 4.34 Imams did not convey quite the same sense of the prescribed words being disruptive. However, the main reason for this was that the civil ceremony was an *entirely* separate event for the majority of the imams we spoke to. Even D-137, who was affiliated to a registered place of worship, noted that he had 'never conducted any of this kind of official *nikah*'.
- 4.35 In addition, there was a sense that prescribed words did not seem as alien to the imams as they did to the Hindu and Sikh priests because the *nikah* itself involved a very similar exchange rather than the marriage being formed by a succession of ritual acts. As one noted of the *nikah*, 'there's only two real conditions of the consent of the bride and the groom and the two witnesses'. This also came out in the way that a number of imams spoke about the register office wedding; as C-124 noted, 'while it's not an Islamic ceremony, it's not an un-Islamic ceremony.' Of his own legal wedding in a register office, he noted that 'the words that they asked us to exchange were not unsimilar', while another imam who had also married in a register office, D-143, thought that the ceremony in the register office was 'exactly the same' as a *nikah*. 061 (female, 46, Muslim) similarly reported that she had been struck by how similar the words were, while 028 (female, 31, Muslim) noted that the two had 'different terms' but that 'when you listen to them, they're the same. They're saying the same thing.'
- 4.36 Even so, when a marriage took place in a registered mosque there was still a sense of two separate events rather than the prescribed words being integrated into the religious service. As B-111 explained, 'we do both of them separately. Just in the same sitting, one is the Islamic one and then the legal one, okay, you know the declarations'.
- 4.37 He also identified the prescribed words as one of the aspects that couples found difficult: 'those who are coming for the legally binding marriage at the moment, currently, they also find a lot of difficulty as well as the ... it takes a lot of time. And

also, the particular wordings.’ D-134 more bluntly described the prescribed words as ‘ridiculous’:

the wording’s been a right headache, it’s just a right joke, it’s so archaic, it’s just ... honestly it’s like we’re in 2020 and we’re still having these silly conversations about what words we’re going to use ... I think it’s ridiculous. We’ve had so many to and fro with the Home Office or with the registry here about the wording ...

### Comments on the proposed removal of the prescribed words

4.38 One participant who was opposed to the removal of prescribed words was E-152, a Baptist minister who was also an authorised person. His concern was that this ‘may reduce the formality and the significance’ of marriage ceremonies’. However, this was focused not on the words prescribed by law but on the rites and ceremonies of the Baptists, and on the removal of what he perceived as an obligation to conduct weddings according to those rites and ceremonies. In that sense his opposition reinforces the impression that the prescribed words were so well integrated into the marriage services of Christian churches that they have become invisible.

4.39 For others, the removal of the prescribed words, and the focus on how consent was expressed within different religious traditions, was key to them being able to conceptualise a wedding as a religious one rather than as a civil one. This had a number of important implications.

4.40 First, it meant that some of those conducting non-legally binding ceremonies were happy to become officiants, as they perceived this as a recognition of their religious role rather than them taking on a legal role. J-203, for example, commented that:

one thing I do like most is that we would be able to conduct a wedding ceremony not according to just a Hindu ceremony, but also officiate and pronounce them as husband and wife, and make it as a legal binding wedding ceremony. That side of it really attracts me.

4.41 The significance of the prescribed words was also reflected in the concern – particularly noticeable among the imams – that legal recognition would mean having to include prescribed words. As one imam, C-124, noted:

What would [they] be allowed to do and not allowed to do? What would they have to add to any specific rituals ...? I am aware that in a registry office’s point of view there are certain wordings that need to be used, that maybe in a religious context may need to be extrapolated and expanded on, so just all those sort of nuances to sort of say ‘okay, how do we graft them both onto each other and then how can we put that forward and make it practically easier for both people to come on board and then also for the mosque and imams to find it easy and applicable to their daily services?’

Some spoke of the cultural dimension of the *nikah* (D-140), and how the wording might differ between different communities (D-142). Others expressed their content with the proposals precisely because they appreciated that the wording would be for the religious group to decide. Asked whether he saw any problems with the Law Commission’s scheme, D-143 simply said ‘I don’t think they would really, because ... the wording or the actions; that’s for us to decide, isn’t it? So, I don’t think it would lead to any problems, no.’

- 4.42 Second, it was seen as increasing the likelihood that a couple would have a legal wedding rather than just a religious one. In this context D-135 and D-143 specifically alluded to the removal of the need for prescribed words and D-140, D-142 and D-143 all identified the fact that the religious ceremony would be recognised as a marriage. Many of those who had had a non-legally binding ceremony indicated that they would have chosen for it to be a legal wedding if the religious ceremony was recognised.
- 4.43 Third, it also contributed to a sense of the law valuing different religions. As we have noted above, the perception that English law did not recognise non-Christian wedding ceremonies came through very strongly in a number of our interviews.<sup>99</sup> The two Buddhists who were authorised persons were particularly effusive about what the removal of the prescribed words meant to them:

That feels to me like, you know, honestly that feels like a freedom. I think that sounds wonderful. Like, we can celebrate, we can, you know, our faith is recognised in a way. I love it. I think it's a very dignified ... it dignifies our weddings, in a way. Yeah. I think it's great. Great development. (M-231, with M-232 adding 'ditto')

#### *The presence of both parties*

- 4.44 The Commission's proposal required both parties to be present to give their consent. It was aware of the fact that a Muslim bride might not be physically present at a *nikah*, having given her consent earlier. It noted that in such cases the law would not regard the couple as married by virtue of each expressing consent separately, but only when they signed the schedule together, in the presence of the officiant and two witnesses (CP, paras 6.62-63).
- 4.45 There is, as our findings indicate, considerable variation in practice. In some cases, the bride and groom were present together for the *nikah*. 035 (female, 36, Muslim) described how her *nikah* was a public one, being combined with other celebrations:

It was decided with myself and my family that we would do the *nikah* on the actual very day of what we call the Barat, so the idea is, is that the main day of the wedding, where everyone is present ... I found it to be a really beautiful ceremony because the actual Imam ... did what you could say a mini sermon, a mini Khutbah, about what marriage means and how important it is and I think that really, for me, was special. And it moved away from what I saw in our communities. When it comes to *nikahs*, it's very much private in the sense that it's not that many people, even though there are people there who are your basic witnesses but this was a nice transition to actually make it much more open and involving as well for everyone.

D-142 noted that it was usual within Asian communities for the bride to be present, while D-134 was particularly vocal on the importance of this:

when it comes to the *nikah* they shove the girl in a cupboard in the back of the hall ... I don't know what happens, so I say, 'you know, she's going to come out all ... you know glamorous with her suit on for the whole world to see her but for the *nikah* we have to shove her in a cupboard?' You know, what on earth is that? And some of them will still refuse and say, 'no it's our tradition,' I'll go, 'Well, put her on the stage with me, let her take part in her *nikah*, let her say the words, let

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<sup>99</sup> See in particular the views of 048, 042 and 043 about the non-recognition of Muslim, Sikh and Hindu ceremonies respectively, discussed in chapter 1.

her see her *nikah*, let her listen to the speech ...' but sometimes strange cultures precede that. So those conversations have to be had.

- 4.46 A variation of this was where the bride was asked for her consent separately but then joined the groom. D-131 provided an explanation of this process:

I would ... ask the father and the two witnesses to come with me to get the permission and the consent of the bride. So, I would go to the girl's side. Get that consent from her and I usually make that a little ceremonious by doing a little *dhikr* and some short talk amongst the ladies who are sitting there. And after she's given the consent ... I would ask her to join the men's hall where the groom is sitting with me. I ask her to come and join me as soon as the groom has accepted, okay? ... Once he's done that, I ask the bride to come with her parents. So, she will then walk up to the table. She would sit there. So, both of them would now be ... because they're married effectively ... they would sit, and I would give my *khutba* and do the prayer. That's how I do it.

A number of our interviewees similarly explained that they had been in different parts of the same venue. 057 (female, 38, Muslim) did her *nikah* in a hotel the week before her legal wedding, in the presence of her mother and brother; the imam then 'went to the main room and he got my husband's ... permission, in front of everyone'. Similarly for 019 (male, 40, Muslim), he had been 'on the stage' while his bride was in a marquee: as he added 'the girl's side doesn't really do it like in front of a mass audience'.

- 4.47 In other cases the bride and groom had been in different places. A number of interviewees spoke of the bride being at home with her family and the groom being at the mosque or other venue.<sup>100</sup> In the case of 006 (female, 31, Muslim) this allowed for a creative way of complying with Covid restrictions, with 30 men at the mosque (with lunch afterwards in one location) and the women listening to the ceremony remotely (with 30 of them meeting for lunch afterwards in a different location). In the case of 040 (female, 26, Muslim) there was also a temporal gap between the bride expressing her consent and the groom expressing his: as she explained, 'I had mine done a couple of days earlier, because I had some like girls-only ceremony the day after I'd accepted, it made it a little bit easier for me.' 065 (female, 32, Muslim) had also wanted to do her *nikah* separately:

my sisters, they had theirs on the same day and they sort of just said to me it was the worst thing ever to have something, you know, it was really quite an emotional thing, the *nikah*, and then to just go out there and go to the party. They were like, 'It was horrible.' They really didn't like it. So, that played a big part cos I thought it's something that I want to enjoy. So, I thought I'd rather do it separately. And also, to do the ... this party that I'm talking about, yeah, like I said, there was hundreds of people. I don't think I'd want to do my *nikah* in front of all these people. So, I always wanted it that more intimate with my close family and a few of my friends ...

- 4.48 These findings underline the importance of finding a solution that provides some acknowledgement of this particular cultural practice while emphasizing that the parties are not married in the eyes of the law until they have expressed or acknowledged their consent to be married in the presence of each other. Within some Muslim communities, there is already a distinction between a relatively private *nikah* – which may be conceptualised as akin to an engagement – and a further ceremony at which

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<sup>100</sup> This was the case for 006, 021, 037, 056.

the marriage is announced publicly. 014 (male, 41, Muslim) and 020 (male, 35, Muslim), for example, both referred to the *nikah* as an engagement, although by this they meant a binding promise rather than a promise to be bound in the future. 014 had then had a further larger celebration with family and friends, as had 029 (female, 30, Muslim). As the latter noted, the point of the second ceremony, in this case a *walima*, 'was that people know that you're married and you feed as many people as possible'. There are therefore already some opportunities for the public expression of consent by both parties in the presence of each other within existing cultural norms.

### *Consent, not religious validity*

- 4.49 Underpinning the proposal to remove prescribed words is the assumption that most religious groups will have a very clear sense of what makes a couple married and do not need the law to prescribe words for this purpose – just as it does not prescribe the words of a Jewish or Quaker wedding, or, arguably, an Anglican one. Quiet often, these groups will have their own instruction on the performance of weddings, such as the direction provided by the Friends Society for Quaker weddings.<sup>101</sup>
- 4.50 Those involved in conducting or otherwise officiating at weddings all described their ceremonies with a clear sense of what was required for a marriage within their particular tradition and when the couple would be regarded as married. Some religious groups had an established form of words, whether this was a specific vow or the entire marriage service. Within a Bahá'í wedding, for example, each party is required to vow before witnesses that 'we will all verily abide by the will of God'. For Parsi Zoroastrians, as E-151 explained, the ceremony was conducted in Avestan, a 1,000-year-old language, and had changed little over the centuries. Other religious groups required specific rituals, with Hindu and Sikh priests describing the key stages in detail, or might include a formal declaration that the parties were married.
- 4.51 However, there is a subtle but nonetheless crucial distinction between being able to express one's consent to marry in the form recognised or even required by one's faith or belief and having a ceremony that complies with what one's faith or belief requires. K-215, a Hindu priest, thought that an individual would be able to deny their marriage if they did not believe in the ceremony that had been performed. However, the Commission's proposal is that it is the expression of consent that makes the marriage, not the performance of a ceremony that adheres to the tenets of a particular faith or belief. In other words, the legality of the marriage would not depend on whether a religious ceremony conformed to precise religious rites or an individual's beliefs. Once the parties had signed the schedule, this would be evidence that they had consented to the marriage.<sup>102</sup>
- 4.52 The importance of making this distinction is clear. First, there was evidence that the precise rituals that were performed varied *within* religions, being influenced both by differences in culture and by the wishes of individual brides and grooms and their families. This was an issue that was highlighted by a number of the Hindu priests, particularly in relation to the number of *pheras*, or circles of the fire. J-202 and J-203 explained how most traditions required four, but that four might involve either the bride or the groom going round for the first three rounds, and some had seven. Similarly, one imam, D-140, explained that, 'marriage in Islam is based on an offer of marriage and acceptance. As simple as that. Everything else, like repeating the offer three times and the acceptance three times, that's all culture.'

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<sup>101</sup> *Quaker faith and Practice*, (5<sup>th</sup> Edn, Quaker Books, 2013) 16:52.

<sup>102</sup> As at present, it would of course be open to an individual to show that such consent was vitiated by other factors.

4.53 Second, some religious groups referred to the need to obtain the consent of a third party. Within Islam, there were differing views as to whether the consent of a *wali*, or guardian, was necessary. D-134 noted how he would always ask permission of both sets of parents, but ‘out of respect’ rather than as a requirement of Islamic law. D-141 commented that it ‘all depends on the madhab you follow’, but thought that the mainstream view was that the guardian’s consent would be required if the bride was young. D-142 suggested that the role of the *wali* was more prominent in Somali and Kenyan communities where the bride and groom were not together at the ceremony. And D-138 was explicit that ‘without the permission of the *wali*, a *nikah* cannot be valid, in general’. Again, the Commission’s proposals do not envisage the *legal* validity of a marriage depending on whether the consent of a third party had been obtained.

### **The form and ceremony chosen by the parties and agreed to by the officiant (CQ43)**

4.54 Given that all of our participants were, or had been, involved in non-legally binding ceremonies of one kind or another, it was unsurprising that the majority of them favoured a scheme in which the form and ceremony of the wedding would be chosen by the parties, subject to the agreement of the officiant. Words such as ‘choice’, ‘flexibility’, and ‘freedom’ recurred time and again in their answers.

4.55 Three groups of findings are particularly relevant to this particular proposal: first, the extent to which couples have a choice over the content of their civil wedding under the current law; second, the extent to which the content of the (non-legally binding) religious ceremony is discussed and agreed between the parties; and third, the significance attached by participants to the ceremony chosen by the parties being given legal effect.

#### *Choosing the content of their civil ceremony*

4.56 Under the current law, there are clear rules on what has to be included in a civil wedding (i.e. the prescribed words) and equally clear rules on what cannot be included (i.e. anything that is ‘religious in nature’). Moreover, there is no provision equivalent to that which applies to weddings in registered places of worship to permit the wedding to take place according to such form or ceremony as the couple may choose.

4.57 Much of the discussion of civil weddings has focused on the exclusion of religious content, and our participants’ views on this are considered further below. In this section we focus on the issue of how far the choice of *non*-religious readings and music in the civil wedding was a matter for the couple to decide.

4.58 Since all of the couples who were having a civil wedding in a register office or on approved premises were also having a separate non-legally binding ceremony, most had given little thought to the form of their civil wedding. Many spoke of it in terms of being ‘paperwork’ and wanted it to be as simple as possible, attending in everyday clothes and with just two witnesses. In some cases the registration officers acknowledged the fact that the couple were having a separate ceremony: 015 (female, 25, atheist), for example, described them as ‘quite good about it as clearly we weren’t the only ones who were just doing that as a tick box exercise.’

4.59 For a few, the civil wedding was a separate celebration. 055 (male, 38, Jain) actually preferred the register office wedding to his religious ceremony and commented that he would have liked to have had more choice over the readings and music rather than having to choose one of three given options: ‘[t]he music was you could have this one,

this one or this one. The readings were this one, this one or this one.’ 060B (male, 39, atheist) also preferred the register office wedding to his Hindu ceremony; describing it as ‘all very curated to the way that we liked it’ in terms of their readings and music. The extent to which such personalisation is possible will generally depend on how much a couple are willing to pay:<sup>103</sup> the wedding of 060A (female, 35, Jain) and 060B took place in a town hall which was approved premises rather than being a register office.

- 4.60 More surprising was the fact that some civil weddings had included content that was not of the couples’ choosing. In two cases the registration officers had simply made assumptions about what the couple would want. 063 (female, 29, Christian) reported how the registrar had read ‘a nice poem for us, that she picked out. She was like ... she did say, “unfortunately these ceremonies aren’t as personal as we would like them to be”, so she always reads this one poem that she loves during it.’ 024 (female, 34, no belief) explained that she and her husband had deliberately not planned any additional vows, music or readings because they viewed their register office wedding as purely functional; the registration officers, however, had interpreted the blank spaces on the form as a failure to fill it out properly and ‘shoehorned in Pachelbel’s Canon and props for photos and stuff’.
- 4.61 Two other participants had been clear that they did not want additional content but the registration officers had gone ahead and included their own choices anyway. 026 (female, 33, no belief) reported that ‘we had said that we didn’t want or need any readings, but they chose to include one, so that was their choice and that was fine, to have as well’. 078 (female, 36, spiritual) similarly explained, ‘we were really clear with the people at the register office. We were like, “This really is just a legal thing for us. We don’t want any frills or anything.’ However, the registration officers still ‘insisted on playing music at the entrance and giving a little speech about love and marriage and relationships’. The music was not what they would have chosen ‘my partner then, he was a musician and I’ve got quite kind of folky tastes in music and I think it was just something really kind of pop and we were like, “Ugh, no. Not our taste.”’
- 4.62 These interviewees tended to regard such additions as impositions rather than enhancements to their ceremony. 026, for example, commented that ‘[w]e just didn’t need the formality that they were trying to impose upon it’, while 078 reported that ‘we were there thinking we really don’t want this’. While 063 (female, 29, Christian) was more positive about the registrar’s choice of a poem – describing it as ‘quite nice and a bit of a surprise’ – it is clear that what individuals regard as suitable is very much a matter of personal taste.
- 4.63 A few interviewees also commented on the choreography of the civil wedding. While there is nothing in the legislation or accompanying regulations on such matters, couples still found themselves being instructed to act in a particular way. The interview with 038 (female, 30, Muslim) provided a useful reminder of how even apparently simple requirements may in fact be culturally specific. As she explained:

It was very uncomfortable, I think, for my parents for both of us to be standing there and doing the vows, because they were like, ‘why were you both looking at each other?’ and I’m like, ‘oh, that’s what we’re supposed to do, you know, it is a part of the ceremony and we’re supposed to look at each other.’

While 038 had enjoyed this as something ‘romantic’, her brother and sister-in-law – who were getting married at the same time – clearly found the process less comfortable, since she reported them as ‘both looking down and looking here, and

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<sup>103</sup> 007 reported that it would have cost her £50 to have her own choice of music at her civil wedding.



looking there'. For 004B (female, 34, Pagan), the required choreography had been 'a very dysphoric experience'. Throughout the ceremony they had been instructed as to what 'the role of the man' was, including where they were to stand, put their hand, and hold the pen. As someone who had subsequently transitioned and now identified as female, she said that the registrars 'had to correct me all the time because none of it felt natural'.

- 4.64 Of course, if the Commission's proposals were to be implemented, couples who might otherwise have two ceremonies would not need to have a separate civil wedding at all. But for those who do have a civil wedding officiated by registration officers – whether as their only ceremony or in addition to a non-legally binding ceremony – our findings reinforce the importance of this being conducted in a way that is respectful of the choices of the couple. That is not to suggest that couples should be able to choose to have whatever they want in a civil wedding, but simply that, as long as any legal requirements are met, they should not have the choices or assumptions of others imposed upon them.

#### *Choosing the content of the religious ceremony*

- 4.65 As noted above, many couples regarded the freedom to marry in a religious ceremony without the intrusion of the words prescribed by statute as a significant step forward. For these participants, being married in a religious ceremony was important, and it was equally important for that ceremony to take place according to certain rites.
- 4.66 That said, there was often discussion between the parties and the person conducting the ceremony as to what would be included or excluded. This was particularly true for Hindu ceremonies, largely partly because of their duration and ritual complexity. While some Hindu priests laid considerable emphasis on their ceremonies being defined by scripture (K-213, K-215) and needing to take place at a particular time (J-201, K-213), others accepted that some adjustments might need to be made (J-202, K-211). When 071 (female, 35, Hindu) met with the priest who was to conduct her ceremony, 'he sort of went through every single step and said to us, "is there certain things you'd like to input? There are things that I can't take away because that's the way I have to do things, but you can add things to it".' As she noted, they had been able to change the 'really sexist and really old' vows to avoid using the word 'obey'.
- 4.67 The significance of the proposal that the ceremony should take place according to the form and ceremony chosen by the parties and agreed to by the officiant goes beyond the way in which the parties exchange consent. It also underlines the importance of the officiant engaging with the couple in advance of the ceremony and ensuring that they know the significance of what they are doing. A few interviewees who had had a *nikah* would have liked to have been more involved in deciding on its format. 061 (female, 46, Muslim), while full of praise for the imam who had conducted her *nikah*, commented that 'I thought I would have been a bit more involved in the *nikah* process in terms of the format and what would be said, but I wasn't.' 034 (female, 28, Muslim) had been surprised by how simple her *nikah* was:

The official came and he asked like, 'Do you both agree? Have you agreed on the dowry? Have you agreed on like a contract or conditions and things like that?' We both said yes. And that's it. That was pretty much it, to be honest. I remember telling my friends, 'I can't believe that's it. Are they sure it worked? Like are we actually married?' You know? It was just in two sentences. And being brought up in the West and everything, you expect a whole huge thing and when it doesn't happen, you're like, 'So, that's it?' So, yeah, that was it really.

And 058 (female, 32, Muslim), who had not even met the imam on the day of the *nikah*, was particularly keen on the idea of consultation in advance:

I think, for me, because of my personal experience, the officiant aspect would be the most ... I would place the most importance on that in terms of the person actually marrying you. Meets both people. Speaks to both of them. Consults with them prior and that both parties are, you know, a significant part of the process. They're included. You know, their thoughts, wishes and feelings and beliefs and values are recognised.

### *Choosing a bespoke ceremony*

- 4.68 A number of participants had already been able to exercise a considerable degree of choice over their ceremony. Those who had had a Pagan ceremony, or one conducted by a Humanist or independent celebrant or by an interfaith minister, had largely been free to craft it as they wished. The issue, of course, was that this ceremony was separate from their legal wedding, leading to a sense of disjunction between what was important to them and what was legally relevant.
- 4.69 For many, their preference would have been for the two to be united so that their chosen ceremony was legally recognised. For 078 (female, 36, spiritual), it was 'frustrating' to be required to have a separate legal ceremony, having put their 'heart and soul' into their interfaith ceremony. 032 (female, 59, Druid) similarly commented that she would have loved for her Pagan ceremony to have been legally recognised. 024 (female, 34, no belief) did not feel that her register office wedding had provided anything that her Humanist ceremony had not, noting that 'I don't think I would have felt like any of the civil ceremony part needed to be in a Humanist ceremony', while 062 (female, 30, agnostic) liked the idea that couples would have 'a bit more agency in what they do in their weddings' and noted that if her celebrant ceremony had been legally recognised it 'just would have added to the day ... and just made it a bit simpler. Made our lives a bit easier.'
- 4.70 The importance of couples being able to choose the form of their ceremony was also a key theme among those involved in conducting such ceremonies. Independent celebrants spoke of couples wanting something 'personal' (F-163), 'a ceremony that was really about them and affected them' (H-186) and being 'able to do what they want to be able to do in the ceremony' (F-162). G-177, a Humanist celebrant, similarly emphasised that '[t]here's freedom of choice, which is not available in a civil ... the couple have full input, full control over edits'.
- 4.71 Choice was closely linked to the idea of authenticity. G-173, a Humanist celebrant, also spoke passionately about the importance of authenticity 'on probably what is one of the most important days of your life', describing herself as 'opening my ribcage and exposing my beating heart and saying truthful words and authentic words'. For G-172, an independent celebrant, it was the alignment between the couple's beliefs and the words that they spoke that was particularly important:

You have to be able to say, 'yes I believe that the stars and the moons are aligning for me today because I love this person and I'm passionate about them and I want to be able to say the words that are in my heart'.

- 4.72 Perhaps even more important, however, was the idea of commitment. There were a number of different dimensions to this. G-175, a Humanist celebrant emphasised that because it was a serious commitment it was important that there be 'a degree of ... dignity involved' in the ceremony. But the main point – which emerged in all four focus

groups with Humanist and independent celebrants – was that bespoke ceremonies were a means of enhancing the commitment that couples were making to each other. Part of this was attributed to the time that celebrants spent with couples prior to the ceremony. G-173, a Humanist celebrant, explained that ‘we will be meeting them for six months plus and discussing them and their marriage and their commitment together’ and described the process as ‘pretty much like an extended wedding therapy relationship assessment’. H-181, an independent celebrant, similarly contrasted their approach with that of other celebrants, civil or religious:

I think ... we do get people to think about what they're doing and their commitment more than a Registrar, for certain, would. And with a minister or religious leader, they're obviously there ... their focus is on God and the couple's relationship with God and that kind of thing. This is a very personal thing about each couple. It makes them stronger.

4.73 Commitment was also linked to the fact that the vows made were personal to the couple. Thus F-165 spoke of couples ‘making vows that they intend to fulfil. Not saying words that they just have to repeat’; as a result, she thought, couples had a ‘deep’ connection with the vows and they formed ‘the foundation of their life together’. H-187 similarly contrasted celebrant-led ceremonies with the formulaic nature of the civil ceremony ‘and some religious ceremonies’, while I-193 noted that this was when the couple made ‘their proper promises’ to each other. G-173, a Humanist celebrant, cited the ‘proof from Scotland that legal Humanist weddings and Humanist weddings in general are more long lived than civil ceremonies’, explaining this by reference to the thought that such couples put into their weddings: ‘people that opt for these bespoke personal ceremonies, in whatever hue they come, are usually more committed to each other and are really thinking it through before they get married’.

4.74 Participants also spoke of how making promises in words of their choosing supported the commitment that they were making to each other. 045 (female, 55, spiritual) was particularly eloquent on the value in making promises of one's own devising:

I'd love everyone to have the opportunity to feel as married as I do. Because it's been such an eye-opener for me that it can be such a positive partnership to be married in a way that we haven't had to make promises that don't ring true. That don't feel right. That are just ... I don't mean 'just'. That's disrespectful. But that are reciting some form of words that everybody says that you've seen on the movies and so you're married ... And I'd love everyone to have that opportunity ... I talk about the bit of paper not helping and that is very much a throwaway statement. I can see that for some individuals, the bit of paper would be every bit as gluey as my sacred ceremony. But, for me, it is all about individual choice and what's really meaningful to individuals.

### **Eligibility requirements for Jewish weddings (CQ44)**

4.75 As noted above, Jewish and Quaker weddings are subject to a different set of regulations from those that apply to weddings in registered places of worship. One corollary of this is that the Marriage Act 1949 specifies who is eligible to be married according to Jewish or Quaker usages.

4.76 The existence of specific eligibility requirements for Jewish weddings had been a problem for 047 (male, 35, Jewish). As a Jewish man marrying a Catholic woman, the law did not permit him to marry according to Jewish usages: weddings according to Jewish usages can only be solemnised between two persons who are both Jewish. What he had not anticipated was that his synagogue – which he described as ‘the

founding synagogue of liberal Judaism, which is supposed to be the most radical and liberal form of Judaism in the country' – would not be willing to conduct a non-legally binding ceremony either. As he explained:

They had taken, in my view, an entirely unjustifiable and quite offensive decision that they weren't going to conduct weddings which were not capable of being legally binding. Which means, of course, not between two Jews.

While he had eventually managed to find someone who would conduct a Jewish marriage ceremony for him and his bride, he was clearly torn between praise for him and a sense that this was not what he had wanted: 'what I had wanted was something whereby the Jewish bit was not only Jewish, but also part of my synagogue because that was really important to me'.

- 4.77 Of course, the removal of the eligibility requirements from the statute would not necessarily mean that a synagogue would be willing to conduct a wedding where one of the parties was not Jewish. Under the Commission's proposed scheme it would be open to anyone conducting a religious wedding to set eligibility requirements. But it would enable them to do so if they so wished. Individual synagogues would no longer be under the aegis of one of the three Jewish bodies identified in the legislation but would be free to nominate officiants for themselves, as long as they met the criteria for doing so. In addition, the removal of any requirement that the wedding be conducted according to Jewish usages would open up the opportunity for interfaith weddings. 047 (male, 35, Jewish) was aware of one rabbi having conducted 'what he described as the first interfaith Jewish-Catholic wedding' and thought that the proposed reforms would make it easier for such ceremonies to take place.

#### **Including religious content in civil wedding ceremonies (CQ45)**

- 4.78 The Commission's proposal that religious content should be permitted in civil wedding ceremonies (provided that the ceremony remains identifiable as a civil ceremony rather than a religious service) attracted relatively little discussion among those involved in conducting weddings. Only E-152, a Baptist minister who was also an authorised person, expressed concern about the potential blurring of the line between civil and religious ceremonies:

my concern, to me, in our community, is it pushes a faith ceremony to being more civil and I'm concerned that civil ceremonies are going to look much more faith based and draw away from the important role that I feel we have as faith communities.

- 4.79 By contrast, two of the imams (D-133 and D-134) were positive about possibility of including religious elements in a civil ceremony, with the latter commenting 'so that's if ... they're secular but they want to spice it up with a bit of religion, they can, that's absolutely fine for them'. O-251, a Roman Catholic priest was also supportive of the idea, describing the current exclusion of religious material as 'arbitrary' and thought that it should be possible for there to be 'a religious poem or just someone singing a piece of music that happens to have a religious theme'. He noted that many Roman Catholic couples married in a civil ceremony (on account of the Catholic church's strict line on divorce combined with its non-recognition of Catholic ceremonies) and that they had found that particular restriction on content very difficult. His point was not merely that those who had been divorced would not be able to remarry in the Catholic church but that couples who had not previously been married might not wish to do so.

- 4.80 Given that those who had married in a civil ceremony had all had an additional ceremony (this being the focus of the project), the lack of religious content in the civil ceremony had not necessarily affected them personally. Nonetheless, for a few the restriction on religious content had shaped their choices, and many specifically commented on the proposal to allow a wider range of content.
- 4.81 Among our interviewees, some indicated that the reason that they had had two ceremonies in the first place was because of the restrictions on what could be included within a civil ceremony. 073 (female, 37, unclear), who described herself as having no belief and her husband as an atheist, reported that even though they were not religious, she had thought, 'well what if we want to use something that mentioned God in one of our readings? Or you know if we want to have such and such? ... Not being free to choose, irritated me'. Instead, they had chosen a register office ceremony followed by a Humanist one. Similarly, 005 (female, 34, Zoroastrian) had initially planned to marry on approved premises with a registrar but changed to having a register office ceremony followed by a Zoroastrian ceremony at the venue. As she explained:
- what you could and couldn't have said, and then they said you can't have any religious objects in the room and it just felt a bit ... yeah, it just felt like there were so many restrictions and therefore it didn't feel like it was going to be the wedding that I wanted it to be in terms of that element.
- 4.82 While the proposed scheme would make it possible for a Zoroastrian wedding to be held at a secular venue, there remains the issue of those who are not able to marry in a religious ceremony (for example if they are of the same-sex or if there has been a prior divorce). 072A (female, 27, no belief) and 072B (non-binary, 28, spiritual), for example had a second ceremony reflecting 072B's Christian beliefs (and a third to accommodate family living overseas). As the latter put it:
- if we hadn't been able to have a second ceremony because of cost or anything else, that would have been a real shame for me and for my family. And obviously 072A would have felt badly for me if we hadn't been able to do that at all. So, I do think it's important for people to be able to add those sorts of things into their legal ceremony ... Again, especially in the LGBT Plus communities, [we're] very privileged ... in terms of what we earn and where we work but stats-wise a lot of LGBT Plus people do not earn a very decent living wage and so wouldn't be able to afford to have three weddings, as we did. Or even two.
- 4.83 Participants cited various examples of readings or music with the merest allusion to religion being prohibited. 024 (female, 34, no belief) reported that a friend who had had a civil ceremony 'said that one of the challenges she found was that she had asked for a particular reading and was told that they couldn't use it, because it had the word, "sheep" in it and sheep suggested shepherd and shepherd suggests Jesus. So, she couldn't have a reading that she wanted'. 047 (male, 35, Jewish) had heard 'anecdotes about all sorts of weird things being banned. You know, the music of Bach, I think, is the classic example on the basis that he devoted it all to God'. 045 (female, 55, spiritual), an interfaith minister who had had a non-legally binding ceremony, spoke of registrars refusing to let couples have Robbie Williams singing 'Angels'.<sup>104</sup>
- 4.84 It should be acknowledged that these comments were not based on these participants' own experiences, and there was certainly an assumption among some participants

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<sup>104</sup> G-173 also cited this as an example of something that would not be permitted.

that the law was stricter than it actually is.<sup>105</sup> Variations in practice were also identified. 045 (female, 55, spiritual) similarly reported that:

I've had, or I've heard of couples working with interfaith ministers who've had registrars refuse to attend a ceremony in a hotel because somebody was going to do something religious in the same room ... Yeah. I've heard of registrars who've attended the ceremony with one hat and literally changed hats in order to do the registry office bit. But, you know, everything on that continuum.

047 (male, 35, Jewish) had also heard of things being included 'which are really pushing the boundaries of being allowed'. The fundamental issue here, as 059 (male, 36, no belief) commented, was the difficulty in identifying what was 'religious': 'there's a fine line, isn't there between when religious words become just part of the normal lexicon of the population'.

- 4.85 Most who commented on this issue were in favour of more flexibility, although not all took this view. Some would have welcomed the opportunity for themselves (063 (female, 29, Christian)). Others noted that it would have made no difference to them but saw no reason why others should be prevented from having what they wanted (026 (female, 33, no belief), 076 (female, 43, Humanist)), or made more general comments such as 'I think that's really nice' (009 (female, 26, spiritual)) or 'that would be lovely' (052 (female, 42, no belief)). 080 (male, 36, agnostic) was a little ambivalent, acknowledging the benefits of allowing the ceremony to be 'a bit more personal, a bit more special' but also the potential downside if the reading was 'objectionable to the Registrar'. 018 (female, 32, Hindu) had enjoyed the fact that her first wedding 'was very non-religious and just legal and just admin' and would not have wanted the extra choice of having to decide whether she wanted the music to be religious, and 070 (male, 35, Hindu) was opposed to the idea of including religious content on principle.
- 4.86 A number identified reasons why they would have wanted to be able to include some religious content in the civil wedding. Some would probably have had a religious wedding if they had been marrying someone who shared their faith. 063 (female, 29, Christian), who had described herself as Christian and her husband as atheist, noted that she would have 'liked to have had a reading or a hymn or something done on the day, just to bring in a little bit of me into the ceremony'. Others wanted to acknowledge their religious upbringing; for example, while 024's (female, 34, no belief) husband shared her lack of faith he had been brought up as a Catholic. As she reported:

[He] loves hymns ... absolutely loves hymns ... in the early stages when we were trying to figure out what sort of wedding we wanted, he said congregational singing along to those very familiar songs would be something that he would really like. And I think that was part of his resistance to having a civil service was that we wouldn't be able to have some of the hymns that he loves ... It's not that we're against religion, so it seemed a shame to have to leave all of that at the door, especially for someone like him who has explored his faith in the past and has a link to religion in a way that I don't. But he ... it was almost like saying if you want to get married you can't ... it's either religious, or you have to forgo all of it, and I think he found that quite difficult.

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<sup>105</sup> For example 076 thought 'it does seem a bit crazy that you literally are not allowed to pretty much utter a word that may be considered religious in a civil marriage, a civil wedding', while 032 described it as 'archaic' that 'in a secular marriage you can't have any form of prayer or song or mention of the word God, or gods, or anything like that'.

047 (male, 35, Jewish) had in mind those with a more diffuse sense of religiosity, noting that 'most people aren't religious these days ... you know, you often hear people say that they're not religious, but they're sort of spiritual'. He saw the proposal as being 'a very sensible way forward' for those who wanted 'a bit of religion but probably not the whole trappings of it'.

- 4.87 Most of the suggestions as to what couples might want to have included in a civil ceremony involved relatively minor additions. 013 (female, 31, Muslim) suggested that there might be 'Islamic music' playing in the background. 076 (female, 43, Humanist) thought that someone might want to have 'All Things Bright and Beautiful' if it was 'their favourite song since childhood'. Hymns and/or poetry were also mentioned by 009 (female, 26, spiritual), 015 (female, 25, atheist), 029 (female, 30, Muslim) and 063 (female, 29, Christian).
- 4.88 More challenging perhaps was 063's suggestion that a couple should be able to have 'whatever your religion dictates you should do on a wedding day', that is, whatever a particular religion required to be done in order for the couple to be married religiously as well as legally. The justification for this was that this would take away the need for a second ceremony. In a similar vein, 071 (female, 35, Hindu) suggested a garland rather than an exchange of rings and that it would be good to be able to combine the legal and religious elements, and 029 (female, 30, Muslim) thought it would be nice to bring traditions from her Muslim faith into the civil wedding. 025 (female, 61, Christian) also raised the possibility of a handfasting, noting that she had not even asked whether this could be included in her register office wedding as she had known a couple who had been refused one 'because it was said to be Pagan'. As she noted, 'there's all sorts of implications of what we might have wanted if we were able to have some sort of joint or Registry Office that was different'.
- 4.89 On the one hand, this fits with the aim of promoting greater choice. On the other, it could be seen as blurring the lines between civil and religious ceremonies in a way that might well concern religious groups and did concern one of our interviewees, 068 (female, 38, Christian). As a Christian who had married her Hindu husband in an Anglican wedding which was followed by Hindu ceremony, she was clear that she had preferred to keep the two separate rather than blending them and regarded the possibility of including religious elements in a civil ceremony as potentially offensive. As she explained:

looking at it within Christianity, then I also think if you're religious then you would want to do it in a church. You wouldn't not want to do it in a church. And then people who are not religious wanting to take on something that is religious. Is that offensive? I think it's quite a difficult thing and what's your reason for having that hymn? Is it because you like the tune and not the words, or are you taking a reading because you like the words from the Bible but you're going to say to people, 'I don't believe in the Bible and I don't believe in God but I just like this bit that Jesus said, even though I don't believe in Jesus. But I just thought this was nice.' And then, actually, that's a bit offensive and it's a bit having your cake and eating it. So, I don't know. I think that's a very complex question and ... yeah. I think it's very complex ... yeah, I just think that's ... it would almost be a bit like ... don't know, randomly taking someone else's culture and dumping it into one of your ceremonies and not realising that that was going to be offensive. But because of what religion is and it is ... you know that belief system and it's not about pretty songs and nice words, it is ... you are, or you aren't a Christian. You can be a better Christian or not and you can be a more devout Christian but there isn't really a middle ground. Really you are, or you aren't ...

- 4.90 Given the Commission's proposal that weddings conducted by independent officiants would be classified as civil ones, it is also necessary to consider what independent celebrants said about the ceremonies they conducted. F-161, an independent celebrant who specialised in conducting weddings within South Asian communities, was concerned that she would no longer be able to 'merge cultures and religion' in the same way. G-172 noted that the couples she worked with wanted 'elements of religion' and argued that 'it's really important that we don't just get divided into you have to have a registrar office wedding, which is civil, or you can have a Humanist wedding, which again, unless someone else says the words, is non-religious'.
- 4.91 The examples that were given of 'elements of religion' being included in celebrant-led ceremonies were largely ones that could be accommodated within a wedding that was still recognisably a 'civil' one. F-162, for example, gave the example of the father of one of the parties giving a reading from the Bible. H-187 had conducted a wedding for a Muslim couple who had not wanted 'a full Muslim wedding' but had included some religious and cultural elements, including 'a Sabatier, where they smash clay pots that are decorated with gold and full of symbolic elements'. The inclusion of a 'handfasting' might be more debatable, given its significance within Paganism, but its ubiquity means that it is difficult to assign an exclusively religious meaning to it. It will of course be important for any new guidance on what can be included in a civil wedding to be sensitive to different religious and cultural traditions.<sup>106</sup>

#### **The provision for a religious service to be conducted after a civil wedding (CQ46)**

- 4.92 The Commission proposed to abolish the somewhat opaque provision in section 46 of the Marriage Act 1949 permitting a religious service to be conducted after a civil wedding as long as nothing in that second ceremony supersedes or invalidates the earlier one. The data from the focus groups and interviews with celebrants suggests that this particular provision has generated considerable confusion about what is permitted both before and after a legal wedding.

#### *The beliefs and practices of those involved in conducting ceremonies*

- 4.93 The practices of different celebrants ranged from, on the one hand, being willing to conduct a non-legally binding ceremony with relatively few questions asked about the parties' intentions to marry legally in the future, to advising couples to 'register' their marriage, withholding the certificate of the religious ceremony until the legal wedding had taken place, ensuring that the two ceremonies were conducted within days, hours, or sometimes minutes of each other, through to refusing to conduct a ceremony without evidence that the parties were already legally married and, in the case of the Roman Catholics, requiring a significant lapse of time between the legal wedding and the Catholic ceremony.
- 4.94 Such variations in practice were often linked to the extent to which the person conducting the ceremony was legally aware. Some were confident that conducting a non-legally binding ceremony was permissible, regardless of whether it was before, after or indeed instead of a legally binding one. Others were fearful that doing so was 'illegal' and that there would be adverse consequences for them and potentially for the couple. Some even referred to specific directives from government that the civil ceremony had to come first.

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<sup>106</sup> On the potential discrimination within the existing guidance, see S Pywell and R Probert, 'Neither sacred nor profane: the permitted content of civil marriage ceremonies' [2018] 30 *Child and Family Law Quarterly* 415.



- 4.95 There were some noticeable differences between, as well as within, different groups. The two Buddhist interviewees were adamant that they would not conduct a religious ceremony unless a prior civil ceremony had taken place or was being incorporated into the civil ceremony. As M-231 noted:

we tell every couple, 'You have to be legally married before we can marry you religiously' ... And they all understand that. Cos, we would be compromising our position if we allowed a religious wedding without having checked that they are legally married. And we ask to see ... we ask for the date, time and then we have the ability to check whether they did actually get legally married. So, we would never conduct a religious wedding unless we absolutely were a hundred per cent sure that they were legally married.

- 4.96 The Sikh priest, P-261, similarly noted that his gurdwara would ask to see the certificate of the civil wedding before they would give a certificate from the Gurdwara, although the possibility of a more flexible approach was hinted at in his subsequent acknowledgment that it could give parties 'a letter that we conducted this wedding'.
- 4.97 Some of the Hindu priests, by contrast, spoke of the religious ceremony being performed before or after the civil marriage. However, K-215, a priest in the second focus group, was insistent that the civil ceremony had to come first, telling the rest of the group that there was a 'directive':

which perhaps did not filter down to all the Hindu priests, which was actually issued by the government. They did say that any religious marriage should only be done if the civil marriage has already taken place or if it's taking place on the same day as the religious marriage.

His advice to his fellow priests that they should always ensure that this had been done was then echoed by K-212, with the others also nodding agreement: 'we have to be very very careful so that we don't fall in the wrong side of the law'.

- 4.98 Among the imams, Pagan priests, Humanist and independent celebrants, by contrast, the full range of approaches outlined above appeared. A-104 reported how he strategically described the *nikah* as a blessing to defuse potential criticism and what he saw as the risk of prosecution:

the wording I'm using is precisely to avoid prosecution because, as you probably know, there are vociferous voices in this country who have called many times for Imams like us, or anybody who does *nikahs* like this before a civil wedding, to actually be prosecuted.

D-133, D-135, and D-143 spoke of imams being scared to conduct religious-only weddings, or risking getting into trouble by doing so. Humanist and independent celebrants tended to be more relaxed about conducting non-legally binding ceremonies before the legal wedding, generally being confident that there was nothing prohibiting them from doing so. However, most said that the couple would usually have the legal ceremony first and a couple (H-181 and I-192) made this a requirement of conducting the ceremony.

- 4.99 In terms of how the religious ceremony was conceptualised where it took place after a civil ceremony, only the Anglican clergy spoke of it in terms of a blessing rather than a marriage or wedding. The Church of England has a special form of service of blessing for couples who have had a civil wedding. This service does not involve any exchange of vows that might seem to replicate the civil wedding. Other than this, the format of

religious ceremonies did not differ according to whether they came before or after the civil wedding. L-221, an Orthodox rabbi acknowledged that it might be ‘splitting hairs a bit, but we don’t do blessings ... I mean, the format of our Jewish wedding ceremonies is the standard liturgy ... the actual format is exactly the same, whether or not there’s civil registration’. None of those involved in conducting Muslim, Hindu, Buddhist or Sikh ceremonies made any mention of the nature of the ceremony being any different. Humanist and independent celebrants did however note that they would not declare the couple to be married if they had not already been legally married.

### *The experiences of couples*

- 4.100 Among those getting married, there was a similar diversity in beliefs about what was possible and what had actually happened. Some had been told that they had to have the civil ceremony first. 005 (female, 34, Zoroastrian) had wanted to have her Zoroastrian religious ceremony first and then the legal wedding ‘but there was this annoying rule that you have to do your legal one first ... it was on the documentations by the registrar that you can’t have had a religious ceremony before’. 023 (female, 58, no belief) similarly reported that the registrars had tried to prevent her from having her celebrant-led ceremony first, ‘until I told them that I was a celebrant and things changed’.
- 4.101 Even more concerning was the way in which couples were treated when they sought to marry after having their non-legally binding ceremony. One imam, A-103, had reported how some registrars were ‘unhappy if they find out that the religious marriage has been conducted before they are approached for the civil marriage’, noting that ‘some of them do make the couples feel uncomfortable’, and this was borne out by the experience of 003 (male, 33, Muslim). He had been advised by his cousin to say nothing about the fact that he had already gone through a religious ceremony of marriage, but had not wanted to lie when asked a direct question by the registration officer. As he reported, upon answering in the affirmative, ‘the tone completely changed and for me that was really off-putting’. He even suspected that his earlier religious ceremony might have been a reason for the lack of slots for the civil wedding: ‘I don’t know if it was a case where they were giving preference to people that just required a normal, legal ceremony instead of people that have already had a religious ceremony’. 064 (male, 42, Muslim) had also faced questions about whether he had had an earlier religious ceremony but had felt that he had to lie:

If I’d said yes, I don’t know what, you know, the complications would have been. And we just said no. And so, that I thought was discriminatory because there was no reason for them to get involved in the religious aspect of it, OK? If I’m here now and I’m registering to do the registrar, that’s enough for you to know that we’re taking it seriously and we’re here and it’s all going to be legal and above board for marriage and if there’s complications, the law will protect both of us, right? So, for them to be asking that and making that into an issue, I thought there’s no reason for it ... I don’t know if they apply it to other religions. I just thought, now in 2021, there’s no reason for it. It doesn’t make sense.

- 4.102 G-175, a Humanist celebrant, even suggested that some registrars had said that they were unable to conduct a legal wedding after a Humanist one; as he noted, with G-173 and G-178 nodding agreement: ‘I have had couples where the registrars have been quite unpleasant with them about the order in which those things are done and said, “oh, we can’t do it after you’ve had a Humanist ceremony (or whatever)”’. Clearly, the fact that section 46 does not refer to the possibility of having a Humanist ceremony *after* a civil ceremony has not precluded some registrars from taking the view that it should not be conducted before.

### *The need for two ceremonies*

- 4.103 In many cases the need for having separate ceremonies will disappear if the proposed scheme is implemented. However, there are some reasons why a couple might still want to have a religious ceremony before or after the legal wedding.
- 4.104 As we discuss further in the chapter on validity, there will continue to be couples who wish to have a religious ceremony in advance of their legal wedding, for example where that ceremony is a pre-requisite for them to spend time together. Reforms making it easier to get married legally will not address their reasons for wishing to defer doing so.
- 4.105 Some couples may still want to have two ceremonies alongside each other. A number of interviewees indicated that they had liked having a civil wedding and a separate religious ceremony. For them, the different ceremonies had different meanings, and keeping them separate reduced the pressure on them to try to make one ceremony conform with different needs. There was a sense that the two ceremonies had a different 'feel' to them: 034 (female, 28, Muslim), for example, referred to them having 'different moods', while 011 (male, 32, Muslim) commented that it 'allowed you to, as I said, express it in two different ways'. A few brides clearly enjoyed the idea of having different types of dresses for the different stages: for 060A (female, 35, Jain) the civil wedding at the town hall had been an opportunity to wear a white wedding dress and 'be that princess for the day of what I pictured in my brain from fairy tales', while 053 (female, 24, Muslim) was also looking forward to wearing a different outfit for her civil wedding. For 071 (female, 35, Hindu), the desire to have separate ceremonies was linked to her ideological belief that law and religion should be kept separate.
- 4.106 In particular, most of those who were married to a spouse of a different faith indicated that they would continue to have two separate religious ceremonies, and possibly a civil one as well to avoid having to decide which of the religious ceremonies should be the legally binding one. For 068 (female, 38, Christian), for example, there was a sense that a mixed faith marriage was not about 'mixing faith' but having the two 'standing alongside each other'; as she put it, 'I don't think you can go in there and say, "we're going to pick and choose bits and we're going to put them together and you've just got to like it or lump it".' As this indicated, the form of the ceremony was not just a matter of their own wishes but of respecting their different religious traditions and the conflicting wishes of their respective families.
- 4.107 Two Catholic priests, O-251 and O-252, explained that a separate religious ceremony might take place some time after the civil wedding to 'convalidate' the marriage in the eyes of the church. Another reason was where the parties had converted to that particular religion since their wedding. L-225, a progressive rabbi, noted that this was one reason for conducting a Jewish wedding after a civil one:

Usually what happens is a couple get married civilly and one of the partners, or both of the partners, later decide, or are in the process of deciding to become Jewish. Then once they have become Jewish and come through the Beth Din, the legal law court that we run, then they want to have a Jewish marriage.

- 4.108 These examples show that there will continue to be cases where there is a split between a civil ceremony of marriage and a later religious ceremony. Overall, the data underlines the importance of making it clear that it is permissible to conduct a non-legally binding ceremony before, after, or instead of a legally binding one, as long as the parties are not misled about the status of the ceremony.

## Whether a wedding should have to be celebrated with open doors (CQ47)

4.109 The proposal that there should be no legal requirement that a wedding be celebrated with open doors attracted relatively little comment. It was news to 068 (female, 38, Christian) that this was a requirement under the current law; as she noted, 'I didn't realise that literally if you were getting married in a Registry Office, anyone that wanted could just come in'. She described the idea of someone being able to come in and identify an issue with the wedding as 'bizarre', pointing out that this 'should be done beforehand'.

4.110 However, two participants belonged to religious groups that had experienced particular problems with this requirement. One problem was the risk of disruption from those opposed to the marriage. 042 (female, 26, Sikh), a Sikh, noted that 'if you get married in a very strict Sikh Gurdwara and they find out that you are not Sikh, people will just come and stop the wedding'. For 041 (male, 31, Christian), a member of the Church of the Latter-Day Saints, the open doors requirement meant that their Temple could not be registered for weddings and he had had to have two separate religious ceremonies. As he explained:

only people with a Temple recommend, so those who are living the standards of the church and are members of the church can enter the Temple. Which limits, therefore, people being able to go in. So, previously, we've never been able to have the ... legally binding service and the Temple service ceremony as the same thing.

While he had not been denied the option of marrying according to his own religious rites – since his first, legally binding, wedding had been conducted by a member of his church – he would have liked the option of having a legal wedding in the Temple. It should be noted that the restrictions do not just exclude non-Mormons, as not all members of the Church of the Latter-Day Saints have a Temple recommend.

## Conclusion

4.111 There are obvious challenges in reconciling the need for legal certainty about what constitutes a marriage with the importance of a couple expressing their consent to be married in a way that is meaningful to them. L-222, an Anglican clergyman, sounded a note of caution about the potential indeterminacy of the vows that couples had written for themselves, commenting that 'some of the vows that people write for themselves, it beats me what they're talking about'. Of course, his experience was of couples writing vows that were in addition to those within the Church of England's prescribed liturgy, rather than of couples writing vows that were intended to express their consent to be married. What couples – and celebrants – say in a non-legally binding ceremony is likely to be very different from what they might say in a ceremony that was intended to have legal effect.

Overall, most of our participants felt that the current law gave too much weight to legal certainty and too little to the way in which couples wished to express their consent. In the words of M-232, an authorised person at a Buddhist place of worship:

Our first thing is the religion and the legal should be supporting the religion. And somehow, we've got into a situation where we have to support the legal and then the religious sort of finds its way in there. And it's just the balance isn't quite right.

And, as noted at the outset, the form of the ceremony has implications beyond the couple's wedding day. As 030 (female, 37, atheist) commented, 'the marriage ceremony is a really important marker of your commitment to each other', while 061 (female, 46, Muslim) noted how the proposals would ensure that 'people can marry in a way that's meaningful to them, what binds them together'.

## 5. Location

### Introduction

5.1 The non-legally binding ceremonies in our study had taken place in a wide range of locations. This was the case whether they were led by a friend or family member, conducted by an independent celebrant or by a Humanist celebrant, minister, priest, imam, or vicar. Indeed, one theme that emerged very clearly was the range of views among those involved in conducting religious-only ceremonies as to where they could take place. As J-202, a Hindu priest, noted: Because it's religious ceremony, you do it anywhere. I've done ceremonies inside the house pre-Covid, in the gardens of their houses, in all the stately homes, hotels, abroad, everywhere.

5.2 This idea of 'because it's a religious ceremony' had two different dimensions. The first was that the ceremony could be conducted in a wider range of locations because it was not constrained by the requirements that applied to legal weddings. The second was the importance of ensuring couples had a ceremony by which they would be married in the eyes of their religious community. While some would have preferred for that ceremony to be celebrated in a place of worship, many stressed the importance of accommodating the wishes of the couple. D-134, for example, spoke of the importance within Islam of serving the needs of the community:

that's something in our faith tradition that we have is to facilitate that which makes life easier for the community and as simple as possible and again as an organisation, we feel that serving our community is imperative, it's our duty to serve the community and to help them in whatever shape and form we can.

5.3 In a similar vein, Humanist and independent celebrants emphasized the importance of their ceremonies being conducted in a place that was meaningful for the couple. This was reinforced by the individual interviews. Indeed, for many couples, the location had determined their choice of ceremony. Several described how they had wanted to get married in a particular place and, upon learning that it was not possible to do so legally, had decided to have an additional non-legally binding ceremony.

5.4 At the same time, it is important not to give the impression that non-legally binding ceremonies were being conducted in particularly outlandish places. As we discuss below, many were actually on approved premises, or in locations that could have been approved. Moreover, while a few participants speculated that other people might want to get married underwater or in hot air balloons, no such desire was reported by any of our participants, or by any of those involved in conducting non-legally binding ceremonies.

5.5 In this chapter we first detail how our findings provide further evidence of the problems that were identified by the Commission in its consultation paper as regards the current laws governing where weddings can take place. We then set out the evidence as to where non-legally binding ceremonies are taking place, drawing on both the specific examples from the individual interviews and the experiences of those involved in conducting such ceremonies. How these were managed also provides practical insights into how the Commission's proposals could work in practice, as we explore in the remainder of the chapter.

## Evidence of the problems with the current law

### Unfairness

#### The different rules for different religious groups

- 5.6 It is something of an anomaly that couples marrying according to Jewish or Quaker usages are not subject to any legal constraints as to where they can marry. Nor do Jewish groups require couples to marry in a synagogue. As L-221, an Orthodox rabbi, reflected: 'I'm not even sure, that – at least in a normal year – most of our weddings nowadays take place in the synagogue'. While he thought that this reflected a change in practice, it was a change driven by the practicalities of *kosher* catering rather than religious practice. When venues only allowed their own in-house catering, observant Jews would not have been able to have their reception there. Once outside caterers were permitted, people 'are going out to all sorts of interesting locations'.
- 5.7 Both he and L-225, a progressive rabbi, provided examples of how this freedom to marry where they wished was exercised in practice. Both gave examples of legal weddings being conducted outside. L-221 recalled being asked by a rabbi in a seaside town about the legitimacy of conducting a wedding on the beach. His immediate reaction was that there had to be a specific address; however, once it had been established that the couple owned a beach hut, the local registration officers confirmed that it would be fine to proceed. L-225 had similarly conducted a wedding in a field, although the presence of a very vocal group of sheep in the next field and a rather insistent wasp (to which she was allergic) led her to describe it as her 'worst wedding'. Despite this, she was supportive of the idea of relaxing the rules on where weddings could take place, seeing it as a simple matter of equality: '[w]e already have some of those freedoms and I don't see why we should be allowed to have them and nobody else is allowed to have them'.
- 5.8 Those conducting other types of religious weddings recognised that they had less freedom as to where these could take place. As J-203, a Hindu priest, noted, legal weddings were 'only carried out in the venues which are sanctified' – by which he meant a temple that had been registered for weddings. This did not mean that ceremonies did not take place elsewhere –venues such as hotels were noted by K-212 as being particularly popular among those having a Hindu wedding. But it did rule out the possibility of such ceremonies being legal weddings, thereby requiring couples to go through additional steps in order to be married in the eyes of the law as well as of their religion.

#### The limited options for those who lacked buildings

- 5.9 For a number of religious groups, moreover, the lack of registered places of worship was identified as an issue.<sup>107</sup>
- 5.10 For some this was an issue for a specific congregation within a larger organisation. Thus O-251, a Roman Catholic priest, gave the example of a local Catholic congregation that met in a school whose members had to get married elsewhere. Couples belonging to this congregation did at least have the option of getting married in another Catholic place of worship.

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<sup>107</sup> In focusing on religious groups in this section, we do not overlook the obstacle that the buildings-based system also poses for non-religious belief groups. However, the issue for such groups is not so much the lack of buildings as the fact that their buildings cannot be certified as places of worship.

- 5.11 For others, the issue was a particular group had only a few buildings registered for weddings across England and Wales. Here the main impact was felt by the couples who had to decide whether to travel some distance to a place of worship where they could be married by the religious group to which they belonged or whether to have a civil wedding and a separate non-legally binding religious ceremony.
- 5.12 M-231 and M-232, for example, were both authorised persons for a Buddhist place of worship and had officiated at legally binding weddings there. However, as they noted, this particular place of worship was the only one within their particular strand of Buddhism that was registered for weddings. While the possibility of getting married there both legally and religiously was attractive to some couples, M-231 reported that 'more recently, people are less keen on asking all their friends and family to travel to one location'. M-232 explained why this was the case:

you have to organise for a whole family to travel from West Wales to [location in south of England] for a wedding ceremony. You can't do that journey in one day. You've got to do it there and back in two days. You've got to pay for accommodation. You've got a granny who's 95 who's very frail. You know ... it's too much to ask for a lot of families.

As a result, some couples were choosing to marry in their own area, having a civil wedding followed by the Buddhist one.

- 5.13 E-151, a Zoroastrian priest, similarly confirmed that Parsis in England and Wales had very limited options if they wanted to marry in a Zoroastrian place of worship that was registered for weddings. As he explained:

Parsis in India do have more formal places of worship ... But in the UK ... there is no real place of worship as such. We just have to pray at halls which mimic a Fire Temple in India. We have just got two of them in the whole of the country, in London. They are used as community halls and centres as well. So, the space inside these ... we have a little worship room but then we also have a larger community centre in Hull where these ceremonies would take place.

In practice, therefore most Zoroastrian ceremonies took place in other venues, from back garden and living rooms 'to beaches and palaces and manor houses'.

- 5.14 For the Bahá'í, the very concept of a formal place of worship was somewhat alien. As E-154 explained, Bahá'ís do not have 'any formal places of worship in the sense of temples or mosques or churches'. Instead, they would generally 'meet in each other's homes or, in bigger communities, in a hall or a rented place or in some of the larger communities like Brighton and Newcastle and Bristol and so on, there are centres'. Of these centres, only a few – those in Brighton and Hove, Burnley, Fallowfield, Liverpool, London (Knightsbridge), Newcastle-upon-Tyne, and Whitfield – are registered for weddings. As a result, Bahá'í couples generally had to marry in the register office and have a separate Bahá'í ceremony, as 007 (female, 28, Bahá'í) had done.
- 5.15 Our study also identified examples of small religious groups that did not have a dedicated place of worship that could be registered for weddings. L-224 was the minister of an evangelical Christian fellowship that did not have its own building but met in a local school. He described how his ability to conduct weddings was dependent on the permission of other fellowships that did have a registered place of worship and 'will allow us to conduct services there and will have registrars'. The only other option was for couples to have their legal wedding in the register office first and then have the ceremony in the location of their choosing. For some this might be a



church that was not registered for weddings. For others it might be in a village hall, or at home. It might also take the form of a blessing:

where a couple have wanted to renew their vows and they've said, 'We want the church family, as it were, to be a part of that.' So, we've incorporated that as part of our normal Sunday service. So, we might take ten, 15 minutes, just to actually do that and they will then exchange those sorts of vows and it will be incorporated as part of our normal meeting.

- 5.16 As this indicated, it was the church community that was more important than where the ceremony was taking place. His willingness to conduct services in a range of different locations reflected the importance that he attached to marriage:

You know, I don't charge anything for conducting a service. We try, as best we can, to make it as easy as possible for people to do that because we think, as has already been mentioned, it's a really, really important thing and I think it's a very meaningful thing for couples to make those sorts of commitments to each other and to feel that they have the support and love of the community around them that's going to help them in that journey and in that process.

- 5.17 For Pagan priests and celebrants, there was the added consideration that being in a building was in itself seen as an 'imposition', as N-242 put it. 010 (female, 52, Pagan), commented that 'getting married inside isn't the same for us, it has to be outside'. Even if they were willing to be married inside, their options for doing so in a Pagan ceremony were limited. As N-242 noted, with the exception of the Goddess temple at Glastonbury, 'we simply do not have those buildings ... So, without those buildings, we don't have any way of doing this'.

#### Interfaith ministers and couples of different faiths

- 5.18 There was also evidence of the buildings-based system posing problems for those who wanted to blend aspects of different religions. The comments of 078 (female, 36, spiritual), an interfaith minister, reflected both the potential flexibility of the current system – in that the law does not regulate who conducts the ceremony – and its constraints – in that the governing authorities of registered places of worship can decide who they will permit to conduct ceremonies there. As she noted:

some interfaith ministers have contacts with the local Unitarians who are often very open to having interfaith ministers do ceremonies there ... And places like the Glastonbury Goddess Temple. I've known ministers who've done it there. But aside from that, the trouble is that we can legally marry people in places of worship, but the places of worship won't let us in, because we're interfaith ministers and not denominational ministers, which is the tricky point.

- 5.19 N-242 similarly noted the possibility of conducting a Pagan wedding in 'an appropriate friendly unitarian church', although he added that 'I don't have any friendly unitarians locally and I've never been asked to do that'. He had, however, conducted one wedding in a Buddhist temple 'for a pagan-Buddhist wedding with a Buddhist bride'.
- 5.20 While the option of having a ceremony in a registered place of worship that combines elements of different faiths may work for some, the potential inequality was an issue for 083A (female, 33, Muslim). She and 083B (male, 34, Christian) had wanted to have a single ceremony that reflected both Islam and Christianity. Having decided to have the legally binding wedding in an Anglican church, they explored the idea of this being a combined ceremony. As discussed earlier at 1.34, 083A eventually felt that this was

not the right option. Having considered the option of the imam and reverend 'standing side by side in the church' and conducting the 'whole ceremony there', they eventually decided that it was not a neutral setting.

### *Restrictive*

5.21 A constant refrain among our participants was not just that the law was restrictive but that they did not understand *why* a wedding had to take place in a specific building. As 024 (female, 34, no belief) put it, 'I just don't see how it can be justified that so many of the details of ... you know, it has to be under a roof, ... and all this sort of stuff'. 004A (female, 44, Pagan) thought that it was 'shocking' that it was not possible to get married outside. Others similarly said that they didn't understand (015 (female, 25, atheist), 018 (female, 32, Hindu), 030 (female, 37, atheist), 039 (female, 40, no belief), 068 (female, 38, Christian), described the system as 'bizarre' (078 (female, 36, spiritual)) or 'crazy' (010 (female, 52, Pagan)), or simply asked 'why?' (002 (female, 32, Muslim), 028 (female, 31, Muslim)). 019 (male, 40, Muslim) asked whether it was 'another way for venues to make money', reflecting his concern about the high cost of weddings.

5.22 Being restricted to being married in a specific room on approved premises was a particular issue. 010 (female, 52, Pagan) had been surprised to discover this: 'I thought the actual building was licensed for marriage and it's not, it's a room in the building. So, you can't even pick anywhere nice in the building itself. It's just crazy, really'. 083B (male, 34, Christian) had found it odd that the porch and a room inside the venue were approved but nothing in between.

5.23 The practice of approving a – sometimes very small – structure outdoors attracted particular derision. As 025 (female, 61, Christian) noted:

Those outside structures are often absolutely ludicrous ... they're squeezed in this very small summerhouse type scenario and you can't see what's going on.

5.24 063 (female, 29, Christian), whose legal wedding took place in a register office, commented on how one of its rooms had a 'lovely garden', and thought that getting married there 'would have been a bit more special than getting married in a room that looks like an office, with a desk and office chairs for people to sit in and stuff like that!'<sup>108</sup>

### *Inconsistency*

5.25 In addition to the different rules that applied to different types of weddings, there was also considerable inconsistency in how the law operated in practice. This was particularly evident in terms of what was permitted on approved premises. Some approved premises were not willing to allow non-legally binding ceremonies at all, their concern being, as F-164, G-172, and H-187 all noted, that they would lose their 'licence' if they did so. Others allowed non-legally binding ceremonies to take place there but seem to have imposed the same restrictions as would apply to a legal wedding. Thus 005 (female, 34, Zoroastrian) commented that 'I wanted to do it outdoors but probably you know that you can't do weddings outside ... you can't legally get married outdoors'. When the interviewer asked why they had felt unable to do the non-legally binding ceremony outdoors, 005 simply replied 'the reason being

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<sup>108</sup> Given that this particular room, like many others that were described as a 'register office', was in fact approved premises, marrying in its garden would now be possible under the Marriage and Civil Partnerships (Approved Premises) (Amendment) Regulations 2021, SI 775/2021.

is ... so, the place was registered'. Other approved premises, by contrast, welcomed non-legally binding ceremonies precisely because, as celebrants noted, they had realised that hosting non-legally binding ceremonies enabled them to make use of parts of the venue that were not, or could not be, approved.

- 5.26 Attitudes to religious ceremonies on approved premises also varied considerably. It was generally easier for the couple if they were not also trying to get legally married on the same day. 016 (female, 35, Christian), had married in a Catholic church but had had an additional ceremony on approved premises led by a Catholic priest, commented that while it was only possible to have a civil ceremony there, they 'did allow him to act almost as a celebrant'. 066 (female, 39, atheist), by contrast, who wanted to have her Hindu ceremony and her legal wedding on approved premises on the same day, found that this was 'an absolute no-no', although she reported that her sister had been able to do this a few years earlier.<sup>109</sup>

## The location of non-legally binding ceremonies

### *Approved premises*

- 5.27 One perhaps surprising finding was just how many non-legally binding ceremonies were taking place at venues that were approved premises. One independent celebrant, H-183, had done almost half of their ceremonies at such venues, while another two, F-164 and H-182, either had done, or were scheduled to do, the majority of their ceremonies there. Those conducting religious ceremonies tended to be less precise about whether or not the venue was approved – often referring more generally to hotels, halls or centres – but non-legally binding ceremonies on approved premises were specifically reported by a couple of imams (A-102 and A-104), one Hindu priest (K-212) and a Zoroastrian priest (E-151).
- 5.28 There were very practical reasons for having a non-legally binding ceremony on approved premises. The most obvious, of course, was the option of having the legal wedding at the same venue on the same day. Among our interviewees, a number had done so. However, the extent to which that was a determining factor varied considerably. 008 (male, 35, Zoroastrian), whose legal wedding had been followed by a Zoroastrian one, clearly felt that his options were limited: '[w]e could only then go to a place that was registered to have civil ceremonies, you know, undertaken.' Some would have preferred to have married outside but had managed to find a place to which they had a connection when they realised that this wasn't permitted. 022 (female, 38, no belief), for example, reported that 'we looked at other options and it just felt right that we went back to [the hotel] where we met', while 010 (female, 52, Pagan) chose a place with which she and her husband-to-be were familiar:

we spend a lot of time in the woods, it's where we're comfortable with nature. And there's this lovely little hotel in the middle of it. We go in for a glass of wine and lunch. So, we thought what better place really? If anything, it's got to be [hotel name] amongst those trees.

- 5.29 061 (female, 46, Muslim) had dreamed of having a big white wedding and chosen to get married at 'a nice manor house with lovely gardens'. And 023 (female, 58, no belief) was similarly clear that she would have chosen the same venue even if other options had been available: 'we would still have chosen the same hotel because I

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<sup>109</sup> It should be noted that 066 was marrying in 2015, and that the GRO's guidance has since been amended to make it clear that it is possible to have the two ceremonies at the same venue on the same day.

loved it. I absolutely loved where we got married. It didn't have to be all great pomp and ceremony. That's what ... not what it was about. It's because I loved the venue.'

5.30 There were also differences in terms of where the non-legally binding ceremony took place. For 008 (male, 35, Zoroastrian) it was in the same room as the legal wedding: as he described, 'when we moved on to my religious element, essentially, everybody sat still and we just switched over down the front, moved the table away, and proceeded with my religious element'. 061 (female, 46, Muslim), by contrast, had had her *nikah* outside in the marquee in the evening. 010 (female, 52, Pagan) had also had an outdoor ceremony, reporting moving from the room to the grounds of the hotel and having her ceremony out amongst the trees.

5.31 For these participants, the transition from the legal wedding to the religious ceremony had been relatively smooth. However, having the ceremonies in a different order – particularly where they were in the same room – posed certain challenges. As 023 (female, 58, no belief) reported, the registration officers conducting the legal wedding:

didn't want any indication that there had been a celebrant ceremony just beforehand. None at all. So, the room was completely stripped, completely stripped. It was just absolutely bizarre ... we actually spoke to the staff that were there and said, 'this is what has to happen'. And they knew. Because they had already done previous ceremonies like that, so they knew that things had to be removed from the room and that you couldn't have anything that exposed it as being a celebrant ceremony. Bizarre.

5.32 It may be that the celebrant-led ceremony had included religious elements of which the registration officers wished to remove any trace, although the regulations governing weddings on approved premises do not require the room itself to be free of religious symbolism.<sup>110</sup> 023 also noted the registration officers reluctance even to have 'a lit candle in the room where they were because they were frightened to death you were going to rip the certificate out of their hands and burn it', asking 'Where did they get that from?' Again, while the regulations governing weddings on approved premises note that the premises 'must have the benefit of such fire precautions as may reasonably be required by the authority',<sup>111</sup> they do not specifically bar the use of lighted candles.

5.33 By contrast, other interviewees had not needed to engage with registration officers at the approved premises because they had chosen to have a non-legally binding ceremony there, with a separate legal wedding in a register office on another day. There were practical reasons for both elements of this. Explaining why a couple would choose an approved premises for a non-legally binding ceremony, G-177, a Humanist celebrant, noted that approved premises were 'usually set up with staff and catering and already have an order of things and an experience'. The convenience for couples of having the reception at the same venue as the wedding was also the reason given by many religious celebrants for conducting non-legally binding ceremonies at such venues. As one imam, B-115, commented, 'people want to do the whole thing all in one location compared to doing it in the masjid and then going to the home'. The main disincentive to having the *legal* wedding there was one of cost. As 028 (female, 31, Muslim) reported:

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<sup>110</sup> On what is prohibited, see The Marriages and Civil Partnerships (Approved Premises) Regulations 2005, SI 2005/3168, Sch 2, para 11(2).

<sup>111</sup> The Marriages and Civil Partnerships (Approved Premises) Regulations 2005, SI 2005/3168, Sch 1, para 3.

what we wanted to do was do the civil on the same day just so ... it's all done and dusted on the same day, we would be legally and religiously married. But because it was a Bank Holiday and because it was quite far ... I think when we went to register with dates and stuff they were like, 'okay we can have someone out, but it's going to be like £500/£600. If you come to us at some point, it was like £70/£80', something like that. It was so much cheaper. And then that was one reason. We were like, 'well, why are we going to spend that much more money when we can just go and get it done later?'

- 5.34 Costs were also a consideration for one of two interviewees who had had their legal wedding on approved premises and an additional non-legally binding ceremony somewhere else. 030 (female, 37, atheist) had opted for a very small wedding on approved premises, with just 10 people, although even this cost £750. 070 (male, 35, Hindu) had also had what he described as a 'smaller crowd' at his wedding on approved premises, partly because of the capacity of the room 'was just 100' and partly because of his perception that the legal wedding required 'a bit more attention from the crowd'.
- 5.35 What this suggests is that there will still be couples who wish to marry at the types of places that are currently approved premises even if it becomes possible to marry in a wider range of places. Stately homes, hotels, and other venues that hold meaning for couples and/or provide both an attractive backdrop, as well as facilities for the reception will always be in demand. At the same time, it is clear that many couples would welcome a wider choice, and this is reinforced by looking at the other places in which non-legally binding ceremonies were taking place.

#### *Other venues*

- 5.36 A number of participants also mentioned conducting or holding ceremonies in venues that could have been approved premises, such as former churches (G-177), hotels (I-193) or theatres and arts centres (H-184, H-187, 075 (male, 61, Christian)). G-172 noted that she was a celebrant for a cave, and added that her friend was a celebrant for a nuclear bunker. While they did not clarify whether these particular venues were approved premises, it is worth noting that there are examples of similar places being approved for legal weddings. Hotels, of course, form the largest single category of approved premises, but there are also hundreds of theatres and arts centres, a number of former churches, caves<sup>112</sup> and indeed nuclear bunkers<sup>113</sup> that have also been approved.
- 5.37 Other ceremonies had taken place at venues that had deliberately chosen to remain unapproved. 067 (female, 37, Hindu), for example, reported that she and her husband-to-be had found a venue 'which was a farm, like a luxury farm. And we both fell in love with the farm but then they told us that they don't have a marriage ... what's it called? A licence'. As a result, they had chosen to have a non-legally binding ceremony there, conducted by a celebrant.<sup>114</sup> 072A (female, 27, no belief) held her ceremony at the events venue where she worked. As G-171 noted, wedding venues that were not approved premises were 'usually cheaper'. G-173, G-177, and H-183 all provided examples of such venues promoting ceremonies led by Humanist or independent celebrants.

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<sup>112</sup> See eg Carnglaze Caverns in Cornwall (<https://www.carnglaze.com/weddings/>). Civil weddings have also been conducted at Dudley Limestone Caverns.

<sup>113</sup> See eg Hack Green 'Secret Nuclear Bunker', near Nantwich in Cheshire.

<sup>114</sup> They described the celebrant as 'Humanist' but from the details given it was more likely to have been an independent celebrant.

- 5.38 F-163, an independent celebrant, noted that she encouraged couples to consider village halls as an option, adding that ‘it’s lovely to be able to achieve a very personalised venue at such a low cost for couples’. While there would be nothing to preclude a village hall from being approved, in practice they are unlikely to be able to bear the cost. Cost had been a key consideration for 044 (female, 44, unclear), 045 (female, 55, spiritual) and 073 (female, 37, unclear), who all identified these venues as significantly cheaper than approved premises. As 073 noted:

it was about budget. So, finding a licensed venue that was affordable for us with quite a large number of guests ... was quite difficult. So, the village hall wasn’t a licensed venue, you know, so we couldn’t have a legally binding ceremony there. But it was cheap and round the corner and had space for everybody. So, it was, yeah, partly about just having that flexibility really.’

- 5.39 For 044 (female, 44, unclear), spending less on the venue had meant that they had money to spend on the catering and music, while for 045 (female, 55, spiritual), on an even tighter budget, it had enabled them to organise the catering on a ‘bring and share basis’. As she described:

we decided, well the only way this is going to happen is if the wedding is completely off-the-wall and unusual in every regard. And so, the invitation said, ‘Please bring food to share. Food and drink to share.’ And people did. And we had the most wonderful feast and were able to take home ... even after people took plates home, there was enough for us to eat for a week afterwards.<sup>115</sup>

### *Outdoors*

- 5.40 Many of the non-legally binding ceremonies in our study had taken place outdoors. Among the independent celebrants, F-167, H-181, and H-186 noted that they specialised in outdoor ceremonies or conducted the majority of their ceremonies outdoors, and almost all had conducted at least some of their ceremonies outside. The venues mentioned varied from the unlicensed areas of approved premises, through back gardens and private estates to orchards, fields, woodland, beaches, clifftops. A similar range of outdoor venues was mentioned by Humanist and Pagan celebrants. For other religious celebrants, outdoor ceremonies were usually in gardens rather than remote locations, but E-151, a Zoroastrian priest, mentioned conducting a ceremony on a beach, and E-152, a Baptist minister, had been asked to do so.
- 5.41 ‘Outdoors’, then can potentially encompass everything from the terrace of a stately home to a remote windswept clifftop, and the factors that might need to be taken into account in ensuring that it is a suitable location are considered further below. Here we simply wish to showcase our participants’ stories about why they chose that particular location. As these indicate, in some cases the outdoor location was chosen because it reflected aspects of their life together, gave them more scope to bring family and friends together, or enabled them to connect with nature. Some of these reasons might overlap, as they did in the case of 078 (female, 36, spiritual). Her decision to have her ceremony on the village green was driven both by her desire to be outside and her wish to involve the local community. In other cases the chosen place was the *only* place where the couple wished to marry. While the new option of being married on any part of the premises that is approved will cater for some couples, it will not serve those

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<sup>115</sup> L-224, the minister of an evangelical Christian fellowship, also recalled conducting services for couples in halls ‘where it’s been a bring-and-share where people have actually turned up for the meal and they’ve brought food with it and we’ve met in a hall and it’s been done absolutely very, very cheaply’.

who are looking for more flexibility or who feel a particularly deep connection to a particular location.

### A place that reflected them as a couple

- 5.42 For 076 (female, 43, Humanist), a Humanist, it was clearly important that the location of the ceremony reflected them as a couple. As she described:

It was a beautiful location with a lake, and we put a big marquee up and lots of bell tents, and there's a river running through it. And we had a whole weekend. It was a proper festival ... just being able to do it in a in a place that, you know, we connected with and ... we are massive music fans, and we're festival fans ... nature's a huge part of our lives as well, and we wanted to be as close to it as possible. Water was important to me; I'm a bit of a water baby, I love the water. So it was just having the opportunity to bring everybody into one place to have fun, to be able to make it a whole celebration ... we ... did look at other venues but they were all outside. We knew what we wanted. It was very, very personal and very reflective of us, as a couple and individually.

### Bringing family and friends together

- 5.43 026 (female, 33, no belief) had had her ceremony at a venue that had a number of tepees by a lake. As she noted, it was set up for events, with 'toilets and all the facilities you would need' but was still 'relatively rustic'. She had chosen this venue in order to be able to spend more time with friends and family rather than being on the 'wedding conveyor belt' that she felt other venues offered. As she explained '[w]e chose it because of the flexibility really. Lots of venues we went to and they said, 'you can come on the morning from 10am but you have to be out by 10am the next day'.' Having the venue for the entire weekend had enabled them to celebrate with family and friends, giving them 'different opportunities to connect with different groups of people. Just so that we could see as many people as possible. Because you're so conscious that you have such a limited time with people, really, across that weekend.'

### Connecting with nature

- 5.44 For 032 (female, 59, Druid), her chosen venue was her 'temple in nature', and she provided a particularly evocative description of the importance of place:

[I]t's a very high, but quite special place. for me, the elements are all there. You feel like you're in the air when you're on there. And all the water around you ... the rivers ... and you've got the earth. So, that's the place we chose ... [W]e started by consecrating the circle and opening up the circle to the spirits of the north, south, east, and west. Calling to air, sea, and sky. And calling in those spirits to be with us in that ceremony. And the call for peace as well. And we called to the ancestors. So, the ancestors of the land where we are ... people that have gone before us. The birds ... local birds ... the wildlife, all that sort of thing. And then the circle is open and we concentrated on the marriage ceremony itself.

- 5.45 As they were saying their vows, they looked up and saw a kestrel hovering in front of them:

And I could hear everybody going [intake of breath] ... nobody spoke as this thing just hovered in front of us and then it was off. And ... sometimes little things

like that and you think, wow. You sort of shiver because you can't describe how you feel at that particular time when something like that joins you ... it was just absolutely magical.

### Finding 'the one'

- 5.46 039 (female, 40, no belief) had a similarly clear idea of where she wanted to get married: 'when I imagined my wedding – I always wanted it to be on a beach.' She described one particular seaside town as her 'favourite place in the world'. Having researched the possible options, she found a Humanist celebrant, and he conducted a ceremony for the couple and a handful of guests on the beach, as she wanted.
- 5.47 For 059 (male, 36, no belief), there had only ever been one choice of venue. Close to where his bride's family lived, it was an 'idyllic' spot 'on a very beautiful cliff-top, basically a field overlooking the ocean ... we knew that's where we wanted to get married from the start'. The fact that they could not have a legal wedding there did not deter them, and the owners of the land were supportive: 'they basically said, "keep the noise down, make sure you're off the field by 12 and do what you want to do really".' As he explained, it was National Trust land and they were already licenced to hold public gatherings on that spot. This meant that safety measures were already in place – with a fence between the field and the edge of the cliff – and all that was necessary was for them 'to apply for a licence from the County Council or whatever it was – £3 or something – that we would be holding a public gathering there'. They had put up a marquee, which was their back-up plan in case it rained, but had in fact had glorious weather for the day.

### At home

- 5.48 Having a ceremony at home – whether in the house itself or in the garden – also emerged as a popular choice. 022 (female, 38, no belief) had been to one such ceremony; as she noted, 'it was very intimate, and I just thought how lovely for them to be able to do that and why can't they do that in this country?' Again, it was not a choice that was limited to any specific religious or belief group or to any particular type of ceremony.
- 5.49 A few specifically noted that being able to be married at home would be particularly beneficial for those who could not leave their home or who were terminally ill. While there are provisions in place that can enable weddings to take at home in such circumstances, they do require certain very restrictive conditions to be satisfied. 076 (female, 43, Humanist), who worked for a hospice, noted that a lot of the patients there wanted to die at home, and thought that the freedom to be married at home would be beneficial 'particularly if, you know, for example, somebody is at end of life and they want to have a really beautiful, meaningful wedding'. While a Registrar-General's licence can be obtained to authorise a wedding to go ahead if one of the couple is terminally ill, one of the conditions for its issue is that they cannot be moved to a place where a wedding can take place.<sup>116</sup> It is possible that this condition might not be fulfilled if they can be moved to their home. Similarly, for a person to be deemed 'housebound', a registered medical practitioner must confirm that they ought not to move or be moved from their current place of residence as a result of illness or disability and that this is likely to continue for at least three months.<sup>117</sup> This would not

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<sup>116</sup> Marriage (Registrar General's Licence) Act 1970, s 3(d).

<sup>117</sup> Marriage Act 1949, s 27A(7).



encompass those with a psychological condition or those who wish to marry at home because it is, as 076 put it, where they feel 'most safe'.<sup>118</sup>

- 5.50 There were a number of examples of Christian ceremonies being conducted in back gardens. L-222, an Anglican clergyman, had conducted a blessing for a couple in the garden of the pub that they ran. As he noted, '[t]hey constructed some sort of trellis with flowers over it to give it a sense of containment and I remember the food and drink afterwards were very worthwhile'. L-224, the minister of an evangelical Christian fellowship that did not have its own buildings, similarly recalled conducting a service for a couple:

They'd already got all the legal side of it out the way. But they actually wanted a service in their garden. So, they had quite a large, beautiful garden, so we put up a marquee and they literally did the whole, sort of, service with the dress and everything and guests and did the whole ceremony in the garden.

- 5.51 J-202 similarly spoke of conducting Hindu wedding ceremonies in people's gardens, as did E-151, a Zoroastrian priest, and a number of imams had conducted weddings at home. 004A (female, 44, Pagan) had similarly attended handfastings in people's gardens, describing it as 'a perfectly natural and very human-centred way to marry'.
- 5.52 Among our interviewees, the reasons for marrying at home could broadly be categorised into three: connection, cost, and culture.<sup>119</sup>

### Connection

- 5.53 For 025 (female, 61, Christian), being married at home was about a sense of connection – not just to the place but to other events and people associated with it. Her non-legally binding ceremony had taken place in the garden of the home where her parents had lived for 50 years and where many other family occasions had been held over the years, thereby linking it to past memories and creating new ones. Some of the occasions had been sad ones, with the home being the place where wakes had been held after funerals. Others were more joyous ones, including the birthday celebrations of her children. It was clear that she had a sense that this ceremony might be the last event that would be held there: her father had died and her mother, who had early signs of dementia, would be moving in with her. With their home due to be sold, 'it was really trying to put more good memories into the house ... that will fix it for a lot of other people as well because that's the way they will remember it for'. In addition, having the ceremony at home created a sense of connection with family members who had since died, including her father and grandmother. Memories of the latter were particularly important because of the role that her grandmother had played in their circle:

she wasn't just my Baba ... she was everybody else's Baba because, of course, a lot of those people would have left their grandparents behind, or the grandparents had died or had died in the war ... So, there was that element of Baba ... I'm getting a bit emotional now ... of Baba being in the house and part of the whole thing.

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<sup>118</sup> See also 072A, who spoke of the importance for the trans community of having a 'safe space' and how 'it would be hugely impactful' for them to be able to choose where to marry, '[m]assively so, for people that feel that they can't get married for that reason'.

<sup>119</sup> A fourth category was 'Covid', but this is explored separately.

## Cost

- 5.54 Cost had been a factor in the decision of 030 (female, 37, atheist) to hold a ceremony at home. Her legal wedding had taken place on approved premises with just 10 people, but she felt that she needed to hold an additional ceremony – not, it should be noted, just a party – for the many other friends whose weddings she had attended. As she explained:

all my friends have had these really expensive, sort of 20 to 30 grand weddings in a huge stately home ... And I just felt a bit guilty for them not being at the ten-person ceremony. I felt like I wasn't sort of giving back to them what they had given to me so many times. So, yeah, I wanted them to feel a part of the ceremony as well as I didn't want it just to be another house party.

Having a ceremony in her back garden – which she described as a 're-enactment' of her legal wedding rather than a meaningful ceremony in itself – was a way 'for everybody to sort of see the vows and sort of feel part of it'.

## Culture

- 5.55 Others identified the tradition of holding key celebrations at home in specific cultures.<sup>120</sup> Culture was also a consideration in many of the *nikah* ceremonies where the bride had given her consent at home. As 064 (male, 42, Muslim) explained, he and his bride 'chose to do it in her home as a cultural thing'; this had allowed for a private party at home where the hijab-wearing bride could be without her hijab, dress up, and 'have that kind of fun party atmosphere' with women only. 040 (female, 26, Muslim) similarly reported having 'a girls-only ceremony the day after I'd accepted' which she described as making it 'a little bit easier for me'.
- 5.56 Of the 35 Muslim brides in our study, at least nine had had their *nikah* at home and some clearly preferred being able to give their consent in a more private setting.
- 5.57 'Home' in such cases might be the parental home or their own home: 056 (female, 42, Muslim), for example, noted that 'I lived, not with my parents at that time, I was where I live now and I had the Imam come there to do the ceremony, for me'. That independence – and the sense of agency in her account – is important to note in the light of some of the concerns voiced about the possibility of being married at home facilitating forced marriages.
- 5.58 Imams also suggested a range of reasons why a wedding might take place at home – that it was a 'very small family affair' (B-113), or a second or third marriage for either the bride or the groom (D-132) or because the couple would not have been permitted to marry in a mosque on account of the groom not being Muslim or the parties being of the same sex (E-153).

## The possibility of weddings taking place in a wider range of locations

- 5.59 There was widespread support for the Commission's proposal that there would cease to be any specific rules in where weddings could take place (CQ48). The strongest support came, as one might expect, from those who had been unable to marry where they wanted and those celebrants who could not currently conduct legally recognised weddings. All of the Pagan, Humanist, and independent celebrants favoured being

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<sup>120</sup> 025 (commenting on this practice among Asian communities and her own Serbian background); 066 (practice of holding weddings at home in Vietnam).

able to conduct weddings in any location. As G-128, a Humanist celebrant, put it: '[w]eddings should be allowed to take place outdoors, in homes, gardens and in other locations that are deemed appropriate or meaningful by the couple for them and their guests'. Similarly, I-191, an independent celebrant expressed the hope of being able to offer weddings 'in people's gardens and ... in any room, in any venue, or even outside the venue'. That said, most of the other participants were also in favour of greater flexibility, regardless of whether they themselves conducted legally binding weddings or had experienced particular problems in marrying where they wished.

5.60 In this section we analyse the reasons they gave. Some provided specific reasons in commenting on the Commission's proposals, while others gave examples or shared experiences that illustrated the potential benefits that would ensue.

#### *Being able to have a single ceremony/celebration*

5.61 As noted above, many of the non-legally binding ceremonies had taken place because the couple had been unable to have a legal wedding in the location of their choice. The removal of the need for two ceremonies was identified as a key benefit by a number of participants. As 029 (female, 30, Muslim) commented, being able to 'get the ceremonies done in one place, or at one time ... would make it so much easier'.

5.62 Many highlighted how easing the restrictions on location would make it easier for couples to marry in the religious ceremony of their choosing. Here, there was a telling difference between the comments made by two female participants, one Christian and one Muslim. 049 (female, 28, Christian) was one of the few who did not see a particular need to widen the range of places where couples could marry; having married in a registered place of worship, she thought that Christian couples would continue to have a 'traditional' wedding. By contrast, while 040 (female, 26, Muslim) had a similar perception that 'when it comes to religion, a lot of people prefer to have their marriages conducted in a place of worship', she recognised that this was not always an existing option under the current law, and thought that 'the fact that that would be also recognised and acceptable, that sounds fantastic actually'.

5.63 Others welcomed the opportunity of being able to have a religious ceremony somewhere other than in a place of worship. As we noted above, M-231 and M-232 were conscious that it was too far for many people to travel to have their legal wedding at their particular religious group's only registered place of worship. While they did already conduct non-legally binding ceremonies in other locations – after the couple had had a civil wedding – as M-232 noted, 'if we say you can do all in one wherever you live, like local, they're just going to love it'.

5.64 Having a greater choice of venues was also identified as enabling couples to hold the reception at the same place as the ceremony. 071 (female, 35, Hindu), for example, noted that although many Hindu temples were registered for weddings, 'you have to find somewhere else to have your reception because obviously you can't serve alcohol in a temple hall'.

#### *The significance of the person rather than the place*

5.65 The support voiced by Pagan, Humanist, and independent celebrants for widening the range of locations in which weddings could be conducted was of course also linked to their view that it was the person, rather than the place, that should be authorised. But this view was not limited to those whose ceremonies were not capable of being legally binding under the current law. 063 (female, 29, Christian) and 042 (female, 26, Sikh),

both of whose non-legally binding ceremonies had been held in places of worship, were similarly of the view that it was not the place that mattered: with the former noting that if the person officiating at the wedding had ‘the legality to do it, it shouldn’t matter if you’re under open sky or you’re under a roof’ and the latter expressing the view that ‘marriage transcends the venue.’

- 5.66 The possibility of conducting weddings in a wider range of locations was also welcomed by some of those who were already able to conduct legally binding weddings in their own places of worship. As an Anglican clergyman who was the incumbent of a rural parish with a particularly beautiful church, L-223 had the impression that many couples were getting married in his church for aesthetic rather than religious reasons.<sup>121</sup> This led him to reflect that being asked to conduct a marriage elsewhere might actually have a deeper significance for both himself and for the couple:

you know, as an officer of the Church of England, I just perform a function. Hopefully I do have a good relationship with the people that I’m marrying but that’s not necessarily the case. If you’re getting married elsewhere and you’re specifically asking this individual, who happens to be an Anglican priest, to be involved ... I think that that says something about the nature of our relationship.<sup>122</sup>

#### *The significance of the place chosen by the couple*

- 5.67 For most of our interviewees, it was not so much a matter of the person being more important than the place but rather of their wish to be able to marry in the place of their choosing, rather than one determined by legal constraints. As 001 (male, 40, Muslim) put it:

it’s a personal choice and it’s a very important choice in someone’s life ... giving the couple the choice to decide where they want to get married, I think is important. I don’t see why the state, as such, should interfere with that or make such policies that don’t allow people to get married in their chosen locations.

Ideas of choice, freedom, and the ability to marry in a place that was meaningful to the couple emerged time and again.

- 5.68 Similarly, underpinning the support expressed by Pagan, Humanist and independent celebrants for widening the range of locations in which weddings could be conducted was their view that weddings should be celebrated where the couple wanted. This view was also shared by many who – at least in theory – had the possibility of conducting weddings in a registered place of worship. Thus K-213, a Hindu priest, confirmed how couples would choose a venue ‘which sets the tone for their big day’, and how their ‘perfect place’ could be a back garden, a barn, or the countryside. E-154 described how for the Bahá’í, ‘the venue can be anywhere the couple chooses’.

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<sup>121</sup> This suspicion is confirmed by some of the earlier literature on couples’ choices of location (see eg J Walliss “‘Loved the Wedding, Invite Me to the Marriage’: The Secularisation of Weddings in Contemporary Britain” (2001) *Sociological Research Online*, 7(4)), although it may be less of a factor now that other attractive locations are also available. Among our participants, 022 noted that her wedding to her first husband had taken place in a church, largely it seems because ‘it was a very nice building to have a wedding in’ rather than because of any meaningful connection with the vicar.

<sup>122</sup> The importance to many participants of having an existing relationship with the person conducting the marriage is considered further in the chapter on officiants.

- 5.69 As we set out above, couples had a range of reasons for wanting to marry in a particular location. Many participants also came up with other specific examples that resonated with these motives, such as family connections or what might be meaningful to a couple. 010 (female, Pagan, 52) alluded to the possibility that ‘a lot of people might want it somewhere where a family member might have had ashes scattered’. 030 (female, 37, atheist) came up with multiple suggestions as to why people might want to marry outdoors; keen runners, she thought, might want to be married on top of a mountain, fans of wild swimming might like to be married by a riverbank, while others might simply have a particular place where they met. As 072A (female, 27, no belief) noted:

I think it’s important that if you’re doing something that’s so special and so intimate that you should be able to do that wherever it fits you best ... fits you and your partner best. And whether that’s at home or ... I was going to say in KFC! You know, somewhere that is really meaningful to you and fits part of your story, then I think that should definitely be allowed to happen.

#### *The link between place and belief*

- 5.70 Some spoke of the importance of a wedding being able to take place outdoors because of the religious or spiritual significance of being outside. 046 (female, 39, Pagan) commented that, as a Wiccan, ‘being able to be married outside is a nice thing because it is very nature-based in its connection’. 004A (female, 44, Pagan) similarly thought that being able to be married outside ‘would be enormously beneficial to the Pagan community’; as she added:

Unless you are invested in religious buildings, like churches and things, I don’t really see why it should be indoors. Especially for nature religion. It’s just not desirable to be indoors for it.

- 5.71 What was particularly noticeable was that those with Pagan beliefs often expressed a sense of connection to a very specific place. 032 (female, 59, Druid), whose hilltop wedding was described above, referred to the site as ‘our temple’. 004A (female, 44, Pagan) and 004B (female, 34, Pagan) had similarly identified a place that was special to them ‘where there’s a lovely Hawthorn tree and a natural big slab, which makes a natural altar’. This sense of connection existed because of, rather than in spite of, their lack of formal buildings; in the absence of man-made structures associated with their beliefs, they had to identify places for themselves.
- 5.72 It was also noticeable that those who had either their legal wedding or their non-legally binding ceremony in a formal place of worship did not express their connection to the actual building in quite the same way. Some spoke of practical reasons for choosing a particular place of worship. For 013 (female, 31, Muslim) and 042 (female, 26, Sikh), it was simply availability, while for 071 (female, 35, Hindu) it was a means of avoiding the large-scale reception that would have followed had the ceremony taken place in a wedding venue. 014 (male, 41, Muslim) and 058 (female, 32, Muslim), meanwhile, simply mentioned the ceremony taking place in a mosque without giving any reason for choosing that particular one.
- 5.73 063 (female, 29, Christian), whose ceremony had taken place in an Anglican church on the anniversary of her register office wedding, was the only one to mention the physical building, and there was almost a note of apology in her explanation that ‘to be honest, we just fell in love with the church itself. The actual building ... it was so beautiful’. The church was one that she and her husband did attend ‘quite a lot’, so it was hardly a case of them choosing it for its aesthetic value alone. Her comment

reflects a sense that aesthetic reasons are not entirely worthy ones, and a widespread suspicion that many couples do choose to be married in a church precisely because – and only because – it provides a beautiful backdrop. For 068 (female, 38, Christian), whose legally binding wedding had taken place in the Anglican church that she had attended while growing up, and still attended when visiting her parents, it seems to have been the people in the church, rather than the building itself, that were important. As she noted ‘I knew everyone and we had quite a good turnout from the choir because they all knew me from growing up’.

- 5.74 This emphasis on the people does of course have a good theological basis. The word ‘church’ is a translation from the Greek *ekklesia*, whose literal meaning is ‘people assembled’. For some, then, a particular location may not have significance in and of itself, but may derive its significance from being the place where their fellow-believers come together in worship. As a number of those involved in conducting ceremonies noted, not all places of worship are registered for weddings.

#### *The link between location and understandings of marriage*

- 5.75 Interviewees placed far more emphasis on the importance of a wedding being conducted in a place that had significance for the couple getting married than one that was specifically identified with weddings with which they had no prior history. As 039 (female, 40, no belief) put it:

if you’re not religious and you’re just going to get married in a stuffy office in a registry office, why can’t you get married in somewhere really beautiful? Outside on the beach or on the moors, or your own garden where you feel happy, instead of a room you’ve never been into?

- 5.76 Particularly among those who had married in a register office, there was a striking difference between the reasons they gave for choosing the location of their non-legally binding ceremony and the way in which they described the legal wedding. Almost all simply referred to going to their local register office, and it is clear that convenience, rather than any sense of connection, underpinned this choice. As 029 (female, 30, Muslim) put it, it was ‘just what was straightforward and easy to get done’. Only three expressed a sense of connection to their register office weddings. For 060B (male, 39, atheist), this was perhaps because he had little say in the religious ceremony that had followed. For 072A (female, 27, no belief) and 072B (non-binary, 28, spiritual), by contrast, it was because they had chosen to be married in a particular register office, partly because of their personal connections with the city and partly because a friend who had married there had told them ‘how amazing and lovely [the registrars] had been and just how they had made it feel so personal, even though it’s the same ceremony for everyone’.
- 5.77 This personal recommendation was particularly important for this particular couple on account of their concerns about how trans people and those in the LGBT+ community might be treated. As 072A (female, 27, no belief) noted, ‘for trans people at the moment, there are not always safe spaces to be’. They also highlighted how an association of a particular place with weddings might have negative connotations for some couples. 072B (non-binary, 28, spiritual) pointed out that the exclusion of LGBT+ couples from marriage until relatively recently meant that the locations in which weddings could take place were seen as ‘very heteronormative’; as they put it ‘there’s still a long way to go and a lot of history to repair. So, I think most spaces that you can legally get married in now, a lot of LGBT Plus people might not feel they want to.’

5.78 There was also a revealing comment from 017 (male, 30, Muslim) about his two ceremonies. In his view it was only after the second that ‘publicly we then became a couple, whereas the first one was just an intimate setting that wasn’t publicised’. The second ceremony was his *nikah*; the first had actually taken place in a register office. For communities used to large-scale celebrations, the possibility of being married in an office with two registration officers and two witnesses may indeed seem far from ‘public’. The possibility of being married outside was also seen as promoting the public dimension of marriage – in terms of making weddings more visible – by 030 (female, 37, atheist), who thought that it would be lovely to be walking through a park and see a couple getting married there.

### **Deciding whether a location should be approved**

5.79 Despite the enthusiasm for widening the range of locations in which a wedding might take place, there was also a recognition that it was not simply a matter of couples being able to do whatever they wanted, wherever they wanted. In addition to the practical factors that would need to be taken into account in holding any kind of event, a number thought that additional considerations applied to having a wedding.

5.80 In this section we draw together the material that is relevant to a number of separate consultation questions. The Commission’s invited consultees’ views on whether the law should limit weddings taking place in particular locations, for example outdoors, at home, or in the air (CQ48b). It also proposed that it should be the responsibility of the officiant to decide whether the location for the wedding should be approved (CQ51). In deciding whether a particular location should be approved, officiants would be responsible for ensuring that the location was both safe and dignified, with guidance on how to make this assessment being produced by the General Register Office (CQ52). It proposed that there should no longer be a requirement that civil weddings should have to take place in a venue that was accessible and available to the public (CQ49) and asked an open question as to whether civil weddings should be prohibited from taking place in religious venues, and, if non-religious belief weddings were permitted, whether civil or religious weddings should be prohibited from taking place in non-religious belief venues,<sup>123</sup> and whether non-religious belief weddings should be prohibited from taking place in religious venues (CQ50).

5.81 We look first at what our research suggests about the role that the wishes of the officiant would play, particularly for those nominated by a religious or non-religious belief organisation. We then go on to consider the practical factors that might determine where a wedding could be held; here we also include issues of safety (CQ52) and public accessibility (CQ49). There is then the issue of whether a wedding should not be held in particular locations. Here we look briefly at whether certain types of weddings should not be held in certain types of locations (CQ50), issues of dignity (CQ52) and the particular concerns that were voiced about weddings taking place at home (CQ48b, CQ49).

#### *The preferences and preconditions of the officiant*

5.82 Among the individual interviewees, there was perhaps understandably little discussion of the potential role of the officiant. 016 (female, 35, Christian) did note that the officiant should also be able to exercise a choice ‘whether or not they want to be in a particular venue or in a particular setting’, and 055 (male, 38, Jain) was similarly

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<sup>123</sup> That is to say, a specific venue that is used by a non-religious belief organisation for meetings and other purposes that advance its beliefs, rather than a non-religious venue per se.

averse to the idea of a couple being able to insist on a particular location and thought that there should be confirmation of its suitability by someone in an official capacity. The fact that other interviewees did not raise this issue should not, however, be taken as an indication that they felt that their wishes should override that of the officiant. It is more likely that they had not given the matter any thought, especially since none reported any difficulty in finding a person willing to conduct their non-legally binding ceremony in the location of their choice.<sup>124</sup>

- 5.83 The role of the officiant in approving the location also attracted relatively little discussion among Pagan, Humanist and independent celebrants, primarily because their focus was on conducting the ceremony in the location chosen by the couple. Setting aside the issues of safety and dignity considered below, they had no specific criteria for approval. That is not to say that they had no limits on where they might conduct a ceremony. Some made it clear that they had their own personal limits, with I-193 and I-191 drawing the line at bungee jumping or parachuting; these, however, seem to have been hypothetical examples rather than responses to requests from couples.
- 5.84 However, there were indications that some religious groups might have their own requirements as to where a wedding should take place. It is worth recalling that the Commission's scheme envisages that those officiants that have been nominated by a religious or non-religious belief organisation will be regulated by that organisation, and will be subject to its rules.
- 5.85 P-261, a Sikh priest, made it clear that it would be a religious requirement for weddings to take place in the gurdwara. As he explained, 'the Sikh wedding ceremony and where it can take place, where it can't, is governed by the Sikh Code of Conduct which is issued by our highest authority called the Akal Takht'. A specific edict had been issued that a Sikh wedding could only take place in a gurdwara, since the sanctity of their holy book, the Guru Granth Sahib, was such that it could not be taken into any place that was 'impure', for example on account of the consumption of alcohol or meat.
- 5.86 The possibility of other religious groups having their own internal requirements was also alluded to by two Christian celebrants. O-251, a Roman Catholic priest, queried whether either the Anglican or the Roman Catholic church would allow a RC wedding in a 'more or less disused Anglican church'. And L-222, an Anglican clergyman, was perhaps hoping that restrictions would continue: as he noted, 'I've had all sorts of strange requests and it's been such a joy for me to say, "No, actually, you need to be married in church for it to be legal in the Church of England."'.
- 5.87 It was also noticeable that many imams expressed a preference for a *nikah* to take place in a mosque. Some commented how they encouraged this, even when this made no difference to the legal status of the ceremony (B-113, D-131, D-134). As C-122 noted – with C-123 and C-124 nodding agreement – a *nikah* was 'an act of worship' and the 'masjid' was therefore the best place for it to take place. However, only B-115 and D-133 indicated that they *only* conducted weddings in a mosque and C-123 noted that there was no Islamic or theological reason for requiring this. In a similar vein, D-131, while noting that 'we'd love to have it done only in the mosque', thought that it was a good idea to have more flexibility.

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<sup>124</sup> There will inevitably be more difficulties in getting to remoter outdoor venues, but this simply underlines the need for advance planning. For the back-up plans if an individual is unable to attend, see the chapter on officiants.



- 5.88 None, however, said that it should continue to be a *legal* requirement for a wedding to take place in a specific place of worship. D-139 did suggest that it might help if weddings could only be conducted in ‘places that are recognised within the community’, but his idea was to have ‘official kind of places of worship, for example, designated as registered places or whatever. Without these places having to go through the registration process, or whatever’. Requiring the state to designate particular places of worship as places where marriages could be conducted would remove agency from religious groups and would doubtless be controversial in terms of which buildings were designated.
- 5.89 As noted above, one theme that emerged very clearly was that many of those involved in conducting religious-only ceremonies were willing to conduct them in the place of the couples’ choosing rather than requiring them to be in a place of worship. K-213, a Hindu priest, confirmed how couples would choose a venue ‘which sets the tone for their big day’, and how their ‘perfect place’ could be a back garden, a barn, or the countryside, while E-154 similarly described how for the Bahá’í, ‘the venue can be anywhere the couple chooses’. Of course, as M-232 pointed out, the freedom for couples to have a religious ceremony where they chose was precisely because it did not have legal status. Yet none suggested that there would be any change in where they would conduct weddings if they were authorised to do so.
- 5.90 However, even if a group did not stipulate that a religious wedding had to be conducted in a place of worship, religious requirements might play a role in determining which locations were suitable. One imam, C-124, noted how he might take the view that a particular venue was ‘unsavoury’ from a Muslim perspective: ‘we’re not saying it’s haram, but it’s not something that we would feel comfortable in doing’. Two Hindu priests, J-201 and J-203, also noted the importance of being able to do the fire ceremony: as the latter noted, ‘the Agni has to start blazing properly to give the blessing to the couple by cooking the oblation into the fire, the sesame seeds and the barley, and the clarified butter ghee’. Both had rejected venues’ suggestions for a scaled-down version: as J-203 put it, it ‘has to be a speaking, shouting Agni, not a tealight’.
- 5.91 These findings illustrate how requiring the officiant to make the decision as to whether the wedding should be able to take place in the location proposed by the couple may work in practice. Some will require a wedding to be conducted in a particular location, others will not. As a result, the extent to which any given couple are able to choose where they can marry will also depend on how they are planning to marry, and on the person they wish to officiate at the wedding.

#### *Practical factors that might determine where a wedding could be held*

#### *Other laws governing gatherings*

- 5.92 030 (female, 37, atheist), whose legal wedding had taken place in an outdoor structure, and whose two subsequent ceremonies had both been in private gardens, had clearly given the matter of outdoor weddings considerable thought. One issue that she raised was that of ownership of the land. There is, of course, a big difference between removing restrictions on where weddings can take place and a right to be married anywhere. The experience of 059 (male, 36, no belief), as described above, illustrates how permission may be needed not just to be on the land, but also to hold a gathering there, and such constraints will obviously remain in place.

5.93 Of the 14 weddings that took place outdoors, five had taken place in the outside space of an approved premises (010 (female, 52, Pagan), 052 (female, 42, no belief), 061 (female, 46, Muslim), 062 (female, 30, agnostic) and 083A (female, 33, Muslim) & B (male, 34, Christian)), four at other venues or spaces that had been hired for the purpose (026 (female, 33, no belief), 059 (male, 36, no belief), 076 (female, 43, Humanist), 078 (female, 36, spiritual)), and two in a private garden (025 (female, 61, Christian) and 030 (female, 37, atheist)). The remaining three took place in publicly accessible locations. While none mentioned obtaining permission to hold a gathering of any kind, these three ceremonies were relatively small-scale in terms of both numbers and the duration of the event. Around 30 people had attended 032's (female, 59, Druid) hilltop ceremony, and there was a total of 10 at 039's (female, 40, no belief) beach wedding, including the Humanist celebrant. Smallest of all was the Pagan ceremony of 004A (female, 44, Pagan) and 004B (female, 34, Pagan), celebrated on Dartmoor with a Pagan friend as celebrant but no other guests. In each case the duration of the event had been limited to the ceremony itself, with food and drink being provided afterwards in a different location.

5.94 Another issue raised by 030 (female, 37, atheist) was that particular sites might prove particularly popular, causing inconvenience for those living in the locality:

There might be some places, you know, 'honeypot' sites for weddings that the locals are like, 'Ah, bloody hell. Not 50 cars again this weekend in this tiny village.'

Again, as she recognised, there would be ways of addressing this, for example by imposing a limit on numbers. Existing rules on gatherings will already determine how many events can be held in a particular place, and ownership of land does not confer an unfettered right to do whatever one wishes with it.

5.95 027 (female, 44, Christian) similarly alluded to the existence of other laws governing where and how people can gather, commenting that 'I genuinely believe that people should have the choice to marry wherever they wish as long as it doesn't cause a public nuisance, a health hazard or wouldn't be breaking the law in any way'. As 030 (female, 37, atheist) reflected, there was a need to protect the environment and ensure that an event did not result in litter being left at the site, but this could be addressed by making it a condition that a 'clear-up person' be hired for the occasion.

### Safety

5.96 A number of those involved in conducting weddings discussed how they would assess the suitability of particular locations. I-193, an independent celebrant, confirmed that he would always ask to meet the couple at the venue before the wedding 'because I want to just double-check that it's safe, it's got to be a safe environment, a good environment'. Those who conducted outdoor weddings noted how they would usually have a back-up plan for indoors in case of inclement weather (F-166, G-178, I-193), although F-162 commented how 'we had one couple who came down, just for themselves and two friends, on the beach. It rained. We had umbrellas. That's what they wanted.' In a similar vein, two Pagan celebrants, with considerable experience of weddings in more remote locations, noted the necessity of being prepared to deal with wind and rain but were stoical about going ahead whatever the elements. Both advised couples to have a back-up plan – especially, as N-241 noted, for 'the relatives that may not be of the same spirituality' – but would respect their wishes if they wanted to go ahead in the rain. As N-242 put it: 'I'd go along with what they wanted. I'm not going to die of cold from a bit of rain.'

- 5.97 The importance of ensuring the safety of those in attendance was also noted by J-203, a Hindu priest, in the context of the fire ceremony conducted as part of the Hindu marriage ceremony. He confirmed that he produced a risk assessment to allay any concerns that this might generate, detailing how far individuals would need to stay away from the fire and that children under a certain age would not be allowed to attend.
- 5.98 Overall, very few celebrants reported any problems with conducting ceremonies in a wide range of locations. Apart from L-225 – the progressive rabbi who had been troubled by a wasp when conducting a Jewish wedding in a field, the only celebrant to report a potential safety issue was an independent celebrant, F-168. Having told the couple whose wedding she was conducting to check the times of the tides before their beach wedding, she had herself checked the times, ‘and it didn’t coincide with what she said. And ... when I got the beach, I had to hoist up my dress and I was in the water pulling chairs out of the water, back onto the beach. Because they were just floating away.’ This, it should be noted, had been a legally binding ceremony in New Zealand, and did not seem to have dented her enthusiasm for conducting weddings in the location of the couple’s choosing.
- 5.99 It should also be noted that some of the professional qualifications undertaken by celebrants already involve training in issues relating to health and safety. The NOCN Level 3 Diploma in Celebrancy (Naming and Couples) requires learners ‘to understand relevant health and safety issues’.<sup>125</sup>

### Accessibility

- 5.100 The issue of accessibility was discussed by the Commission in relation to the attendance of individuals with disabilities. It noted that while the existing rules on disabled access would not apply to private homes or to many remote outdoor locations, it ‘would expect couples to take into account any disabilities of their guests in choosing their venues’ (CP, para 7.181). This was borne out by our participants, several of whom noted how the choice of venue might be influenced by the needs of those attending. 010 (female, 52, Pagan), for example, had looked into having a legally binding handfasting in the Goddess Temple at Glastonbury, the only place in England and Wales that is registered for Pagan weddings. However, they had decided against this option because of the challenge of getting friends and family, together with members of their Order, to this particular venue. As she explained:

A lot of our Order are older people, some of them are disabled and some of them don’t have a great deal of money. And we wanted certain people around us, and we knew we couldn’t cater for them hotel-wise and things. So, we went back to the drawing board.

- 5.101 Other accounts illustrated the difference between a venue being accessible by a person with disabilities, and a particular individual with disabilities being able to access that venue. 009 (female, 26, spiritual), for example, noted that getting to the register office was difficult for their grandmothers, who were limited in how far they could travel, and suggested that from the point of view of those with disabilities it was ‘more inclusive to be able to have weddings wherever you want to have them’. An even clearer example of a couple choosing their venue to accommodate the disability of a family member was provided by 033 (male, 30, Muslim). His *nikah* had taken place in the care home in which the bride’s father – who was brain-damaged and bed-

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<sup>125</sup> <https://www.nocn.org.uk/products/qualifications/601-1586-5-nocn-level-3-diploma-in-celebrancy-naming-and-couples/>.

bound – was resident, as the only means of ensuring that he could be part of it. As 033 noted, ‘it was something very special to us and for both families’. In other words, removing the limits on where a wedding may take place is likely to assist couples in facilitating the attendance of those with disabilities.

### *Whether there are any locations where weddings should not take place*

#### *Restrictions for different types of weddings?*

- 5.102 Participants did not directly address the question of whether civil weddings should be prohibited from taking place in religious venues, and, if non-religious belief weddings were permitted, whether civil or religious weddings should be prohibited from taking place in non-religious belief venues, and whether non-religious belief weddings should be prohibited from taking place in religious venues.
- 5.103 A few, however, gave examples of ceremonies that illustrated the difficulty of how a venue should be classified. F-162, an independent celebrant, had conducted a ceremony for a same-sex couple in a chapel; as she described, this particular chapel was ‘not licensed for weddings and it’s not licensed by the churches either for weddings, although they do have occasional services there during the summer’. Some outdoor locations clearly held particular religious significance for certain individuals. G-172, for example, had conducted a handfasting at Stonehenge.

#### *In private*

- 5.104 While there was considerable enthusiasm among our participants about the possibility of getting married at home, there were also several who voiced their concern that being able to marry in a private location might facilitate forced marriages. None had themselves been forced into a marriage, but they were aware of forced weddings that had taken place, whether through personal connections or their profession. None, it should be noted, said that weddings should *not* be able to take place at home; it was rather, as 027 (female, 44, Christian) put it, the importance of there being ‘protections in place to ensure that sort of situation doesn’t occur’.
- 5.105 Unpacking the reasons *why* they thought being able to marry at home might facilitate forced marriages suggests that other aspects of the proposed scheme would mitigate their concerns. For D-133, a female imam, one concern was women not knowing who the witnesses to the wedding were. As she explained:

Marriages have taken place in front rooms and back alleys and all sorts of places and then women don’t know who the witnesses were. They don’t know who to go to.

It is likely that what she had in mind here was the practice of the *nikah* being conducted with the bride and groom in separate locations, of which there were a number of examples in the study. However, under the Commission’s proposed scheme, a legal marriage would not come into existence until both of the couple had expressed their consent in the presence of each other and two witnesses, both of whom would then sign the schedule. There would therefore be no reason for the parties not to know the identity of the witnesses.

- 5.106 The concerns of 017 (male, 30, Muslim) and 027 (female, 44, Christian), by contrast, related to the nature of the coercive relationship. 027 thought that ‘if you can get married in your home, so you can isolate somebody very easily, you can force them

into an arrangement they might not actually want'. 017 similarly commented that getting married at home 'probably provides those in a position of power to have more control over those who are more vulnerable'. Underpinning these concerns seems to be the assumption that the person being married against their will would not have access to help and support. At present, of course, any ceremonies taking place at home are by definition non-legally binding ones and the parties will not have been required to give notice in advance of it taking place. Under the Commission's proposed scheme, however, couples would be required to give notice and to have an in-person interview with a registration officer in advance of the wedding going ahead. Indeed, its proposal is that the marriage would be void if no notice were given.

- 5.107 The importance of having this independent oversight of who is getting married was emphasised by 058 (female, 32, Muslim), who questioned whether all officiants could be trusted, and raised the possibility of them being paid off. Of course, conducting a forced marriage is already a criminal offence, and would run directly counter to the officiant's legal duty to ensure that both parties are consenting to the marriage. 058's suspicion may have been fostered by her own experience, not having even met the imam who conducted her *nikah*. However, her view was that this would not have happened had her *nikah* been at home:

from my experience, when people have their *nikahs* at home, they have males in one room, females in the other room and the Imam goes from A to B. And actually, that movement and transition is very ... you know, is a few steps. Whereas in terms of in the public forum and in a masjid or maybe in a large venue, it's actually going from floor to floor and actually that physical distance, I think that impacted more than sort of just taking a couple of steps and going into the next room. Or popping your head round ... so, for example, what happened to me, if that took place in my home and I think it would've been easier for the Imam to actually say, 'Well, no, I do need to see you. I need to actually see a piece of her identification or ...' I think that would've been a smoother and easier thing if it happened in my home.

### Dignity

- 5.108 The desirability of having a clear definition of 'safe and dignified' was advocated by L-222, an Anglican clergyman. While he thought expanding the range of locations in which weddings could be conducted was 'a good thing', he thought it was necessary to have some constraints, 'otherwise we're all going to end up in big trouble'.
- 5.109 In addition to L-222, the issue of dignity was raised by one female imam, D-133, 025 (female, 61, Christian), and 045 (female, 55, spiritual). There was a striking degree of consistency in what they regarded as *undignified*. All four alluded to the possibility of ceremonies being conducted underwater, with D-133 trenchantly describing such an option as 'ridiculous'. L-222 and 045 also referred to hot air balloons.<sup>126</sup> None, it should be noted, were advocating the retention of the current buildings-based system but merely that there should be some constraints beyond those of the choice of the couple and the decision of the officiant. As D-133 put it: 'I just think that there has to be some degree of importance or license given to places where you can have a marriage'.

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<sup>126</sup> There are, it should be noted, also very practical reasons why a hot air balloon might not be a suitable location for a wedding, as opposed to an additional celebration. Hot air balloons can only take off when the weather conditions are suitable. Anyone who has booked a trip in a hot air balloon will be aware of the uncertainty as to whether the trip will go ahead on any given day.

- 5.110 While 045 (female, 55, spiritual) suggested that there were people who would like to get married in a hot-air balloon, or under water, it should be noted that no such desire was expressed by any of our interviewees. Even 030 (female, 37, atheist), who came up with lots of ideas as to where people might want to get married – including at a swimming pool if they were ‘a major fan of swimming’, or by a ‘favourite riverbank’ where they went wild swimming – clearly did not contemplate couples wanting to get married in, still less under, the water. And while 025 (female, 61, Christian) perhaps had underwater weddings in mind because her husband was a keen scuba diver, there was no indication that he had actually suggested an underwater wedding, and every indication that she would have vetoed any such proposal if he had.
- 5.111 Among those involved in conducting weddings, just one independent celebrant, I-194, told us that he advertised his willingness to conduct weddings under water, although he also noted that he had not to date been asked to do so. No celebrants gave any actual examples of conducting weddings under water or in the air, or being asked to do so, although L-223, an Anglican clergyman, was at ease with either option and even expressed his willingness to undertake them personally (although he did add that his fee would need to reflect the risk to his existence).

## Conclusion

- 5.112 Perceptions of the types of places that couples might want to marry may well have been skewed by the popular TV programme *Don't Tell the Bride*. This has featured a non-legally binding ceremony in a swimming pool<sup>127</sup> and another atop a bungee crane,<sup>128</sup> although a planned airborne ceremony did not materialise when the bride refused to get in the plane.<sup>129</sup> Of course, the consistent theme running through the series is that the choices made by the groom rarely dovetail with those that the bride would have made had she had a say. Entertaining as it may be, it is hardly a reliable guide to the weddings that couples would choose in real life. None of the couples in our sample chose weddings in places that were unsafe or undignified, and many spoke of how important it was to them to have their ceremony in a place that had meaning for them.

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<sup>127</sup> Series 6, episode 9.

<sup>128</sup> Series 8, episode 10.

<sup>129</sup> Series 7, episode 10.

## 6. Validity

### Introduction

- 6.1 The majority of our participants were primarily concerned with the process of getting married. Few commented directly on the suggestion in the 'At a Glance' document that the Commission's scheme would result in fewer marriages not being legally recognised and (perhaps understandably due to its technicality) none engaged directly with the specific proposals in the consultation paper setting out the distinction between a void marriage and a non-qualifying ceremony.
- 6.2 However, quite a number talked about the importance (or lack of importance) of legal recognition in more general terms. In addition, participants' experiences of being in a religious-only marriage – whether before or in the absence of a legal marriage – help to illustrate how the proposed scheme might work in practice. Of the 83 couples, 18 had gone through a non-legally binding ceremony before their legal wedding, 11 were in a religious-only marriage at the time of the interview, one defined herself as cohabiting following a non-legally binding ceremony, and four had been in a religious-only marriage that had since broken down.<sup>130</sup>
- 6.3 As the Commission noted, there is widespread concern that there may be a substantial number of non-legally binding ceremonies taking place and that this may be creating hardship, particularly where the financially weaker party does not realise that their marriage has no legal recognition and is left without recourse to the family courts when the relationship comes to an end.
- 6.4 In this chapter we first give a little more detail about those who had a non-legally binding ceremony before or instead of a legal wedding, and some of their reasons for either delaying the wedding or not getting married at all. We then explore the distinction between recognition and protection, and what individuals knew about the status of the person conducting their ceremonies, which will be crucial to the issue of both recognition and protection. While few commented on the possibility of criminalising those who misled couples as to the status of the ceremony, there is little to suggest active deception, as opposed to a lack of discussion. Finally, we evaluate whether the Commission's proposals are likely to encourage more couples to have a legal wedding.

### Having a non-legally binding ceremony before or instead of a legal wedding

- 6.5 For five couples, the time-lapse between the religious ceremony and the legal one had been a matter of days, hours, or even minutes. These included 069 (female, 35, Muslim), whose *nikah* had taken place on the same day and in the same venue as her legal wedding, 083A (female, 33, Muslim) and 083B (male, 34, Christian), whose *nikah* had been celebrated in the rose garden next to the Anglican church where their legal wedding took place, 028 (female, 31, Muslim) and 057 (female, 38, Muslim), whose civil weddings had taken place in the week after their *nikahs*, and 071 (female, 35, Hindu), who had a Hindu ceremony four days before her legal wedding on a beach in the Seychelles.
- 6.6 For the other 13 who had gone on to have a legal wedding the gap had been rather longer, ranging from two months to seven years. 020 (male, 35, Muslim), whose legal wedding had taken place a year and a half after the *nikah*, admitted that 'we just didn't

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<sup>130</sup> Of these four, 035 and 058 were divorced, 033 was separated, and 082 had applied for a *khula*.

get round to it in terms of everything else that was going on with, you know, buying a house and moving out in very difficult circumstances'. 001 (male, 40, Muslim) and his wife had both felt that there was no rush and it had taken much 'nagging' from family and friends to make them see the point of being legally married:

we had our first child and then eventually someone said, 'you know what? You need to just go ahead and do that in case it becomes an issue later on in terms of the legality of your current wedding.' And, at first, I didn't take it seriously and neither did my wife. We didn't really pay much attention to it but then, eventually, I think after enough nagging from parents and other people we ended up having our civil ceremony almost seven years after.

6.7 Of the 16 who had not yet (at the time of interview) gone on to have a legal wedding, all were aware that they were not legally married, with a number commenting that when they were filling out official forms they felt unable to describe themselves as spouses. Nonetheless, all but one defined themselves as married (or, in the case of those who had since separated, having been married) as a result of their non-legally binding ceremony. The single exception – who defined herself as cohabiting – had a bespoke spiritual marriage ceremony led by interfaith ministers rather than a ceremony determined by religious doctrine.<sup>131</sup> The remaining 15 ceremonies had all been conducted according to defined religious rites, with 14 taking the form of a *nikah* and one being conducted in a Sikh gurdwara.

6.8 That latter case, that of 042 (female, 26, Sikh), was particularly significant as it was one of a number that had been affected by Covid. The couple had given notice of their intention to marry and, had it not been for the restrictions imposed as a result of Covid, would have had a legal wedding in a gurdwara. At the time of the interview they were planning to be married in a register office and, having given notice again, had a date booked for the ceremony. Similarly, 002 (female, 32, Muslim) had her *nikah* at a time when it had not been possible to marry legally and she too was due to have her legal wedding within a few days of the interview. 003 (male, 33, Muslim) was another who was waiting to have a legal wedding: as he reported, '[w]e are in the process of having the legally binding ceremony but with Covid, it's been heavily restricted, so we're on the waiting list'.

6.9 019 (male, 40, Muslim) was planning to be married on the fifth anniversary of his *nikah*. 040 also commented on how some couples waited for an anniversary, since this meant that they would have a single date, if not a single day, for their wedding:

you try to keep it to one date. So, rather than having several dates of when you could have potentially been married, so one is a date for when you conduct your Islamic marriage, one is a date for your legal marriage, so I know a lot of people who want to conduct their legal marriage to do it on their anniversary date.

6.10 Our sample was not designed to be representative, simply to capture a range of experiences. Nonetheless, it does call into question some of the estimates that have been put forward as to the percentage of Muslims who are in a religious-only marriage.

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<sup>131</sup> The fact that she initially described herself as cohabiting and others described themselves as married reflects how perceptions of what constitutes a marriage – or what will be seen as a marriage – are influenced by religious and community norms as well as by the law. She certainly regarded herself as bound to her partner, since elsewhere in the interview she commented how she would 'love everyone to have the opportunity to feel as married as I do'. As we discuss further in the project report, a number of interviewees who had had a Humanist or independent-led ceremony were very conscious that family and friends might not regard it as 'real', whereas those who had had a religious ceremony had no such concerns.



Of the 35 participants who had entered into a *nikah*, 24 were legally married at the time of the interview, with a further two in the process of getting married.<sup>132</sup>

## The range of reasons for not having a legal wedding

### *A stage in the parties' relationship*

- 6.11 All of our participants were asked about their relationship prior to getting married. One very clear finding here was that the *nikah* generally marked the beginning of the parties' life together. Only two of the 35 couples who had a *nikah* (083A (female, 33, Muslim) & B (male, 34, Christian) and 080 (male, 36, agnostic)) had been living together beforehand; both were mixed-faith relationships and in the case of 080, who defined himself as agnostic, the *nikah* was more for the sake of his family than on account of his own religious beliefs.
- 6.12 The majority of the other 33 were not only not living together but had not embarked on any kind of intimate relationship before entering into the *nikah*. Some had known each other as friends for some time before contemplating marriage, others were getting to know each other for the singular purpose of deciding whether to marry. There was a clear sense of what was regarded as permissible prior to marriage: participants spoke of meeting occasionally for a coffee or a meal (001 (male, 40, Muslim), 014 (male, 41, Muslim), 048 (male, 38, Muslim)), meeting only in public places (012 (female, 36, Muslim), 033 (male, 30, Muslim)), or only in the presence of others. 061 (female, 46, Muslim) explained that 'we held hands' but needed to have a *nikah* 'before we could go any further'. In a similar vein, 029 (female, 30, Muslim) noted that she had wanted to have the *nikah* so that 'we were able to see each other a bit more freely. Because I guess we were a bit more conservative and we didn't really want to ... you know, we just wanted that freedom to meet up as much as we wanted'.
- 6.13 Those whose *nikah* had taken place some time before their legal wedding, or who were in a religious-only marriage, tended to have been engaged, or planning to marry,<sup>133</sup> for less time than those whose legal wedding took place first or around the same time as their *nikah*. At one end of the scale, 006 (female, 31, Muslim) had known her husband for just two weeks before he proposed, and the *nikah* had taken place a week and a half later. At the other end of the scale, 083A (female, 33, Muslim) and 083B (male, 34, Christian) had been in a relationship for thirteen-and-a-half years and engaged for the last two.
- 6.14 The tension between the *nikah* being regarded as a marriage and its strategic use as a trial marriage was reflected in the comments of 064 (male, 42, Muslim). He explained how he met the woman who became his wife in March and that 'literally the first day we met was for the reason of getting to know each other for marriage'. They agreed to marry a month and a half later, and the *nikah* had taken place in July. This enabled them to spend time together, but the *arusi*, a further public celebration, was necessary for them to be able to live together. This took place in September, and the legal wedding at the register office then took place in November. As he noted, this order made sense for them: if their legal marriage had taken place first 'and things didn't work out, the process of the annulment is, you know, complicated and it's just extra and a legal kind of divorce would be added to her name and I didn't want to do all of

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<sup>132</sup> In addition to those noted above, seven *nikahs* had taken place after the couple were legally married.

<sup>133</sup> The distinction between being engaged and deciding/planning to marry was a further important factor: 15 participants said they did not have 'an engagement'. Of these, 13 were Muslim and stated that engagements are not part of their religious traditions.

that stuff'. At the same time, he was clear that a *nikah* was a marriage. This was a debate he had in fact been having with his wife, who came from an Iraqi background that saw the *nikah* as a kind of engagement:

So, we always have this debate, and she agrees that it's wrong because Islamically, we married, right? So, we should take it seriously as opposed to, 'Oh, it'll work out. Let's go to the sheikh. He'll do a *talaq* for us.' ... I said to her, 'This is marriage.' And she agreed, like, 'I'm going into it knowing that I've chosen you for marriage.' Not, let's see if it works out, kind of engagement.

The difference between an engagement that is entered into to see if the relationship 'works out' and a marriage that is easily terminable if it doesn't is perhaps a subtle one, but it is nonetheless an important one. Others reported seeing the *nikah* as an engagement (014 (male, 41, Muslim), 020 (male, 35, Muslim)), and in some cases, a different ceremony at a later date was seen as the public announcement of a committed relationship: 'I think the *Walima*<sup>134</sup> was that people know that you're married' (029 (female, 30, Muslim)).

- 6.15 For others the legal wedding was something to be done once certain other milestones were reached. At just 26 (female, 33, no belief), 040 (female, 26, Muslim) was one of the younger participants in the study. Her *nikah* had taken place six months prior to the interview, and she envisaged getting legally married in the future 'cos naturally, you wanna be buying a house together, you're planning for a family and stuff, so when you've got things like buying a house, first-time buyers, it's better to be known as husband and wife, if that makes sense?'

#### *The challenges of engaging with the legal process*

- 6.16 The challenges of engaging with the legal process had been a reason why some legal weddings had taken place a considerable time after the religious ceremony, or had not (yet) taken place at all. 021 (female, 32, Muslim) had faced particular challenges as she had been ill after her *nikah*: what she referred to as the 'hoops' that they had to 'jump through' in order to be legally married meant that they didn't have their civil wedding until eight months later. 019 (male, 40, Muslim), who was contemplating having his legal wedding on the fifth anniversary of his *nikah*, spoke of the 'red tape' involved in getting legally married. One practical consideration for him had been that he and his wife had been living in different locations and so would have had to liaise with different councils; he thought that now they were living in the same place 'it will be a little easier to then notify like councils and things like that'. 035 (female, 36, Muslim), who had since separated from her husband, also commented on the challenge of knowing who to contact about getting legally married as she had moved between three different cities in swift succession.
- 6.17 Others, while expressing a preference for being legally married, also acknowledged being deterred by what this would entail. 053 (female, 24, Muslim) recognised the greater legal security of being legally married, but commented that:

there's always a part of me that wonders is it really worth it because it seems like a lot to do. Like I remember my mum, before the pandemic, saying to me, 'It's time to give notice that you're getting married because you have to give that 28-day notice.' And I kept saying no because I kept thinking, that's too many forms to fill out and I don't want to do that. And it's just simply an issue to do with, I

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<sup>134</sup> The second celebration used to mark the wedding in some Muslim communities.

suppose, laziness in a way. Or just like the fact that it's time-consuming. If something's not straightforward and simple, then my personality type is that I just don't want to do it.

As she later added:

It wasn't just giving notice. It was a lot of things you need to do. To book yourself on, you've got to book the venue that you're going to do it in. There's like a fee for the ... I don't even remember because I did this ages ago. I had a look at it before the pandemic when I was actually planning to do it. And I just remember there being so many things to think about.

Again, at just 24, with no children, it was understandable that the formalities of getting married were not a priority for her.

- 6.18 065 (female, 32, Muslim) similarly took the view that it was too much additional work to organise a separate wedding:

I think it's a headache! I've never fully looked into it but when I have and that's just casually when I've been bored, I've looked at what you've got to do and I read things very similar to what you've mentioned, like you have to go to the registry office. You have to go there in person. Then you have to wait this period of time. Then you have to go back again and, you know, for something that I personally don't think is very important right now in my life, it's just not worth the effort. It's not worth the effort and I think a lot of people feel like that.

- 6.19 However, the ease with which the years could slip by once the couple were religiously married was reflected in the case of 037 (female, 29, Muslim). Her *nikah* had taken place in 2014, and her explanation for choosing a non-legally binding ceremony was that there hadn't been enough time to organise the legal wedding at the same time; as she added, 'we always had it in the back of our heads that at one point in time we would do it, it just wasn't a priority'. When asked if anything might prompt her to do so, she acknowledged that 'it was supposed to be ... well, after I fell pregnant ... but that didn't happen'. While hopeful that it would take place 'in the next year or so', she could not think of anything that would push them to do it. As she commented, 'I consider myself married now, so really for me, what's the rush of trying to get something done as a formality?'

#### *The greater ease of exit and control over assets*

- 6.20 Some participants acknowledged that the greater ease of exit and retaining control over their assets was a key consideration for them, or suspected that it had been a consideration for their (ex) spouse. 006 (female, 31, Muslim) was in her second religious-only marriage; as she noted, when her first had come to an end, she had discovered that she was better off not being legally married, and 'with what I've been through before, and with me having my son, I would rather protect my finances and everything ... I felt better protected this way'. 056 (female, 42, Muslim) was also upfront about wanting to retain control over her assets, saying bluntly 'I don't want ... for my husband to have more rights'. Her religious-only marriage had been problematic from the start, being opposed by her family, and she had already explored ways of ending it.
- 6.21 For 013 (female, 31, Muslim) the considerations were slightly different. She too had been married before and recognised that she would have been in a more vulnerable position if that marriage had not been legally binding: 'It would be pretty bad, to be

honest.’ At the same time, she referred to it having been ‘like a battle’ to get out of her legal marriage ‘and that bit really puts me off ... And financially, the way that you’re tied and how you have to detach yourself from that, it’s a struggle to do that. And all of that just scares me.’ She reported that her husband would be happy either way: ‘he’s like, “Look, it’s up to you. If you’re happy to do it, I’m happy to do it. If you don’t want to do it, don’t.”’.

- 6.22 Of those whose religious-only marriage had since broken down, 033 (male, 30, Muslim) and 058 (female, 32, Muslim) had no regrets as regards its lack of status. 033 (male, 30, Muslim) noted that ‘if you do it legally and if you do decide to part ways, it takes a longer time to get out of it, of a divorce. It’s more expensive’. This, it should be noted, was a reference to the cost of a legal divorce rather than to the fear that his spouse might have a claim over his assets, since he had none. In the case of 058, problems had arisen within the first few months and she commented that she was ‘actually very grateful that I hadn’t had a registry and that I wasn’t going to have to go through sort of the court process’.
- 6.23 By contrast, 035 (female, 36, Muslim) and 082 (female, 37, Muslim) had both wanted to be legally married but had met with resistance from their respective partners. As 035 noted, ‘there were times when I was adamant that we should get our marriage registered but my partner, at that time, wasn’t ... he just wasn’t interested basically’. While she thought that she might have benefited from a legal marriage, she also reflected that it would have been ‘a lot more bureaucratic’ to obtain a divorce in that case. 082’s former ‘husband’ had made an excuse not to give notice and looking back she suspected that this had been a deliberate ploy; as she put it, ‘I think everything added up to knowing that he kept his power by ensuring it was just a *nikah*’.
- 6.24 While 038 (female, 30, Muslim) was legally married, she reported that she had seen ‘horrible things happen’ to others who were not, and that religious only marriages could lead to abuse, with men using it as a form of control: ‘there’s that threat as well that, “you’re bound to us in *nikah*” so the divorce process is a little bit different and the woman feels that she’s binded, and she doesn’t feel like she’s got those rights’.

#### *Lack of awareness of the legal consequences*

- 6.25 Those who had only had a non-legally binding ceremony were asked if they were aware of what the consequences would be in terms of legal protection in the event of death or separation. Other participants made more general comments on the levels of awareness of the legal consequences.
- 6.26 While 029 (female, 30, Muslim) couldn’t imagine people not knowing ‘because there’s so much awareness about it’, 051 (female, 40, Muslim) had a different view:

I think there’s probably a lot of, especially women, in this country where they think that they’ve ticked all the boxes and they’ve done everything correctly and it’s just due to lack of awareness that they haven’t.

She thought that this was the case even among well-educated women, who had relied on what their families had told them ‘and then, you know, ten, 15, 20 years down the line, they find themselves in a very difficult position’. This view was shared by 021 (female, 32, Muslim), who thought that ‘a lot of people don’t know that they need this until it happens’, and by 038 (female, 30, Muslim), who commented that:

a lot of people don’t understand how important it is to legally be married, cos I do have some friends at the moment who are only in *nikah* and they don’t

understand, and also, in some of my Facebook groups, we hear horror stories of women only being in *nikah* and feeling like they've not got any rights when they wanna walk away.

- 6.27 By contrast, among those who were in, or who had been in, a religious-only marriage, all but one had been aware of its lack of legal status at the time of entering into it. Admittedly, that did not always equate to an understanding of the consequences of being legally married. 033 (male, 30, Muslim) noted that he 'didn't know anything about marriage', while 035 (female, 36, Muslim) had been unaware of what the outcome would be in terms of legal protection. 061 (female, 46, Muslim) also referred to the need for greater awareness: 'it's not just about being recognised as being married, it's really understanding what impact it can have in lifetime and in death, and also upon children'.
- 6.28 There was also some evidence of the common law marriage myth. 037 (female, 29, Muslim), whose *nikah* had taken place in 2014, had heard that those who had 'been living together for a certain period of time as like in a partnership' were entitled to legal rights, although she was clearly unsure on this point, adding 'I don't know how true it is'. 014 (male, 41, Muslim) similarly referred to the fact that 'the way the current society is in the UK, cohabiting partners, marital relations seem to be the same thing' to explain why many men did not see the need to have a legal marriage in addition to the *nikah*.
- 6.29 The one participant who had been unaware of the legal status of the *nikah* was 082 (female, 37, Muslim). As she put it:

when you're in a marriage, you're in a marriage and that's the last thing that's gonna be on your mind. So I absolutely took no heed of any research, information or discussion in regards to the legal status of my *nikah*.

Now separated, she explained that only upon the breakdown of her marriage had she discovered that the *nikah* 'had absolutely no value or weight in this country when there is a marriage breakup', and that her former partner's only legal responsibility was to provide financial support for their son. As she commented:

you are left in limbo and the fact that as a religion Islam is recognised in this country, Islam is allowed to be practised, Islam is allowed to have the wonderful freedoms that it has in the UK being a Christian country and despite the freedoms, the acknowledgment and the allowances that Islam is given the rights of a woman who marries within the Islamic faith and observing the rights and rituals of the Islamic marriage you are left in complete disarray at that point and you are limbless.

### Recognition or protection

- 6.30 In thinking about our findings, the distinction between *recognition* and *protection* is an important one. The Commission's proposed scheme does not envisage recognising all religious ceremonies of marriage as valid in themselves, but rather providing a framework within which the religious ceremony *could* be recognised. It retains the concept of a non-qualifying ceremony, but only in those cases where there was no expression of consent or where the parties had not given notice and either no officiant was present or both knew that the person officiating was not authorised to do so.
- 6.31 Recognising a ceremony as a valid marriage involves certain prerequisites beyond the formal requirements, since the parties must obviously be eligible to enter into a legal

marriage. This means that they must be at least 16, not closely related, and not in an existing formal relationship. It also brings certain consequences. A valid marriage precludes the parties from entering into a further formal relationship, and can only be terminated by a legal divorce, although the Divorce, Dissolution and Separation Act should ensure that no one has to remain legally married if they no longer wish to be.

- 6.32 The issue of multiple relationships was raised by a number of participants. 053 (female, 24, Muslim) was aware that because her *nikah* was not legally recognised ‘my husband’s got the freedom to have *nikah* with as many women as he wants to and not get in trouble for being a bigamist or anything because it’s literally not recognised in the UK as a real marriage.’ 012 (female, 36, Muslim) thought that if the *nikah* was legally recognised ‘there would be a lot of men who wouldn’t be able to keep getting married. There wouldn’t be polygamists!’ 055 (male, 38, Jain) similarly thought that ‘if every priest is able to become a registrar and so every marriage, whether it be a religious marriage or non-religious marriage is legal, then surely that would stop that sort of thing’. Of course, short of recognising every religious ceremony as a valid marriage, there would still be scope for individuals to enter into multiple religious-only marriages without risking prosecution for bigamy. Even so, the proposals may curtail the practice to some extent: if expectations about marriage change, it may be more difficult for one party to insist on a religious-only marriage without arousing suspicion.
- 6.33 033 (male, 30, Muslim) was separated and spoke of the process of divorce from an Islamic point of view, where the word ‘*talaq*’ is stated by the man and then the couple separate and consider whether they want to reconcile over a three-month period before the divorce becomes final (if they do not reconcile).
- 6.34 Those who emphasized the importance of protecting the more vulnerable party often equated protection with recognition.<sup>135</sup> However, they also identified the need for protection as arising at the end of the relationship. 048 (male, 38, Muslim), for example, referred to the lack of legal recognition being a problem ‘for brides who want to leave a marriage’. In this context at least, recognition was primarily valued insofar as it provided remedies.
- 6.35 In the light of those comments, the Commission’s proposals as to when a marriage should be classified as void – as opposed to non-qualifying – assume particular significance. If a marriage is void there is obviously no need to obtain a divorce. There is not even a need to obtain a decree of nullity. The main advantage of obtaining such a decree is that the courts have the power to make the same orders as upon divorce.
- 6.36 It should also be noted that concerns were expressed that recognition might create new problems for the more vulnerable party. There was a fear that the recognition of religious marriage ceremonies might make it easier to force someone into a marriage. 001 (male, 40, Muslim), for example, suggested that a woman might be forced to sign the *nikah* papers ‘and then that becomes, obviously, a legal marriage and then the husband can take advantage of that situation’. Setting aside the fact that a marriage entered into under duress would be voidable, and that forcing another person into a marriage is a crime, under the Commission’s proposals no ceremony would constitute a valid marriage unless it was preceded by both parties giving notice. This would involve a separate interview with a registration officer to ensure that both were willing and able to consent to the marriage.

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<sup>135</sup> The link between legal recognition and legal protection was made by 001, 012, 014, 038, 048, 051, and 056.

- 6.37 Moreover, as we have discussed above, some women felt that they had more protection if their marriage was not legally recognised, because it was easier for them to leave the relationship and they retained control over their assets.
- 6.38 In order to assess the likelihood of protection being afforded to those in a religious-only marriage – that is, as a result of the marriage being found to be void – we now turn to the question of the status of the person conducting the ceremony.

### Whether the officiant was known to be authorised (CQ57, CQ58, CQ59)

- 6.39 Under the Commission's proposed scheme, if a couple have given notice and go through a ceremony before a person that at least one of the parties believes to be an authorised officiant, the marriage will be valid. Even if they have not given notice, a ceremony before a person that at least one of the parties believes to be an authorised officiant will result in a void marriage rather than a non-qualifying ceremony. In addition, where notice has been given, the onus would be on the person challenging the marriage to show that neither thought that the person acting as officiant was authorised to do so.
- 6.40 Whether the officiant was known or assumed to be authorised therefore assumes considerable importance. Since most of our participants were aware that their ceremony was not legally binding, it would be inappropriate to transpose our data about their knowledge of the lack of status of the person conducting it into a future context where their chosen ceremony could have been a legal wedding. That said, there was evidence of some confusion as to the status of the person conducting the ceremony and the difference between legal and religious authority to act. Two further issues emerged that were highly relevant to the likelihood of an individual being aware of the status of the person conducting the ceremony: the degree to which they were involved in choosing that person, and whether or not they had met him or her before the ceremony.

#### *Confusion as to the status of the person conducting the ceremony*

- 6.41 Two participants – both in religious-only marriages at the time of the interview – spoke of the imam being 'registered'. 003 (male, 33, Muslim) described him as 'registered as an Imam with the government', and the ceremony as being 'formally documented', although by formal she meant by the mosque and 'not formally from a government perspective'. In the case of 002 (female, 32, Muslim), the ceremony had taken place during lockdown and she had not received any documentation; her suspicion was that the imam didn't want 'to lose his licence' by admitting that he had conducted a ceremony in her house, but she referred to him having 'the licence to ... issue a proper *nikah* with the registration'.

#### *Choosing a person to conduct the ceremony*

- 6.42 Most interviewees had chosen the person they wanted to conduct the ceremony without input from family and friends. A few, however, had relied upon recommendations or the choices made by the family. 001 (male, 40, Muslim) explained that the imam, a close friend of his wife's father, had been recommended by his wife's parents, '[a]nd my parents agreed, and I had no objection to that.' For 028 (female, 31, Muslim), it was her sister-in-law who had sorted this out for them 'we ... were like, "oh, we need a Muslim priest or a Mulvi" and she was like, "okay, I know this guy" and they sorted that out'. 036 (female, 27, Muslim) explained that the choice of mosque tended to be made by the husband's side: 'I wouldn't have been going to the mosque anyway.'

So that tended to come more from the boy and his family's side, where they normally pray. My family would have just gone along with whatever was decided, really.' 034 (female, 28, Muslim) similarly noted that her husband already knew the person who had conducted their *nikah* but she did not.

- 6.43 Family recommendations had also played a role in the case of 053 (female, 24, Muslim), although she had rejected the imam recommended by her aunt on the basis that he was giving her too much freedom to decide on the form of the *nikah* when what she wanted was for him to tell her 'what the best way to do it is in terms of like an Islamic *nikah*'. Instead, she had gone with a different person suggested by her family 'because I can trust that any acquaintances of my family members, such as my uncles, I can trust that they are someone that will do it properly and respectfully'.
- 6.44 The simplicity of the *nikah* also meant that it could be conducted by a family member. This was the case for 040 (female, 26, Muslim), who had married during the pandemic. As she reported, 'when it comes to the Islamic part of the marriage, it was conducted by my father, so very simple, had just all my family around me and then my dad would read out the terms of my marriage'.

#### *Meeting before the ceremony*

- 6.45 Again, while most interviewees had met the person conducting the ceremony prior to it taking place, a few had not done so. This was the case for 033 (male, 30, Muslim), 034 (female, 28, Muslim), 037 (female, 29, Muslim), 038 (female, 30, Muslim), 056 (female, 42, Muslim), and 058 (female, 32, Muslim). For 038, it was enough that her father knew the imam: 'my dad knew who he was and, for me, it was really important to know exactly who he was, what his background was. My dad had done all of that, so I didn't meet the Imam beforehand.' 058, however, was perturbed by the fact that she had not met the imam at all. As she explained, her husband:

did not want the Imam to come into the women's section and make direct contact with me, which I thought was strange. My dad came in with the book and asked me to sign it and therefore there were no male witnesses. So, that was a bit dodgy for me but I kind of just went along with it anyway, if I'm being honest.

#### *Implications for reform*

- 6.46 As noted above, while these findings cannot be directly transposed to the Commission's proposed scheme, they do suggest that it is important to protect a genuine but mistaken belief in the authority of the person conducting the ceremony.<sup>136</sup> Only a minority were unsure as to the status of the person conducting the ceremony, or had relied upon others to suggest a suitable person and not engaged with them prior to the ceremony. It was however very noticeable that these were predominantly cases in which there had been no additional legal wedding – i.e. those very cases in which legal protection is currently lacking. It is also worth noting that none of those who had had a legal wedding actually reflected on, still less checked, the credentials of the person conducting the ceremony. It was simply assumed that they were authorised to do what they did.

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<sup>136</sup> There are numerous cases which are relevant to this point, including *MA v JA* [2012] EWHC 2219 (Fam).



## The proposed offence of misleading the couple (CQ61)

6.47 The Commission proposed that it should be an offence for an officiant ‘deliberately and recklessly’ to mislead either of the couple as to the effect of the ceremony or for a person to purport to be an officiant and deliberately and recklessly’ mislead either of the couple about their status or to the effect of the ceremony.

6.48 We asked those involved in conducting non-legally binding ceremonies how they perceived their role in advising couples of the ceremony’s lack of legal status. The majority confirmed that they already made it clear to the couple in advance that the ceremony would not be a legal wedding. This was the case across the range of different types of non-legally binding ceremonies in our study. As one imam, B-114, explained:

we say just to clarify. This is a *nikah*. It’s accepted by Allah *inshallah*, but it’s not a civil marriage, it’s not recognised by law. It doesn’t give you any rights. Legally, you’re not married.<sup>137</sup>

J-201, a Hindu priest, similarly noted that ‘I make it very clear to them, the wedding that I’m going to perform is nowhere related to any legalities’, while M-232, a Buddhist authorised person, would ‘just remind them of that just in case they’re not properly aware’. E-152, a Baptist minister who had conducted a number of non-legally binding ceremonies during 2020, when legal weddings could not take place on account of the restrictions imposed by Covid-19, also commented that ‘we’ve been very clear when we’ve done them that they have been not legally binding’. G-173, a Humanist celebrant, noted that she advised couples on the legal process as well as explaining the ceremony’s lack of legal status, with other participants nodding in agreement. There was also lots of nodding in focus group H when H-185, an independent celebrant, commented that ‘I think we would all, I’m sure, agree that that’s a critical part of what we do, in being absolutely transparent and upfront with our couples.’ As she went on to explain:

When I respond to the very first email enquiry that I get from a couple, I always say, ‘are you completing a legal registration as well?’ So, just by asking that question, it makes it absolutely clear that there is the need to actually complete a legal registration. So, it doesn’t become a big deal or awkward and it raises that issue if the couple don’t actually realise that what I do isn’t legal.

6.49 Some noted that they formalised their advice by giving it in writing and requiring the parties to sign to say that they understood. M-231, a Buddhist authorised person, noted that couples wanting to get married at their centre were sent a pack explaining that ‘we can’t do it unless you are already legally married, or you can combine your legal and religious ceremony here’. E-153, a female imam, noted that ‘we make them sign something and indicate in writing that they understand our weddings are not legally binding’. A number of independent celebrants also indicated that they had a

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<sup>137</sup> Similar points were made by other imams: A-103 (‘I make a point of specifying that this is a religious marriage. It is a civil contract, but it’s not recognised, at this moment in time in law’); A-104 (‘I made it very clear that it’s not legally recognised by the Law of England and Wales’); C-124 (‘I will also explain that is a legally non-binding ceremony’); D-133 (‘I do bring that up with them and discuss that with them’); D-135 (‘I do mention it to them, that this kind of ceremony is not legally binding’); D-141 (‘I don’t have power to say you have to do this, you don’t have to do that. What I can do is advise and to let them see the implication of not doing that second bit. To make it formal.’) D-144 (‘before the ceremony is done, we do ask them, “do you want a legally binding *nikah* or are you just doing this ... just the basic foundation ... get the Islamic process done and you’re not really worried about that?”’).

standard contract that made it clear that they were not performing a legal wedding. As I-193 explained:

in my contract there is a clause that says, 'just so you know, this is not legally recognised in England.' So, they're not ... they're entering into ... and I always talk about it to them in our first meeting, so they know that it's not a legally binding ceremony. But they all know that when they come to see me. They already know that.<sup>138</sup>

6.50 A few went further and explained the financial implications to the parties. One imam, A-105, explained that after meeting with both parties he would have a separate meeting with the bride 'to then privately explain to her the legal implications, especially in terms of finance and things like that she may not have considered, just to bear that in mind when they decide whether or not to register that it may have implications. So that she is aware of that.'

6.51 Only a small number did not consider it their responsibility to advise couples on the legalities of the ceremony. For E-151, a Zoroastrian priest, this was because of his perception that couples were well aware that the Parsi ceremony was not legally recognised and that a separate legal wedding was necessary: 'I've never really had to bring this up or inform anyone and say, "hey, do you really know that this isn't ...".' More problematically, one imam, C-121, explained that he used to advise couples 'but what I realised that sometimes, especially the groom or groom's family, they don't like this advice and there are reasons behind it and again, this is one of the questions why people don't get the legally binding ceremonies.'<sup>139</sup> However, if asked directly, he would advise the couple to make contact with a register office.

6.52 In terms of the ceremony itself, some noted that they also avoiding using certain words during the ceremony itself in order to differentiate it from a legal wedding. One imam, A-104, explained how he presented the *nikah* as 'a voluntary Islamic religious wedding blessing', adding that:

even the wording I use, I try to avoid the word marriage or 'do you agree to marry', etc., etc. So, I use wording like, 'do you agree to a *nikah* with X, Y, Z?' Or, 'according to the Islamic tradition of *nikah*' or something like that.

G-173, a Humanist celebrant, similarly explained that:

I'm not allowed to use words like 'marry' and 'I pronounce you' but I can say, 'I can present the bride and groom' and I can say, 'I am joining together' in the wedding ceremony. I just can't say, 'married' and 'marriage'. So, knowing those legal things, I explain that ... when I'm talking to my couples, I explain terminology as well. I'm always very clear on what I can and can't say.

H-187, an independent celebrant, noted that some couples wanted her to pretend that the ceremony was their legal wedding:

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<sup>138</sup> I-194 also reported having a similar contract, while F-164 explained 'it's in all my Terms & Conditions, it's on my application ... my booking form. It's on my website'.

<sup>139</sup> As he went on to explain, this was because of the assumption that assets would have to be shared: 'Mainly I would say because if something goes wrong in the marriage and the marriage breaks then if they're beholden to the law and the wife will be taking half of the property and this and that, so the groom or groom's family, they don't agree with this'.

And I always say I won't pretend but I can phrase it in such a way as, 'so-and-son have made their legal vows and now they want to make their personal and more meaningful vows' and that sort of thing.

By contrast, I-191 differentiated between what the couple needed to know about the legal status of their ceremony and what their guests needed to know, explaining that:

during the ceremony we don't say, 'oh, by the way, they've already got married'. We never say anything like that. We always make it seem that this is the real deal but the couples themselves know that they've had to do the legal bit beforehand.

Making it seem like 'the real deal' involved a number of elements, as I-192 explained:

The words are as though it's a real ceremony ... 191 ... acts as the Registrar, but she's not called a Registrar, but she dresses in a smart suit and she sits at the table and she helps with the ceremony ... and she gets the fake certificate ready and all that kind of thing. So, she looks like a Registrar, but she actually isn't, clearly. But a lot of people think that it's a proper ceremony, which is great.

- 6.53 How the non-legally binding ceremony was presented to external observers was important for a number of those getting married. 024 noted that the Humanist celebrant who conducted her ceremony had asked if she would like him to explain that the legal wedding had taken place the day before 'and I said, "just don't mention it". I wasn't ashamed, it's not about being ashamed, it's just it's a bit complicated'. As she explained:

I wish I hadn't felt like I didn't want people to know that we had the legal section the day before because I was worried that it would detract from the big day and people wouldn't see it as so symbolic as we found it. Because we found that to be the important day. We wanted everybody else to think that too.

For 016 the issue was a practical one. As she explained, they had not told all of their family and friends of their first, legal, Catholic wedding 'because we didn't want everybody to show up'. While the priest who conducted both this and their second ceremony said he would conduct the latter in such a way that those attending would not realise that it was not the legal wedding, she thought that he had in fact 'made it very clear' that it was not.

- 6.54 A number of those conducting ceremonies also explained that the certificate they issued would also make it clear that the ceremony that had taken place was not legally recognised. Among the imams, A-106, noted that this was 'in bold' on the certificate, while D-134 commented that it was 'very clearly stated'. Two others, D-131 and D-136, added that the certificate stated that the *nikah* would only be valid once it was registered.<sup>140</sup> H-184, an independent celebrant, similarly commented that 'I have a little certificate that they sign, and it says at the bottom, "This is not a legal document"', and the other participants in that focus group nodded agreement when he added 'I'm sure everyone else has one as well'.

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<sup>140</sup> Similar points were made by B-111 ('we confirm that the certificates that are given, that doesn't have any value, okay, in terms of the legal issues'); D-133 ('I have to say to them something along the lines, "we will have to retain your nikah certificate here until you can present us with your civil marriage certificate", so that we, ourselves, are protected in law.').

6.55 Many also actively encouraged couples to have a legal wedding as well. Among the imams, this was generally framed in terms of 'registering' the *nikah*. A-105, for example, sought confirmation that 'they will, at some point, register this *nikah*'. B-111 referred to advising the couple to 'get their marriage registered', while D-136 would 'always advise them "go tomorrow or day after tomorrow, book your registration"', and give the couple the link to the council's website.<sup>141</sup> A few imams noted that they would only conduct a *nikah* if the couple were already legally married or had at least given notice.<sup>142</sup> The Hindu priests were more likely to advise couples that the legal wedding should come first. As K-212 noted:

I will always advise the couples that I conduct the wedding for that a civil ceremony is a must. Get your civil ceremony done first, even if it's like a week before, unless you're doing it on the same day.

Independent celebrants also encouraged couples to have the legal wedding first since, as F-162 noted, this meant that they could 'publicly announce them as husband and wife at the end' of the ceremony. In a similar vein, G-173, a Humanist celebrant, noted that she preferred the legal wedding to come first 'because then I'm the last and I'm the best!'

6.56 While hardly any made explicit reference to the Commission's proposed offence,<sup>143</sup> it was interesting how many made comments suggesting that they thought such an offence already existed. One imam, A-101, commented that 'because of the law and these threats of being prosecuted ... I think our semantics and our terminologies have been refined slightly to wedding blessings or *nikah* blessings'. A-104 had similarly adapted his terminology 'because of the oppressing law on these matters', while D-133 commented that 'the legal system has been making it really ... what would you say ... difficult, for us to perform a *nikah* without a civil marriage having already taken place' and referred to the 'threats' hanging over people's heads if they did do. Hindu priests were similarly wary, with K-212 noting that 'we have to be very very careful so that we don't fall in the wrong side of the law'. By contrast, Humanist and independent celebrants were more confident of the legality of their actions, with G-173 making sure that couples knew that it would be fine to get married after the Humanist ceremony if they weren't able to do so before, and F-163, an independent celebrant, having to reassure couples that the non-legally binding ceremony was not 'illegal'.

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<sup>141</sup> Similar points were made by B-113 ('we will advise them, you know'); B-114 ('We don't get involved in civil marriages, but we do advise on them'); C-122 ('I make a point of making sure that "look, if you want to protect each other's rights within this country, financial and otherwise, it's very, very crucial and important that you make time to get yourself registered as soon as possible from the *nikah*."'); D-137 ('Just quickly go and register there and get a date.');

D-138 ('we always give advice. This is Islamically OK. OK? But you need also to go to the local authorities to register your marriage'); D-139 ('it's about enabling them to understand the importance and to understand that, you know, for the marriage to be legally registered, and also for their rights to be fulfilled, they have to register the wedding legally'); D-140 ('I also stress, especially to sisters, the importance of having a civil marriage at the same time, or as soon as possible').

<sup>142</sup> These included B-113 ('personally, I would only do a *nikah* after I've seen the civil marriage certificate'); B-115 ('If they don't have the civil marriage certificate, I personally ... I would not do it unfortunately'); C-123 ('we have it on our form that before the *nikah* we advise them to register the *nikah* in the local council, that's something that we have on our forms already as a precondition to the *nikah* ceremony'); D-132 ('one of our requirements is that the person getting married, or both the couple, must do a civil marriage prior to *nikah*. This is our condition, okay?'); D-139 ('in our centre, we don't allow ... we don't conduct the marriage until someone is already in the process of registering the marriage'); D-142 ('What we do stimulate is that whoever's having the *nikah* done they have their registration done as well with the Council. The Council registration of marriage. So they give us their registration number for the Council's ceremony which goes on to the *nikah* certificate. If they have not done that then we do request them to give us some sort of indication as to have they booked themselves in for a registration in the future and they show us proof of that').

<sup>143</sup> The only participant to do so explicitly was L-222, an Anglican clergyman, who thought it would be 'a very good thing to make it an offence to mislead the couple whether it's a legally binding service or not.'

## The impact of the proposed scheme on religious-only marriages

- 6.57 The impact of the proposed scheme on religious-only marriages would obviously depend on the reasons why a couple were having a separate non-legally binding ceremony.

### *Making it easier to combine the religious and the legal*

- 6.58 The most obvious impact would be on those non-legally binding ceremonies that take place on the same day as the legal wedding, or within a short period of it. The need for such dual ceremonies would disappear under the Commission's proposed scheme, save in the case of interfaith ceremonies where the parties wished to have two separate ones. 012 (female, 36, Muslim), for example, had married in the register office and then had her *nikah* in a nearby mosque that same afternoon: the reason for this split was that the mosque was not registered for weddings, but under the Commission's proposals that would cease to be a pre-requisite, as long as the officiant was authorized.
- 6.59 The evidence from our participants also suggested that the Commission's proposals would also help a number of those who had had their legal wedding some time after their religious ceremony. 029 (female, 30, Muslim), whose *nikah* had taken place 7-8 months before her register office wedding, noted that 'If I could have done them both on the same day, that's what we tried for but it wasn't available.' 021 (female, 32, Muslim), whose illness had meant that the legal wedding was delayed, noted that 'if we could have had [the *nikah*] as the wedding itself and the legal process, I wouldn't have had to worry about that'. As she recognised, the delay had left her vulnerable:

I've been fortunate enough to be in a marriage with a man that I love who is responsible and hasn't taken advantage. But ... if I was at any disadvantage when I fell ill, if he had turned round and wanted to leave or, you know, I was at a disadvantage, then I had no rights ...

And 001 (male, 40, Muslim), whose legal wedding had taken place seven years' after his *nikah*, thought that, overall, 'people would be happy to have just that one ceremony that they could do, that would be legally binding, that would protect the both of them and their families'.

- 6.60 Perhaps even more importantly, this view was also shared by some of those whose legal wedding had not yet taken place. 040 (female, 26, Muslim) commented that she 'would have loved for something like that when I had my *nikah*'. 019 (male, 40, Muslim) strongly favoured the simplification of the processes for getting married: 'why not make the process of getting married a whole lot easier and then you'll probably encourage more people to do it'. The views of 037 (female, 29, Muslim) and 065 (female, 32, Muslim) were particularly significant not just because they had not yet had a legal wedding but because they had said that this was a low priority for them. It is clear from their answers that this was purely because having a legal wedding was seen as an additional hurdle rather than because of any objection to being legally married. 037, while placing more importance on the *nikah* than on the legal wedding, was enthusiastic about the idea of being able to combine both. As she commented:

The fact that we can give notice and have whatever ceremony and it would be legally binding, I think that's the main thing. It would just save a lot of additional work to get something done afterwards.

065 (female, 32, Muslim) similarly took the view that 'if it could all be done together and it was made a lot simpler, I think naturally people would just get it done all together'.

- 6.61 The greater ease of being able to marry in a wider range of locations was also identified as removing barriers to getting married. 001 (male, 40, Muslim), who had finally married in a register office some seven years after his *nikah* at home, described the process of having to pick a location for a registration officer to come out in order to conduct a civil wedding as 'very time-consuming' and 'laborious'; as he put it, 'it didn't work for us and maybe that's why it took us seven years to actually finally have a civil ceremony and things. So, yeah, I think if we had a choice of where we wanted to get married, that would have been quite useful.' Another Muslim male participant, 019 (male, 40, Muslim), similarly thought that having to get married in a venue that had been 'licensed' was 'counter intuitive to encouraging people to get married' and that making the process easier would 'probably encourage more people to do it'.
- 6.62 The key point here is that the Commission's proposals were seen as enabling couples to get married in the way that was important to them. As 057 (female, 38, Muslim) noted, prioritising the *nikah* was not the same as rejecting legal marriage: as she explained, 'a lot of our communities especially, they find *nikah* more important. They don't find civil ceremony important. So, if *nikah* can be legally binding, that's really helpful for them.' 051 (female, 40, Muslim) thought that a number of different elements of the Commission's proposals would encourage couples to get married:

I can only think this can be a step forward, because it recognises that they can be married by a religious person who can tick all the boxes and still have a civil marriage. So, it can become more meaningful to them. They can have them the marriage outside, so they've got that flexibility, again, in terms of locality and for Muslim marriages, south Asian marriages do have quite a lot of people. So, an outdoor wedding might be ideal. So, I think it can tick a lot of boxes. I suppose with the younger generation, there's probably more chance that their marriage will take place, as they might imagine that their marriage will be looking at what they're accustomed to, what they're exposed to as they're growing up. So, I think it's probably more relevant and compatible with the youngsters in terms of expectations

The fact that giving notice would entail a waiting period was not identified as a problem. As 036 (female, 27, Muslim) commented:

Right now you have to book a day, say, with the mosque to have your ceremony. It's not like you can just turn up and do it. So there is an element of planning in there, from what I know.

- 6.63 Finally, a particularly thoughtful answer about the implications for the wider community was provided by 035 (female, 36, Muslim), who described herself as divorced following a religious-only marriage, and who thought that being able to combine the legal and religious elements 'would be amazing'. As she reflected:

I think venues and also Imams will see it as a real plus point, sort of streamlining their approach to marriage. Because the connection between marriage and communities is so important in the faith. There needs to be a conversation about law and community and I think this would allow those Imams to have that. And they should be well equipped to understand the importance of it ... And therefore, because it's the law of the land and it's decided and it's a communal expression of the marriage, that is the fundamental part. And what that

communal affirmation means is not only that people are aware of this marriage but also the rights and responsibilities attached to it.

*Making it harder not to have a legally recognised wedding*

- 6.64 Of course, simplifying the process will not make any difference if one of the parties does not wish to be legally married. There will always be 'uneven' couples where one wishes to be married and the other does not. Such unevenness is however exacerbated where a ceremony takes place that one regards as a marriage and the other does not. As 035 (female, 36, Muslim) reflected:

when you separate two different things what you do is create a divide. Sometimes that divide, *nikah* and legally register, is seen in two different capacities. One is very necessary for one person but the other one might not be ... I mean to separate it for registry, you just then assume that registry is really not that important where it is really important, you know?

- 6.65 020 (male, 35, Muslim) thought that the proposed changes would be 'a wake-up call to people ... of the importance of transparency ... in a relationship'. He noted that where one party wanted a legal wedding and the other did not, 'that becomes a big, big barrier in the relationship, it's almost like, "Do you not trust me?"' Linked to this, the possibility of having a combined ceremony was seen as making it harder for individuals to hide behind the complexity of the formalities as a reason for not getting legally married. As 056 (female, 42, Muslim) noted:

if that option is immediately available, and you would intentionally have to say no, you don't want that option, then that would leave a lot of suspicion ... I can't imagine how people could say, 'Oh no, we won't do that option. Let's do the one where you have no protection.'

She also thought that it would make it easier for individuals to protect themselves: '[t]hey're going to choose the way that protects them legally in this country. Not the way that's not going to protect them. 051 (female, 40, Muslim) also thought that the proposed scheme would make it less likely that people would be mistaken as to their marital status.

*Legitimising the option of having a non-legally binding ceremony*

- 6.66 The possibility of a couple taking steps to ensure that they would remain (legally) unmarried was highlighted by 034 (female, 28, Muslim). As she pointed out:

if two people want to get married and don't want it to be legally binding, they can just call on and tell a friend or they can just call no one and do it themselves and for them, they'd be married, you know. There is no way to actually control that.

In her view the proposed scheme would be 'a nice option' for those who wanted to be married but would not change anything for those who didn't want to be.

- 6.67 As this indicates, some participants wanted the option of being able to enter into a religious-only marriage, or thought that this option should be retained. For some this was because they saw this as more appropriate at a particular stage of life: 001 (male, 40, Muslim), for example, commented that '[w]hen I was nineteen, I would be a bit hesitant to want to commit myself into a legally binding contract'. 064 (male, 42, Muslim) similarly favoured the idea of being able to marry religiously without that

necessarily attracting legal recognition. Both of these men, it should be noted, were legally married at the time of the interview, so it was not that they were rejecting legal marriage status, just wanting to preserve a degree of flexibility.

6.68 Of course, if both of the parties are agreed that they do not want to be legally married, it is hardly the role of the law to intervene and force them to be married. 061 (female, 46, Muslim) – who had herself married on approved premises – was positive about the possibility of a religious ceremony remaining unrecognised, if that was what both parties wanted and both were aware of the consequences: as she put it, it would ‘legitimise’ someone choosing to have a non-qualifying ceremony ‘to say they’re ok, actually’.

## **Conclusion**

6.69 Overall, our data suggests that there would be fewer non-legally binding ceremonies if the Commission’s scheme were to be implemented. That is not to say that the issue of individuals being left without remedies would disappear. But the scale of the problem may be reduced. At the same time, our data also shows that the issues are complex and entering into a religious-only marriage is not necessarily problematic in and of itself. In the next chapter we turn to the potential impact of the Commission’s proposed scheme on weddings more generally.



## 7. Costs and impact

### Introduction

- 7.1 Our project was focused on the process of getting married, rather than the costs of doing so. Nonetheless, a number of participants did comment on the cost, or explained how their choices about the form of the ceremony had been driven by the relative costs of different options, and we draw on those comments in assessing whether the Commission's proposals would facilitate lower-cost weddings.

### Views on whether the proposals would facilitate lower-cost weddings (CQ86)

#### *The cost of getting married in a register office*

- 7.2 For many of the participants in our survey, the fact that it is possible to get married in a register office for a fixed fee of £46 would come as something of a surprise. Many of those who had married in what they described as a register (or 'registry') office had paid considerably more than this. 054 (female, 33, Hindu), for example commented that she had 'got married on a Saturday which is an extra price'. 004A (female, 44, Pagan) referred to having gone 'for the cheapest option', but her account of marrying in 'a really nice Registry Office with a rose garden' suggested that this may not have been the case, and on investigation, the fee for getting married in that venue was in fact £110. The most striking example was that of interviewee 067 (female, 37, Hindu), who described getting married at 11am on a Friday morning in a 'basic' register office ceremony; while she could not remember the exact cost, she thought it was in the region of £400. This was confirmed by checking the fee pages for the county where the wedding had taken place.
- 7.3 007 (female, 28, Bahá'í) had been particularly irked by the additional charges that she had had to pay 'where we wanted to change anything or have anything of our choice ... the choice was so narrow that they were forcing you to pay money to do stuff'. She had had to pay extra to change the date of the wedding, and for a room able to accommodate both sets of parents. As she explained:

You could have two people only for 80 pounds, that was the cheapest option and we were like, 'Well, we can't have two people because my parents and his parents are the bare minimum that we would want to be there. We can't just have one set of parents.' And then the next size up was you have 40 people and that's 200 pounds. And we like, 'Are you sure ...' There's like what? I know there's places that might be more flexible than that but it just felt a bit like, 'Come on guys, you know that we're then pushed to do the 200 pound option.' And it's in the same room as the one that you would have had the two people option.

It would also have cost her an additional £50 to have the music of her choice, but she decided that this was too high a price to pay for a Shania Twain track. Her blunt assessment was that they were 'being exploited':

I know councils need money and support and funding but it just felt like we were being used as an income/revenue stream. Not as a couple or as people just wanting to simply get it done.

- 7.4 019 (male, 40, Muslim) also questioned why certain charges were imposed:

Why do they need to get money out of two people wanting to get married? I get the registrar has a fee. Fine. They're providing a service. I fully appreciate and respect that and that has to be paid, but why the council should wade in and they make money out of it. It's just ... yeah. It's just again another thing that might be nominal to some, but then to others, obviously you want to encourage people being married, in my opinion. Not discourage them.

- 7.5 Availability was also identified as an issue. Only a few managed to have a register office wedding on the same day as their non-legally binding ceremony. 022 (female, 38, no belief), who had originally planned to go to the register office to get married on the morning of her ceremony, had to change her plan when she found that the register office did not offer a statutory ceremony on a Saturday; since they 'wanted the legal part and the wedding celebration to be all on the same day' they had paid more to marry on approved premises.
- 7.6 015 (female, 25, atheist), who had booked a few weeks off work to stay in the part of the country where what she described as the 'fun' ceremony was due to take place, noted that they had 'ended up having to then go back ... to do the civil ceremony because that's just the only place that could do a slot.' As she added, since they were only open on certain days of the week 'it was just quite hard to actually fit that in with everything else going on'.
- 7.7 040 (female, 26, Muslim) also noted how couples might want to have their legal wedding on the anniversary of their *nikah* to ensure that they had a single date, if not a single day, to remember, but noted that 'obviously with the register office, it's not always available, etc ... so they do have a bit of a headache like that'.
- 7.8 A number of independent and Humanist celebrants also highlighted the fact that local authorities did not always make it easy for couples to learn about the possibility of having a statutory ceremony. I-194 noted that in his local authority areas 'the Registry Office keeps their basic service pretty quiet ... they absolutely don't want you to know that that's a service which is available so that you can do a minimum cost Registry wedding and then have something nice'. G-171 similarly commented that she had 'looked at so many registration service websites for the different County Councils. The statutory wedding is usually either on a different page or way, way down and the process is so complicated'. In G-173's graphic phrase, it was usually 'a bit hidden behind a door that says, "Beware of the Leopard!"'. She referred to having to educate couples to empower them to ask for the option. I-193 confirmed that in her area – which only offered the statutory ceremony on a Wednesday morning – the option was not advertised on their website: 'You have to ask for it. They don't make it easy'. And both F-163 and F-164 reported that couples had been told that the £46 ceremony did not exist even when they *had* asked for it.

### *The cost of getting married on approved premises*

- 7.9 As we discussed in the chapter on location, the cost of having a wedding on approved premises emerged as a major factor in the decision of a number of couples to have a non-legally binding ceremony before or after their (generally smaller) legal wedding. Couples saved costs by not paying the additional fee for registration officers to come out to approved premises, opting for venues that were not approved, or holding the ceremony at home.
- 7.10 A number of independent and Humanist celebrants were critical of the fees charged by local authorities for registration officers to attend civil weddings. H-182 referred to

weddings on approved premises as 'a moneymaking opportunity'. Others contrasted the high fees with the 'not terribly much money' (I-193) paid to the registration officers themselves. G-172, for example, commented that in one county the registration officers were paid £35 per wedding, but the fee charged for their attendance was £650. F-163, a celebrant who had previously been a registrar, noted that she had disliked doing weddings because of her sense that she was 'short-changing' couples.

- 7.11 The cost of paying for registration officers to attend had resulted in 028 (female, 31, Muslim) having her *nikah* on approved premises and marrying in a register office a few days later. She explained that as her ceremony was taking place on a Bank Holiday, it would have cost between £500-600, noting, 'why are we going to spend that much more money when we can just go and get it done later?' 014 (male, 41, Muslim) had a similar experience:

we tried to tie it in, but the cost of the registration and the venue and all of this was ... it just wasn't possible for so many different factors. One: it was wedding season. It was summer. And then the venue itself had a ridiculously high ... in all the registration costs, I think about seventy-odd pounds. If you had it in the venue on the day, it's like seven hundred pounds.

- 7.12 He had married in a register office at 'the first availability' but even so there had been a gap of a couple of months between the two ceremonies. 015 (female, 25, atheist) had similarly decided against paying for registration officers to attend, and 052 (female, 42, no belief) commented on the cost this would have entailed; in their cases, however, the register office wedding took place first.

- 7.13 Others had been put off by the prices charged by approved premises. 004A (female, 44, Pagan) and 004B (female, 34, Pagan) had considered getting married at a nearby hotel that was approved for weddings but noted that it was 'phenomenally expensive' and 'just wasn't right for us'. 029 (female, 30, Muslim) had also looked into venues where the legal wedding could be held on the same day but had been unable to find one that matched what she needed and was within her budget.

- 7.14 070 (male, 35, Hindu) also commented on how other aspects of getting married on approved premises might also push up the cost: '[t]here are things you can and cannot do when it comes to serving food and drink. Sometimes they only have preferred caterers and so it does add on the cost.'

- 7.15 More generally, 017 (male, 30, Muslim) and 030 (female, 37, atheist) both referred to weddings having become a 'massive industry'. As 017 added, 'you pay a premium as soon as you're hiring a venue for that privilege ... if they're just a birthday party or a gathering, it's a complete different quotation'. 019 (male, 40, Muslim) was similarly cynical about the concept of approved premises, asking 'is that another way for venues to make money? Because they obviously acquired the licence and then they've got that exclusivity which I just think is completely unnecessary.'

#### *The necessity and costs of having a separate legally recognised wedding*

- 7.16 Where the legal wedding was held on the same day as the non-legally binding ceremony, there were only one set of costs in terms of the reception. This, however, was not always possible. One consideration for Hindu and Zoroastrian weddings was the importance of the timing of the religious ceremony, in terms of choosing an 'auspicious' day. K-213, for example, explained his role as beginning with helping the couple 'to choose the most important day', and persuading them to choose that day as

opposed to ones dictated by the availability of the venue or suppliers. However, another priest in that focus group, K-211, took the view that the concept of an auspicious day was of declining importance for couples (if not for their parents).

- 7.17 Where the civil wedding was held on a different day from the non-legally binding ceremony there was the even more significant cost of organising a separate event. 059 (male, 36, no belief) had avoided the need to do so by not telling any of his family or friends that he was getting married in a register office, noting 'if I invite my parents, you then, therefore, have to invite my wife's parents, then my siblings ... and then it's suddenly a second wedding'. Instead, he had simply advertised for witnesses at the bus stop. While many other interviewees had had a similarly scaled-down legal wedding, some commented on the pressure to organise a separate event. As 067 (female, 37, Hindu) noted:

if you don't invite people to the civil ceremony, they get offended ... there's a lot of that kind of family pressure. So, I think this would help massively because you're cutting a whole other event out ... it's a big cost to do all this cos you do then have to feed people after the civil ceremony and again for the Indian ceremony. So, I think it would be quite beneficial for my community, at least.

- 7.18 A further additional element of expenditure where there were separate ceremonies was that different attire was expected. 042 (female, 26, Sikh), 066 (female, 39, atheist) and 082 (female, 37, Muslim) all also referred to the trend for brides to have different dresses for the different ceremonies, with a white dress for the legal wedding and a different one for their religious ceremony, and to the additional cost of doing so. As 042 explained:

I know a lot of my peers feel pressure when they do registry weddings to have the big white dress and spend all that money all over again, on a ceremony that really doesn't mean anything to them. Just because they don't want to get married in a back office in jeans or anything like that ... you do the whole thing or you do nothing at all.

### *The potential of the proposals to reduce the cost of weddings*

- 7.19 One Anglican vicar, L-222, took the view that having more choice would increase the cost of getting married: 'the more freedom that the system has, the more commercialisation will make it more and more and more expensive'. However, a different view was put forward by many interviewees, who felt that having a wider choice would in fact *reduce* the cost of getting married by enabling couples to choose different – and cheaper – options. 030 (female, 37, atheist), for example thought that the proposals might change what was seen as necessary for a wedding: 'if it became more mainstream for you to create more of your own experience as a wedding, then maybe we wouldn't all feel put in a box and that this is the way that weddings go with the whole ceremony, canapes, speeches and dinner, disco'. In a similar vein, 045 (female, 55, spiritual) explicitly linked choice to an *anti*-consumerist stance. As she noted, getting married:

can be so superficial and such a fashion accessory, particularly because of reality tv and, you know, shows about wedding dresses and all that carry on. And it doesn't have to be horribly expensive. It doesn't have to look exactly like everybody else's or be bigger or better than everybody else's. It could just be yours. And I'd love everyone to have that opportunity.

7.20 Other participants identified different aspects of the Commission's proposals as having the potential to reduce the costs of getting married. Some thought that the direct legal costs of getting married might be reduced, their assumption being that giving notice online would be cheaper.

7.21 Several thought that being able to get married in a wider range of locations would also make it cheaper to get married. 044 (female, 44, unclear) envisaged the reforms making it easier for those friends who were not yet married '[i]f they just want something intimate at home, don't want to have to spend thousands on venue'. 070 (male, 35, Hindu) suggested that a wider choice would enable couples to 'get married sooner maybe because they have more available venues to them'. 017 (male, 30, Muslim) similarly thought that being more flexible with the venue 'could potentially be a good thing in making marriage more accessible to more people and less expensive'. 083A (female, 33, Muslim) felt that couples would be better able to control what was spent on a wedding if they were able to marry where they chose:

we all know Asian weddings, let alone Asian Muslim weddings, have about 100+ guests. There's just no way you could have that other than in a hotel or a massive hall or something, and that's a huge cost element. So people who have really nice big gardens or you could just go somewhere else or some grounds, they could just get married there and have a celebration.

7.22 As we discussed in the section on location, holding a wedding at home or outdoors was seen as helping those who didn't want to have to spend thousands of pounds just on the venue. Independent celebrants highlighted the greater affordability of such ceremonies, with H-182 having conducted 'a couple of cheapy weddings, on private land', and G-171 commenting that:

we do perform ceremonies in fields, in people's back gardens where they haven't had to pay what's the minimum spend venue level thing that they have to go into, which is sometimes running into the tens of thousands before they even add the caterers or the musicians and things like that.

7.23 058 (female, 32, Muslim) noted how COVID had highlighted 'that there is social poverty everywhere'; as she added

Not everybody can afford to, you know, go to these places and organise and have loads of people in there ... if it was optional for you to have a valid marriage at home, I think that would be conducive to people who can't afford big ceremonies or don't want the sort of jazz big-do, my Big Fat Asian Wedding-kind of do.

7.24 Making it easier for couples to have a single ceremony that was legally binding and reflected their faith or beliefs was also identified as a factor by a number of participants. 012 (female, 36, Muslim), for example, thought that 'it would just save a lot of time and energy, and money, for couples who have to do two ceremonies at the moment to comply with their religious obligations and also the legal obligations'. 054 (female, 33, Hindu) similarly took the view that if the legalities of a legal wedding could be incorporated into a Hindu ceremony,

that would lessen an extra item because already in Indian weddings there are three or four events going on. At the moment, that's an extra event for them and if that's combined then it's a less cost to the couple and I think that would be only beneficial going forward to our community. If they choose to have a civil ceremony separate that's fine, that's their choice but I feel like a lot of my friends

at least only got married for the legalities of it rather than that they wanted to do it.

- 7.25 043 (male, 32, agnostic) similarly had a perception that there had been a downturn in the number of people having a Hindu ceremony, on the basis that 'it's not really a real marriage and your real marriage is the Registration. And it's expensive to do both'. He thought that one impact of the proposals would be 'more people getting married in a Hindu ceremony than we currently do'. 077 (male, 31, Hindu) also thought that there would be a reduction in the number 'having a registry wedding'. 071 (female, 35, Hindu), by contrast, thought that if it was possible to have some religious elements in a civil wedding then people might not have a separate religious ceremony, suggesting that this would be popular among her peers, if not with the older generation. This suggests that the civil wedding has meaning and significance for this participant and her peers which distinguishes them from other participants for whom the religious ceremony was more significant.
- 7.26 However, as discussed in Chapter 3, some couples indicated that they preferred the option of multiple ceremonies. A few spoke of how having two ceremonies allowed for different modes of expression and celebration: 034 (female, 28, Muslim) referred to the two having 'separate moods, like atmospheres', and 017 (male, 30, Muslim) to 'slightly separate ways of celebrating, while 011 (male, 32, Muslim) explained that he had enjoyed having two ceremonies 'because it allowed you to, as I said, express it in two different ways. It extended the process a little bit further as well. So, it was nice.' Linked to this was the fact that the different ceremonies had different meanings to them and reduced the pressure of trying to make one ceremony conform with different requirements: 018 (female, 32, Hindu) had also enjoyed the fact that her register office wedding 'was very non-religious and just legal and just admin', while 053 (female, 24, Muslim) acknowledged that she was 'quite eager' to have her separate day, reporting that 'right now, I'm sitting next to my wardrobe and that dress is in there waiting to be worn and that's going to be my day when I have my civil ceremony'.
- 7.27 Having a big wedding was important for some participants as a means of announcing their marital status. 018 (female, 32, Hindu) felt 'what was really special' about her Hindu ceremony was the fact that it was conducted 'in front of so many people, I think it's where I felt really married and like it was an announcement that we are a couple'.
- 7.28 060A (female, 35, Jain) also thought that there might be a difference between what couples wanted and what their families wanted: as she noted, 'I think my friends would very much want to combine it. I think my family would want it very separate.' As she noted, there was an element of competition and the need to be seen to be having a certain type of ceremony. 079 (female, 40, Hindu) had experienced this with her family. Having eloped to Scotland and married there in a very small ceremony, she had both a Christian blessing and a Hindu wedding at a later stage. The Hindu celebrations had involved no fewer than five events over the course of the week, but while she described them as 'fantastic', she also felt that they were 'fraught with difficulties'.

We wanted to maybe get married in the church or a temple and just keep it really small and intimate again and introvert ... I'm actually on the autistic spectrum so I don't like change and social things that much. But it was almost foisted upon us ... dictated that we have to have this. And I didn't have the power to say no to my parents and family. It was about reputation.

- 7.29 She had even asked her parents not to spend the money on the wedding but give it to them to help them to buy a house 'so that we don't have to rent for the rest of our lives'. Their decision to not to do so had 'really hurt' and created a degree of

antagonism between them. Even so, while she thought that practices might take some time to change, she still believed that 'if you can incorporate the two into one ceremony, I think people would go down that route because it's just more cost-effective and it saves time and people don't have to come to two different events'.

### *Changing norms about marriage*

- 7.30 In thinking about how norms about weddings might change, it is worth noting participants' reflections about the restrictions imposed by Covid. 002 (female, 32, Muslim) noted that it had allowed her 'to have a halal *nikah* that I wouldn't have had if it was normal times', explaining that '[i]n Islam, it should be an overnight thing. You get married, you move on with your life, it shouldn't be your life is on pause for six to twelve months while we arrange this and spend loads of money and stuff that you need when you get married.' 040 (female, 26, Muslim) similarly commented that getting married in the pandemic, despite being stressful, had allowed her to 'have an intimate do' rather than being 'forced by people's expectations'; as she concluded, 'I would say small weddings have always been the most blessed and I hope it's the way forward nowadays'. 066 (female, 39, atheist) also hoped that Covid would lead to a change in the way couples married, noting that it was 'ridiculous, you know, the funds you're paying on your photographers, your Mandaps ... I would just hope that, for the Asian community, that the pressures ease.'
- 7.31 Even within the context of Covid, however, smaller weddings had created tensions with the wider family. 009 (female, 26, spiritual) reported that 'because I was from quite a big family, it was a real tough time for me because I had a lot of people that were not used to this sort of way of marriage. So, they were almost offended by our decisions, which was, to be honest, quite a shame.'
- 7.32 013 (female, 31, Muslim) also thought that there was a return to 'the simple *nikah* ceremony', after a 'phase of big extravagant weddings', although she also added 'I do hear a lot of people say that they have to put marriage off, purely because they can't afford it because they feel like they have to keep up with everything that's out there'.

### *The impact of reducing the costs of getting married*

- 7.33 A number spoke of how the cost of getting married was a deterrent to many couples. As 030 (female, 37, atheist) noted:

I think weddings have become a massive, big industry that's not necessarily about what it really is which is the love of two people coming together and saying that they're going to commit to each other. And I think quite a few people don't get married because of costs. Like I've got friends who are just having children and not getting married because it's so much of a ball ache to organise and so costly ... I think, to make weddings cheaper and more accessible, would be great.

- 7.34 In a similar vein, 029 (female, 30, Muslim) thought that the proposals 'would impact really positively and it would make things a lot easier for people, especially with the cost of weddings just so high'. As she noted, people were 'put off' getting married because of the costs.
- 7.35 Some spoke not only of the costs of getting married but of the impact of those costs on the couple's relationship. 017 (male, 30, Muslim), for example, spoke of couples ending up in debt; in his view the proposals 'would perhaps make it more acceptable

for someone to have a smaller, more affordable celebration and then give people a more stable start to a new life together'. 007 (female, 28, Bahá'í) similarly identified her 'main bug' as 'having to pay for loads of stuff'. As she explained 'it just all adds up and you end up spending all your savings and we're a young couple just trying to get on our feet'. 030 (female, 37, atheist) noted the impact of spending large amounts on weddings 'for this generation that can't even afford a house'. As discussed above, 079 (female, 40, Hindu) described how she felt that the money spent on the weddings might otherwise be used. 058 (female, 32, Muslim); similarly thought that couples might be given that money to put towards a house, or simply their future, and that this would be 'a bit more supportive' to them.

### *Removing the necessity of having a separate ceremony*

- 7.36 For some, the costs of having a separate ceremony were emotional as well as financial. 024 (female, 34, no belief) referred to having to come to terms with the difference between getting married and having a wedding:

I think for both me and my husband, we did have to spend a bit of time coming to terms with the idea that because we didn't want a civil ceremony on our wedding day, we would have to get married on a different day than our wedding. And I think we both had to work through that. And there was a bit of cognitive dissonance there sometimes of kind of, 'that's good. That's what we want really, isn't it?' And I think that was sad for us both.

They had not intended to tell their guests at their Humanist ceremony that they had married in a register office the day before. However:

one of my bridesmaids went around on the big day saying, 'you know they're already married? They got married yesterday, so this is ...' as if she thought it was a bit ... sort of, well why would you have this big party if you're already legally married? So, as it was, people didn't really understand anyway, why you would have two ceremonies.

- 7.37 Others similarly reported having to deal with the reactions of families and friends and their perceptions of what was the 'real' wedding. 015 (female, 25, atheist) reported that her husband's grandmother 'was a little bit shocked' when the celebrant announced that the couple were already married, while 026 (female, 33, no belief) noted that 'some people were like, "oh, this isn't really your wedding, is it? Because you've already got married."' 078 (female, 36, spiritual) chose a 'couple of witnesses who we knew and who we trusted not to talk about the fact that we have done the legal part separately. Because we didn't want that to be ... we didn't want people to kind of go, "Oh well, you're already married." Or for it to take the edge off what we saw as our real wedding.' Her family, however, knew that she was legally married 'and my mum was a bit like, "I don't know why you're having ... it's just a big party, then, what you're having." And then I wished I hadn't told them that we'd done the legal part cos I don't think they'd have questioned it either.'

## **Conclusion**

- 7.38 Our findings suggest that the Commission's proposals have the potential to facilitate lower-cost weddings for those who want them, by allowing couples a wider choice of venues and removing the need for a second ceremony in many cases. At the same time, couples who prefer to have two or more ceremonies would still be able to do so, and many may still wish to get married in venues that have experience in hosting legal



weddings. In our final chapter we turn to the broader impact of the Commission's proposals and discuss our participants evaluations of the scheme as a whole.

## 8. Conclusion

8.1 In this concluding chapter we bring together the comments made by our participants about how the Commission's proposals would affect the process of getting married. We have analysed these by reference to the five principles underpinning the Commission's recommendations for reform. These were (1) certainty and simplicity; (2) fairness and equality; (3) protecting the state's interest; (4) respecting individuals' wishes and beliefs; and (5) removing any unnecessary regulation (CP, para 1.69). and evaluate whether the feedback from participants suggested that the proposed scheme would achieve its aims. We also note the alternative suggestions for reform that were put forward by a number of participants.

### The principles underpinning the proposed reforms

#### *Certainty and simplicity*

- 8.2 The Commission's proposed scheme was seen as simplifying the law governing weddings. This had a number of different dimensions. First, it was seen as making the law easier to understand. 039 (female, 40, no belief) commented that the proposals 'would have made the process ... more understandable for me, because I was just baffled by a lot of it', while 024 (female, 34, no belief) felt that updating the rules would mean that 'the hoops that we have to jump through make more sense', and 026 (female, 33, no belief) saw it as making the law 'open and transparent and demystifying it'.
- 8.3 Second, the greater simplicity of the process<sup>144</sup> was seen as making it easier to get married.<sup>145</sup> This was linked to removing some of the bureaucracy associated with getting married.<sup>146</sup> As 007 (female, 28, Bahá'í) commented: 'I think people need a lot of guidance and I might have found the process OK because I'm that kind of person that doesn't mind researching and reading all this stuff and phoning the council up or whatever but I know people who find that really hard'. 013 (female, 31, Muslim) thought that the proposals were trying to invite people to get married by 'trying to make it more doable'.
- 8.4 The perception that the proposed process was simpler was also linked to removing the need for a second ceremony. One imam, D-131, described it as 'streamlined' in 'removing the ridiculous dichotomy between civil marriage and the *nikah*'. 012 (female, 36, Muslim) suggested that 'there would be a lot less work for the couple, for administrators, because there would just be one ceremony as opposed to two separate ceremonies'. 062 (female, 30, agnostic) commented that if her celebrant-led ceremony had been legally recognised 'it just would have added to the day, so I think ... and just made it a bit simpler. Made our lives a bit easier.' 040 (female, 26,

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<sup>144</sup> Comments on the greater simplicity of the process were also made by 003 ('it's more simple and it's more flexible') and by 079 ('it would simplify it').

<sup>145</sup> The greater ease of getting married under the proposed scheme was noted by 003 ('I think it makes life a lot easier'); 005 ('It would have made it easier, yeah'); 007 ('it would've made our lives easier'); 012, 013 ('I think it's making it easier'); 014 ('I think it would make it a lot easier'); 016, 017, 021, 024, 026 ('anything to make it easier for people to get married in the way in which they choose and deem appropriate, I would feel very supportive of'); 029 ('I think it would impact really positively and it would make things a lot easier for people'); 037, 038 ('I do feel that that would be a lot easier for people who want to get married'); 039, 040, 042, 048, 051 ('I think these proposals sound like it will make it clearer, easier, more freedom of choice for people. I think that all sounds really positive'); 055 ('it would make it easier to get married'); 057, 062, 066, 069 ('I think they sound good. Anything that can make the process easier'); 075 ('it might make things easier'); 079, D-142, D-137, J-202.

<sup>146</sup> This was a point made by 003, 021 and 054, with the latter noting that there would be less time spent on 'logistics and legalities'.

Muslim) noted that it would resolve the difficulties couples faced in having ceremonies on different days: 'the fact that you could just do one event one day, one moment and have it all officiated there in their one contract, it's ... honestly, it sounds like a piece of cake!'

- 8.5 The point about having the legal wedding and the (often more meaningful) non-legally binding ceremony on different days emerged as a key theme in terms of when participants regarded themselves as married. Having just one single ceremony therefore created more certainty, rather than, as 040 noted, 'having several dates of when you could have potentially been married'. Most participants entering a religious ceremony cited that as their wedding day regardless of whether a legally binding ceremony was entered on the same day. As we explore below, it was also seen as making it easier for couples to have a legally binding wedding that was meaningful to them.
- 8.6 However, not everyone thought that the proposals would make it easier to get married. 081 (male, 42, Jain) thought that fusing a religious ceremony and a legal wedding 'could be complicated'; as he explained, he was of a Jain background, but his wife was from a Hindu background, so 'her parents would want something different, I would want something different. And figuring out what we want to do would have caused more complications.' As he acknowledged 'my nature is very secular. I'm not very religious and I would add I enjoyed the legal ceremony as much as the Hindu ceremony'. 064 (male, 42, Muslim), while supportive of the proposals, was less convinced that they would have made it any easier for him personally to get married legally: 'maybe that's just because I'm just a practical man. OK, this is how it is. I'll just get it done.' For him, having a gap between his *nikah* and his legal wedding had been a positive rather than a negative, and he would not have wanted to combine the two.
- 8.7 Similarly, 006 (female, 31, Muslim), who was in a religious-only marriage at the time of the interview, also felt that having a wider choice 'causes a lot of complications'. As she put it:

I feel as though the restrictions are there for a reason ... if the civil was important to me, I think the options are already there. So, I don't think ... I think the choices that were given already are quite clear, they're quite precise. And if it's the actual aim of what we want to do, the civil or the *nikah*, I think the bases are already in place, to be honest.

It was, however, telling that she drew this distinction between the 'civil' and the *nikah*. As the next section will discuss, many others welcomed the idea that a religious ceremony would be recognised as a legal wedding.

### *Fairness and equality*

- 8.8 A key theme among our participants was that the proposed scheme would make the law fairer by treating religious groups equally. This was welcomed by participants regardless of whether their own weddings were recognised or not by the current law.
- 8.9 Among those who felt that they had a particularly privileged position under the current law, L-225, a progressive rabbi, commented that '[w]e already have some of those freedoms and I don't see why we should be allowed to have them and nobody else is allowed to have them'. L-223, an Anglican clergyman, also felt that weddings needed to be 'democratised ... for good theological reasons', on the basis that:

marriage is a creation ordinance. It doesn't need the involvement of the Church to make it valid and I think that although many couples do want God involved and sometimes that can be expressed symbolically by holding the wedding ceremony or the wedding blessing in a church. You know, essentially, it's a commitment made by the couple.

- 8.10 Other participants spoke in general terms of how the proposals were fairer and more inclusive. 056 (female, 42, Muslim) welcomed the proposals, commenting that:

it would be more fair because a church wedding, that's recognised in this country, but if you have a *nikah*, it's not, relatively. You have to have both. So, I would say it's more fair and it's more religious and it's more inclusive for every ceremony and every kind of belief that people have in terms of how to get married.

- 8.11 069 (female, 35, Muslim) similarly noted that the proposals were 'more inclusive ... of people that might not want to do things in the traditional ... like just a civil ceremony', noting that 'it does become a bit complicated if you're from a different religion and then trying to do or accommodate both'. 074 (male, 36, Buddhist), while pondering what recognition would mean for the relationship between religion and the state, concluded that 'it seems better to be able to have a religious ceremony which was legally binding in whatever tradition you're in'.

- 8.12 Being able to marry according to one's own religious rites was also seen as having wider implications. For 043 (male, 32, agnostic), who had previously spoken eloquently about how he felt the Hindu ceremony was not recognised by the current law:

it's the state and it's the law recognising that the ceremony that you and your family and your partner and your culture respect and value, is valued by the state and the law ... if these changes were actually to happen where they recognise that basically any ceremony you want to do, whatever your culture, is a legally binding ceremony. Well, yeah, that's very welcome ... it's showing that this country embraces it, rather than almost sees it as something else.

- 8.13 028 (female, 31, Muslim) similarly commented that recognition 'would just help you feel more integrated in society. Like, there are co-existing cultures going on. I think it's about time that we all tried to integrate into each other's cultures.' And 070 (male, 35, Hindu) simply noted 'I think maybe the UK Government could accept that a wedding done in a different culture's format should be legally binding, you know? Why not?'

- 8.14 The idea of equality came out particularly strongly among those who did not feel that they were recognised at all under the current law. 010 (female, 52, Pagan) commented on how as a Pagan she experienced quite a lot of discrimination: 'It doesn't always go down well with people, unfortunately. It's a shame because it's such a lovely nature-loving religion.' For G-174, who described herself as a Pagan celebrant, 'these reforms are going to be brilliant if this can go ahead. Because it's equality ... It's just about being equal'. In a separate group, another Pagan celebrant, N-242, commented that:

I'd just say, about time ... we have absolute right to do all these things with the same standing and status and every recognition and everything else as every other religious group and we do it just as well, if not better. So, yeah. Just bring it on as soon as possible.

- 8.15 Equality also emerged as a key concern for Humanist celebrants. G-173 thought that legal recognition would be confirmation that 'essentially the Government approves of us', noting that:

at the moment, it feels like the Government are saying we're not real and we're not authentic and we're not needed. And we're not necessary and Heaven forefend, we're not viable. And that's just not true. The amount of couples that choose us already and they have to jump through these hoops and they still choose us. That shows how needed and necessary we are.

- 8.16 A number of interviewees also referred to Humanist ceremonies when discussing the need for the law to be more inclusive. As 007 (female, 28, Bahá'í) commented:

there's so many people of so many faiths that just would want to do what they want to do that aren't recognised. Or people ... or humanist ceremonies ... I'm totally on board with the idea that people should be able to do it how they want to do it ... I feel like it's so important.<sup>147</sup>

- 8.17 Independent celebrants also highlighted the issue of equality from the perspective of the couple. I-193, for example, thought that the legal recognition of celebrant-led ceremonies:

will be a huge step towards equality ... because it wouldn't matter to a certain extent what you look like, what colour you were, what creed you were, what variant of that. A celebrant, somewhere, will get you and so someone will get you right.

- 8.18 For some, however, equality had a potential downside. Some were concerned about the potential impact of the Equality Act 2010 and whether officiants would be required to conduct same-sex weddings. One imam, A-107, wanted clarity on how the existing exemptions would be carried over to the new scheme. 041, a member of the Church of the Latter-Day Saints, noted that it held that marriage was only between a man and a woman. He was concerned that if the law required religious groups to conduct same-sex weddings then the church would simply close its temple 'and then we would lose access to it, in terms of we would have fly abroad for it, which increases the cost and the time and all of those things'.

- 8.19 By contrast, E-153 (a Muslim female who conducted *nikah*) thought the proposals did not go far enough on the basis that same-sex couples would not be permitted to marry in most mosques and that barriers would still remain to marriages between Muslim women and non-Muslim men. As she commented:

the community that I work with had been denied marriage for so long. They had been denied the officiation of their relationship for so long ... I'm uncomfortable with how this country's laws would permit me to marry some people and not others .... The restrictions on who can and cannot get married still exist, right? ... I feel fairly neutral on both the proposals. I don't think they would make a huge difference to the community I work with ... I have mentioned this just before but just that if the proposals don't make it easier for people who already struggle to get married, to get married, this will make it even easier for people who are already going to do it. We cannot pretend they're especially progressive.

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<sup>147</sup> 005 also referred to people who 'might be Humanist or not religious or maybe just wanting something different from the way they do their marriage', while 049 acknowledged that 'I know there are issues with Humanist weddings and that kind of thing'.

This participant makes an important point that the reforms will not mean that all can have their individual choice for getting married respected. The position of same-sex couples or interfaith couples who are not permitted to marry in their usual or preferred place of worship due to religious rules against their marriage will not be changed by these reforms. It should however be noted that her religious group would, if it met the criteria for a nominating organisation, be able to opt in to conduct same-sex weddings, and E-153 would then be able to officiate at legal weddings if she so wished.<sup>148</sup> As discussed in the chapter on officiants, the intention is not that there should be a single nominating organisation for each faith group. The impracticality of creating any single such organisation may be illustrated by the history of Jewish marriages, and the fact that the Marriage Act 1949 currently recognises three separate organisations as able to nominate secretaries to register marriages conducted under their respective auspices. Nor does the law bar any religious group – with the exception of the Church of England and the Church in Wales – from conducting same-sex weddings, it merely states that they cannot be required to do so.

- 8.20 While the Law Commission's terms of reference require any new scheme to maintain the same exemptions for religious groups as exist under the current scheme, it is also worth noting the views of 50A on how important the religious dimension of his legal wedding had been for him and his husband:

The recognition of us as a family was a kind of expression of us being officially a family, which wasn't possible in Italy at the time. It is a fight for rights which was expressed in the civil ceremony and then the religious also added a connotation in terms of our view which defines the wedding, not only for this life but is forever, for the eternity which is even deeper I guess.

- 8.21 Two couples (004A (female, 44, Pagan) & B (female, 34, Pagan) and 072A (female, 27, no belief) & B (non-binary, 28, spiritual) also flagged up the existing inequality of the law in terms of the position of those who are trans or non-binary. The issue as to how gender should be identified was outside the scope of the Commission's project, as was the issue of whether the law should recognise a legal category of non-binary. However, the content of the ceremony that is performed is very much within its scope, and the greater freedom that is proposed means that binary gender markers would not need to be used during the ceremony itself, and that registration officers should not impose gendered assumptions about how the parties should comport themselves.<sup>149</sup>

### *Protecting the state's interest*

- 8.22 As the Law Commission noted in its scoping paper, 'the state has a role to play in checking the parties' eligibility, capacity and consent and protecting against sham and forced marriages, [and 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'.<sup>150</sup>
- 8.23 The importance of this was recognised by our participants, with many expressing concern for vulnerable people being forced into marriages. Those expressing such concerns were not drawn from any single religion or belief, with concerns being raised by a range of participants. However, where potential victims were identified, they

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<sup>148</sup> Indeed, if her religious group had a registered place of worship – which could be simply a room in a building used for other purposes – it would be able to conduct same-sex weddings under the current law.

<sup>149</sup> On the particular difficulties faced by 004B and 072B, see paras 4.63 and 4.12 respectively.

<sup>150</sup> Scoping Paper, para 3.8.

tended to be female, Muslim, and South Asian. While the risks are by no means limited to those who fall within these intersecting character traits, public discourse seems to play a role in perceptions and the majority of the imams interviewed in particular seem aware of their duties to safeguard.

8.24 Since they had only seen the summary of the proposals, participants' concerns tended to be voiced as questions as to whether the scheme would offer sufficient protection rather than a clear view that it would not. Such questions tended to focus on one of three issues: giving notice online, the identity and training of the officiant, and the possibility of getting married at home.<sup>151</sup> As we have discussed in the chapter on preliminaries, the Commission's proposal was only that *initial* notice should be given online, with a follow-up in-person interview, and individuals were accordingly reassured where the interviewer had the opportunity to clarify that point. The concerns about getting married at home, and about the training of officiants, were considered in the chapters on location and officiants respectively.

8.25 While our participants were strongly in favour of greater choice about how they could marry, many also acknowledged the importance of marriage as a legal act. As 049 (female, 28, Christian) noted:

when you get married, you are signing up to something that has a particular meaning in law. For example, if you get divorced the courts are going to deal with the financial arrangements between you in a particular way and have huge powers to redistribute assets. I suppose marriage is something that really does change your legal status. And it really does change your rights and responsibilities. So, I suppose the formalities of it, in a way, were a nice reminder of that.

8.26 For 027 (female, 44, Christian), the importance of having a formal process did not preclude reforms to that process; instead, she emphasised the importance of making those getting married aware of the significance of the step they were taking:

the relaxing the rules is brilliant. Giving everybody the chance to marry the way they want to; in the celebratory style they want to. It's the right thing to do. But in doing so we have to, have to protect what the status ... the marriage status brings and explain that. Because it is important.

8.27 A few took the view that there should be a single – secular – form of legal marriage and that couples should then be free to marry as they wished. 081 (male, 42, Jain), for example, argued that

It should be common to everybody, because this ... There could be a particular fraud going on with this, you know, I mean, at least every mandatory rubber stamp of the Government should be, in the eyes of the country, secular. And then people can do ... there should be freedom as well, freedom of religion, and that should be in the private lives of those involved ... That's my opinion, but I know there could be a lot of people who would disagree. So, fair enough.

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<sup>151</sup> Or a combination of these: 058, for example, advocated that 'there should always be that "what if" sort of thinking. So, in terms of what if a person was being forced into a marriage that they didn't want to be in. How would that look like if they were able to do that at home? Yes, you were saying about the officiant, but does that mean that all officiants can be trusted? You know, can we pay them off to do things et cetera?'

### *Respecting individuals' wishes and beliefs*

- 8.28 Our participants also attached considerable importance to the idea of respecting individuals' wishes and beliefs. As 016 (female, 35, Christian) put it:

You should be able to choose. I mean, in a lot of other countries, you can. You should be able to choose where you get married and how you get married and it should be personal choice and it should be down to the person as well. Their personal choice that's marrying you. Whether or not they want to be in a particular venue or in a particular setting. So the choice should be there. As long as there's some easy way to register that it's actually legally taken place.

- 8.29 Other participants similarly emphasised the diversity of religions and beliefs in England and Wales,<sup>152</sup> the importance of personalisation,<sup>153</sup> and the greater freedom to choose that the proposals would bring.<sup>154</sup> As 022 (female, 38, no belief) noted, 'if those things had ... been in place, then we could have had what we wanted'.

- 8.30 027 (female, 44, Christian) thought that the availability of a wider range of options might encourage more couples to marry:

I suspect a lot more of my friends would marry. Most of my friends ... are not churchgoers ... they're not religious ... they don't marry because it doesn't meet with their belief systems, the current structure. So, they don't do it. I think that relaxing of those rules would see those legal partnerships become much more widespread. And I think that's a good thing. I genuinely do.

- 8.31 The importance of individuals' broader wishes and beliefs was also linked to the emphasis that was placed on marriage being about the couple and the commitment they were making.<sup>155</sup> As 063 (female, 29, Christian) put it:

at the end of the day it's their ceremony. It's something that they are going to have for the rest of their life as their time that they got married, they were together and whether it was them ... just their witnesses and them, or eight other people and them or 100 other people ... it's still that's their day to remember. And it just makes it feel a bit more special and a bit more personal, to them, if they could have just something that is a bit less prescribed ... Because

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<sup>152</sup> 037 ('people are very diverse now in what they believe'); 047 ('there's such a diversity of things these days and it's just not understood, I think, by people. And so, to try and do something which resolves all of that is really worthwhile'); 048 ('we are in a very diverse country and I think we should have the plurality in the forms of being able to have a relationship with other people'); 068 ('we're such a multicultural society now').

<sup>153</sup> 062 ('I like the idea that it's giving couples the ... ability to make their wedding very personal').

<sup>154</sup> 010 ('I think it will make the world of difference to a lot of people. It's a shame it's come so late. But I think it's much needed. It will give people more scope. You find that most people want something a bit different now and they want to make it more personal and I think that people should have the right to be able to do that. And if that kind of thing was available, it would just leave so many options open to people to do what they want'); 011 ('I really did like the options that were there because it seemed to give a little bit more freedom'); 014 ('if they don't want to it in a certain way, then let them do it the way they want to'); 024 ('it's just about having alternatives and having other options'); 034 ('as for anything, I like for people to be able to choose as much as possible'); 039 ('I think people would be happy to have the choice to get married where they wanted to'); 043 ('giving people a lot more freedom in how they get married is I think welcome'); 046 ('people should have a choice what they want to do'); 050A ('For me it's amazing because I guess everyone can adjust the ceremony from their kind of views and needs'); 062 ('I like the idea that it's giving couples the opportunity to have a bit more agency in what they do in their weddings'); 077 ('couples should have more choice on where they want to get married').

<sup>155</sup> 005 ('at the end of the day it's a marriage between two individuals'); 013 ('at the end of the day, it's their service, it's their marriage, it's their day'); 032 ('It's your promises').



sometimes you just feel like, ‘well, I’ve got a piece of paper, but have we actually had our true ceremony for ourselves? Has this been our day?’

- 8.32 Some did acknowledge that accommodating one set of beliefs about how weddings should be conducted might clash with other beliefs. As 039 (female, 40, no belief) noted, someone who was ‘a super-conservative, super-religious person who thinks that a marriage isn’t ‘real’ unless you get married in the eyes of God ... might have a problem with it’; however, as she noted, they would still have the option to marry as they wished and ‘would do it in a church or a synagogue or a mosque or wherever their religion tells them to get married’.
- 8.33 In a similar vein, 024 (female, 34, no belief) recognised that there would be those who were averse to changing the status quo, and 014 (male, 41, Muslim) noted that there would always be those who were cautious because they were worried about what reforms might lead to. In his view, though ‘ultimately, anything that brings benefit to society as a whole and makes things easier, I think that’s far better for everybody’.

#### *Removing any unnecessary regulation*

- 8.34 Among our participants, the desire was not simply for less regulation, but rather for rules that made sense. As we have discussed, most participants saw little point displaying the notice of marriage in the register office,<sup>156</sup> and many favoured regulating the person officiating at the wedding rather than the location where it was taking place.<sup>157</sup> In terms of what constituted the marriage itself, it was interesting that those who advocated having prescribed words assumed that the words required of those getting married in a civil ceremony or in a registered place of worship were spoken in *all* legal weddings.<sup>158</sup>
- 8.35 As we have discussed in the introduction and in the chapter on validity, our study suggests a general lack of awareness and understanding of the current steps for legal marriage. A number of participants spoke of the need for more awareness raising – not just of the importance of getting married but also of the reasons for the specific steps that needed to be taken in order to get legally married. 061 (female, 46, Muslim) thought that there should be an emphasis on what the consequences of recognition or non-recognition might be: ‘it’s not just about being recognised as being married, it’s really understanding what impact it can have in lifetime and in death, and also upon children’. 051 (female, 40, Muslim) thought that mosques should offer briefing sessions on ‘how do you register your marriage legally in the UK’, while 083A (female, 33, Muslim) thought that having a flow diagram ‘would have actually helped me just a little bit’, and 054 (female, 33, Hindu) wanted more guidance on the steps needed for a legal wedding.

#### **Alternative options for reform**

- 8.36 A few participants advanced alternative options for reform. These fell into three broad groups.

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<sup>156</sup> See paras 2.58-2.60.

<sup>157</sup> See paras 3.12, 5.65-66.

<sup>158</sup> For example 055 thought that there ‘should be a set wording, I don’t think that you should change that because again it’s the sanctity of that ceremony that the words that are said are the words that are said by everybody getting married’, 002 commented that ‘it’s always been said the same, right’, and 022 commented that ‘it would still be good to have certain wording that is the same, that just makes that legal part of it’.

- 8.37 The first consisted of variations on the particular elements within the Commission's proposed scheme. These included suggestions for making it easier for places of worship to be officially recognised as places of worship (C-124); accommodating the presence of the imam at a civil marriage (D-140) or allowing him to conduct weddings in the register office (D-136).
- 8.38 The second were those that advocated universal civil marriage. G-173, a Humanist celebrant, expressed her wish 'that the French system could happen because that would be equitable, although she acknowledged that 'I guess it can't because that would mean unpicking too many stitches.' Equity was also a concern for 075 (male, 61, Christian), who thought that requiring a separate civil wedding for all 'would have got us out of a whole lot of trouble around the Church of England not recognising same sex unions and all that sort of stuff'. 081 (male, 42, Jain) thought that universal civil marriage would be simpler, with any religious ceremony being added if the parties so wished.
- 8.39 The third group consisted of alternative reforms to deal with the issue of non-legally binding marriage ceremonies. One group discussed the possibility of rethinking the significance of betrothal (L-223, L-224), while others noted the need for reforms to cohabitation law (B-115). A few commented that it was the processes for ending a marriage – and in particular the laws governing the division of assets – that were deterring couples from entering into a legally binding wedding and suggested that these too might need to be addressed (E-153, J-202). As this highlights, the law governing weddings is only able to deal with *some* of the problems arising from non-legally binding marriage ceremonies.

## Conclusion

- 8.40 Overall, while some participants were ambivalent about the idea of reform, or had other ideas as to how the law should develop, there was a high level of support for the Law Commission's proposed scheme among the majority of our participants, both those who were involved in conducting non-legally binding ceremonies and those who had had such a ceremony.
- 8.41 This is perhaps unsurprising. After all, most of those involved in conducting ceremonies who participated were not in a position to conduct legal weddings under the current law. Similarly, many of those who had had a non-legally binding ceremony had done so precisely because they were not able to have a legal wedding in the location or form of their choosing. That said, their support for the proposed scheme was not based solely on the fact that they would have been able to marry as they wished had it been in force. They also welcomed the fact that it made the law simpler and easier to understand. The importance of individual wishes and beliefs being respected was tempered by acknowledgement of the need for entry into marriage to be regulated by the state, in terms of having checks and clear processes. The proposed scheme was seen as striking a good balance between these competing considerations, and finally, moving towards a more straightforward marriage law for the twenty-first century.