

FAQs | Celebrating Marriage: A New Weddings Law

Q. In what places would your recommendations allow people to get married that currently aren't possible?

- Our scheme would allow couples to have their wedding in any type of location, so long as their officiant agrees. The officiant will be responsible for considering whether the location is safe and dignified for the wedding.
 - Weddings will be able to take place outdoors, such as in parks, gardens, forests and on beaches, in small community venues like village halls, and in private homes and gardens.
 - Our scheme also allows weddings to take place on the water, including in the territorial sea, bays and other coastal waters off England and Wales, and in international waters on cruise ships with a home port in England and Wales.
 - Our scheme will allow civil weddings to take place on Ministry of Defence sites, which for most military sites will mean that they can offer same-sex weddings for the first time.

Q. I've attended an outdoor wedding – was that a legally recognised ceremony?

- Until very recently, legally recognised wedding ceremonies generally had to take place indoors. That position has changed, but only to a very limited extent.
 - The approved premises regulations for civil ceremonies require that approved premises constitute at least a room. However, recent Government reforms allow weddings to take place outdoors on the grounds of approved premises (generally, hotels and stately homes licensed for weddings).
 - Government has said it plans to introduce similar reforms to allow religious weddings to take place on the grounds of registered places of worship or Anglican churches or chapels.
 - Jewish weddings and Society of Friends weddings are permitted by law to take place outdoors.
 - Non-legally binding weddings frequently take place outside. This could be a ceremony conducted by a Humanist celebrant or an independent celebrant. In some cases, the couple will before or after this celebration have a legal ceremony in the register office.

Q. In what ways will your recommendations make weddings cheaper?

- Our scheme reduces red tape, for example, by eliminating the requirement for a Government pre-approval or registration process for wedding venues. This will eliminate the costs of approval which limits competition among civil wedding venues.

- It will give couples lower cost options, such as marrying in their own home or garden, in smaller, more modest community venues like village halls or in parks and on the beach.
- It will also give religious groups flexibility about where to hold their weddings. This will particularly help religions who do not see their place of worship as the appropriate place to get married or who do not have their own places of worship. Members of these religions will no longer have to have separate civil and religious ceremonies in order to become legally married.

Q. Can't couples already get married in an inexpensive way, via a register office?

- Cheaper "no frills" options are available in register offices, but limited slots can be hard to secure and restrictions (for example, enabling only the couple and their witnesses to attend) can be off-putting and make simpler weddings feel second-rate.

Q. Will your reforms help the backlog of weddings due to the pandemic?

- Our recommendations will allow couples to marry in a wide variety of places, without being limited to the locations that are currently approved for weddings. Couples struggling to find authorised venues that are available for their wedding will not have to wait, having the option of marrying in a much wider range of places.
- And, in light of the pandemic, we recommend that future legislation should be able to adapt to similar emergency situations. We set out a provisions that could be brought into force to allow notice to be given and valid weddings to take place when a national emergency is preventing couples from being able to comply with the formality requirements in the law, including in circumstances where one member of the couple is seriously or terminally ill.

Q. How do our laws compare to the rest of the world?

- Many other jurisdictions offer couples more choice, both in where they can celebrate their wedding and how personalised their ceremony can be. Many of our neighbouring jurisdictions have recently reformed their laws to give couples more choice, and to simplify and clarify the law. For example, Scotland, Northern Ireland, Ireland, Jersey and Guernsey have recently reformed their laws, all which give couples more choice.
- Many jurisdictions around the world also focus regulation on the celebrant or officiant, rather than the location: this includes Australia, New Zealand, Canada and the US.

Q. Do your proposals protect against sham and forced marriages? What about predatory marriages?

- As required by the project's Terms of Reference, our provisional scheme upholds the existing protections against forced and sham marriages.
- It is essential to protect people against forced marriage and to identify sham marriages.
 - To identify and offer help to individuals who might be being forced into marriage, including cases of predatory marriage where someone does not

have the mental capacity required to marry, we propose a robust system of preliminaries (the checks that take place in advance of the wedding).

- Our proposed system of preliminaries also retains the existing tools that enable officials to identify sham marriages.

Q. Would your proposals include safeguards against inappropriate wedding ceremonies?

- Under the current law, the only rules about dignity apply to civil wedding venues. Nevertheless, we are not aware of serious concerns in practice: a wedding is more meaningful to the couple than to anyone else, and so naturally they treat their wedding as an important ceremony.
- To ensure the consideration of dignity applies to all weddings, and to the ceremony itself, we recommend that all officiants will have a duty to uphold the dignity and significance of marriage. Marriage is a serious matter, involving a change of legal status. We think this should be reflected by officiants in their role as well as in the legal aspects of the ceremony. Under our scheme, officiants would be best placed to work with couples to ensure that their weddings – in addition to being meaningful, personal, joyful, and also fun and happy events – also reflected the significant nature of the ceremony.

Q. Did you consider universal civil marriage?

- The Terms of Reference which govern the scope of this project exclude consideration of universal civil marriage. We concluded in our 2015 Scoping Paper that universal civil marriage would run contrary to the aim of increasing choice and allowing couples to have a legally recognised ceremony that is meaningful to them.

Q. Will you recommend that Humanists can conduct legally binding weddings?

- In *R (Harrison) v Secretary of State for Justice* [2020] EWHC 2096 (Admin), the court determined that Humanist couples are treated differently under the law compared with those who hold religious beliefs, but that the difference in treatment was justified in the context of the wider review of weddings law that is taking place.
- Our Terms of Reference require us to consider how the law could be reformed to enable non-religious belief organisations (such as Humanists) and/or independent celebrants to conduct legal weddings. Our report explains how a new legal scheme could do that.
- Currently, marriages can only be solemnized by religious groups and by civil registration officers.

Q. Are you proposing to take powers in relation to marriage away from the Church of England (or the Church in Wales)?

- Our project does not consider the status of either the Church of England or the Church in Wales.
- We have considered how the law should regulate Anglican weddings. As part of this, we have considered whether the law should continue to recognise Anglican preliminaries, or whether all couples – including those marrying in the Anglican

church – should be required to give notice to the civil authorities. There was no consensus among consultees on this point, and key Anglican stakeholders were strongly opposed. In the light of this, we have not thought that it would be appropriate for the Law Commission to recommend the replacement of Anglican preliminaries by universal civil preliminaries. However, we make recommendations to align Anglican preliminaries more closely with civil preliminaries.

- Nothing in our recommendations would require changes to Anglican wedding ceremonies.

Q. Do the reforms address the issue of weddings conducted according to religious rites but which are not recognised by the law (sometimes called “religious only” or “unregistered marriages”)?

- Some couples marry according to religious rites but without undertaking the necessary formalities to constitute a marriage that would be recognised under the law of England and Wales.
 - Under the law, a wedding ceremony can result in a valid marriage, a void marriage, or it can be categorised as a non-qualifying ceremony, which will not result in a marriage the law recognises at all.
 - The categorisation of a ceremony as non-qualifying has significant consequences for the parties because they cannot apply to court for financial provision on breakdown of the relationship. This can leave individuals (often women) vulnerable. Such financial provision is available where a marriage is valid, and even when it is void.
- Our recommended reforms will make it easier for religious weddings to be recognised by the law as creating valid marriages.
- Our recommendations also aim to limit the circumstances in which a religious ceremony will be non-qualifying, particularly when one or both of the parties believed that it would result in a legally recognised marriage. We also recommend that it would be an offence for a person – an officiant or a person purporting to be an officiant or leading the ceremony – to dishonestly mislead a couple about the effect of the ceremony. It would also be an offence for an authorised officiant to not disclose to the couple if the ceremony will not give rise to a valid marriage.
- We feel that these reforms go as far as a project on weddings law can go to solve these complex issues, which need to be looked at alongside reforms to cohabitation law.

Q. When the report is published, what happens next?

- It is now for Government to consider and respond to the Law Commission recommendations.
- If, as we hope, Government accepts our recommendations, it will be necessary for a bill to be drafted to give effect to them.