

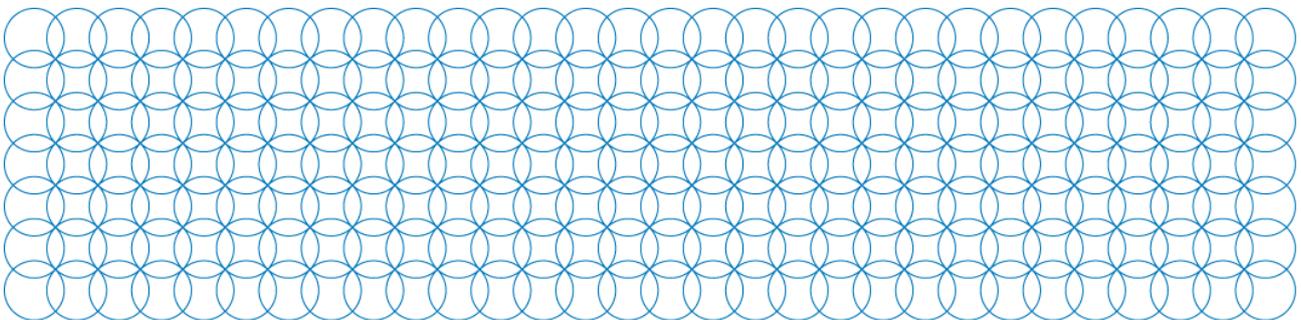


Ministry
of Justice

Marriages by Non-Religious Belief Organisations

This consultation begins on 26th June 2014

This consultation ends on 18th September 2014





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of Justice

Marriages by Non-Religious Belief Organisations

A consultation produced by the Ministry of Justice. It is also available on the Ministry of Justice website at www.justice.gov.uk

About this consultation

- To:** This consultation is aimed at members of the public in England and Wales. It is also aimed at non-religious belief organisations and religious organisations and their members, those providing wedding services and approved premises, local authorities and registrars, and other organisations and individuals with an interest in the solemnization of marriages in England and Wales.
- Duration:** From 26 June 2014 to 18 September 2014
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- How to respond:** Please send your response by 18 September 2014 to:
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102 Petty France
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Tel: 020 3334 3127
Email: MarriagesbyNon-ReligiousBeliefOrganisations@justice.gsi.gov.uk
- Response paper:** A response to this consultation exercise is due to be published by 1st January 2015 at: <http://www.justice.gov.uk>

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Foreword

This Government considers marriage to be one of our most important institutions and believes it is right for couples to have the choice of a religious or secular marriage ceremony, as they can under marriage law in England and Wales. Marriage is an important and valued institution and its particular status and dignity in society should be preserved. Marriage can also change immigration, tax and benefits status and must be properly administered. The implications of further changing marriage law and getting it wrong are therefore significant.

In Scotland, the law has been changed in recent years to allow for humanist and other non-religious belief marriages within a system in which individual celebrants are registered to solemnize marriages. We have a different system, with different safeguards, predominantly based on the registration of buildings.

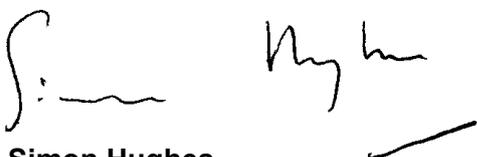
During the passage of the Marriage (Same Sex Couples) Act 2013 Parliament debated whether the law should be changed in England and Wales to allow for a third, distinct, type of marriage ceremony so that non-religious belief organisations are able to conduct marriages here, as they can in Scotland. Six to eight hundred humanist weddings currently take place in England and Wales each year but do not have legal force. The Government accepted that we should consult publicly on the issue before coming to a decision. So as part of the 2013 Act we have a statutory obligation to carry out a review informed by a public consultation on whether the law should be amended further to permit non-religious belief marriage ceremonies.

It is therefore right that we consult on the issue of non-religious belief marriages, and carefully consider the implications for our marriage law and practice, before coming to a decision on whether to change the law in England and Wales. Our consultation must also include consideration of the rationale and level of demand for such a change and what safeguards may be required, for example to make sure that we would not increase the number of sham and forced marriages.

This consultation therefore asks for your comments on a number of key issues and options:

- whether there is a substantial case for change;
- which non-religious belief organisations could meet the Section 14 definition in order to be registered to conduct belief ceremonies, is the definition appropriate and what would be the issues related to such changes;
- where, if allowed, such marriages should take place;
- which safeguards would be needed to deal with any resulting risks, and
- what would the equality impacts be.

I look forward to hearing your views on these or any other issues discussed in this consultation.



Simon Hughes
Minister of State for Justice and Civil Liberties

Executive Summary

The Marriage Act 1949 provides for religious marriage ceremonies and civil marriage ceremonies (marriages solemnized in the presence of a superintendent registrar and registrar in a register office or premises approved for the purpose) in England and Wales. During the passage of the Marriage (Same Sex Couples) Act 2013 a number of amendments were tabled to change the law in order to allow humanists, and potentially other non-religious belief organisations, to solemnize marriages. At present, the British Humanist Association (BHA) carry out wedding ceremonies in line with humanist beliefs but these do not have legal force.

Section 14 of the Marriage (Same Sex Couples) Act 2013 requires the Secretary of State to arrange for a review of whether the law should be changed to permit marriages by non-religious belief organisations. These are defined as “an organisation whose principal or sole purpose is the advancement of a system of non-religious beliefs which relate to morality or ethics”. This consultation is published in accordance with section 14 which states that the arrangements for the review must include a full public consultation.

Following this consultation, the issue of permitting belief organisations to solemnize marriages will be considered further in light of the responses received.

Part 1 of the paper provides an overall introduction to the issue and states who the consultation is aimed at.

Part 2 provides information on the forms of marriage ceremony currently permitted in England and Wales, and on the Marriage (Same Sex Couples) Act 2013 which amends the 1949 Act.

Part 3 sets out the key issues and options for consideration and the specific questions on which the Government seeks your views. This includes consideration of which non-religious belief organisations, in addition to humanists, are capable of meeting the definition set out in section 14 of the 2013 Act, and of whether the definition should be narrowed to provide for any safeguards.

Part 4 briefly sets out the Government’s equality duties and the main conclusions of an initial equalities assessment of the likely impact of our proposals, which is provided at **Annex A**. We ask consultees what they consider to be the equality impacts and welcome any related information to help with our understanding and assessment.

An assessment of the potential impact on businesses, the third sector and the public sector is attached at **Annex B**.

Key issues and questions

The consultation asks if we should maintain the current law on the solemnization of marriages or if there is a substantial case for a change in the law to establish non-religious belief ceremonies as a third type of legal ceremony, alongside religious and civil ceremonies, for getting married in England and Wales. Consideration is required as to whether the current law caters adequately for couples with humanist and other non-religious beliefs, given that couples with non-religious beliefs can marry in civil ceremonies that they can personalise, including through the inclusion of (non-religious) personal vows.

Those supporting a change in the law argue that there is a genuine demand for humanist marriages (with 600-800 such marriages taking place in England and Wales each year, around 80% of which are held in addition to a legally valid civil ceremony); and that humanists, and potentially others that adhere to a system of non-religious beliefs, suffer a disadvantage because they are not treated in the same way as those whose beliefs are religious who are able to marry in a legally valid ceremony which reflects their beliefs, conducted by a celebrant who shares their religion.

Given that the law on marriage solemnization is based broadly on the ceremony taking place in a building registered for that purpose (with the historic exemption of Quaker and Jewish marriages, which are not restricted in terms of where ceremonies can take place), and that humanists (and potentially other organisations able to meet the criteria for non-religious belief bodies) have no buildings of their own, there is a need to consider where, if they were to be allowed, belief marriages would take place. The paper sets out and invites views on three potential options:

Option 1: Permit non-religious belief organisations to solemnize marriages within their own buildings or buildings where the organisation meets to manifest its beliefs and that are certified for this purpose.

Option 2: Permit non-religious belief organisations to solemnize marriages anywhere (other than religious premises) meaningful to the couple, including outdoors.

Option 3: Permit non-religious belief organisations to solemnize marriages at 'approved premises' (other than religious premises), such as a stately home or hotel.

In relation to these options, we set out that there is a need to consider the implications for non-religious belief organisations who do not have buildings of their own alongside the implications of potentially giving belief organisations greater freedoms than the majority of religious organisations and those afforded to conduct civil ceremonies (if we were to allow belief bodies to conduct marriage ceremonies outside, for example).

The consultation states that consideration must be given to what safeguards and arrangements would be required if the law was changed to permit belief marriages, to ensure that the status and dignity of marriage was protected and minimise any resulting risks. The main risks identified relate to a change in the law inadvertently creating a commercial market for the solemnization of weddings (which the Government does not want to do); and preventing forced marriages (where one or both parties does not consent) and sham marriages (where the marriage is not genuine, often for immigration purposes).

The consultation asks for views on the principle of introducing tests which a belief organisation would have to meet before its registering officers/celebrants could be authorised to solemnize a marriage, and sets out for consideration the sort of tests which might be applied in the context of what is currently required of religious organisations and civil registrars. In addition, we seek views on the principle of extending to belief organisations the safeguards that the Registrar General can apply to religious organisations. In this regard, regulations could specify that all newly registered belief organisations must have a registrar attending all marriages in the first year of their registration; and that this requirement can be extended if there are procedural concerns.

If belief marriage ceremonies were to be made legally valid, we briefly outline what legislation would require such ceremonies to include and what would need to be determined in this respect; and ask if marriages by belief organisations should be confined to the

members of the belief organisation (with the possible proviso in the case of a member marrying someone whose beliefs are incompatible with membership but who is nonetheless authorised by the belief organisation to be married within a ceremony it conducts).

PART 1 - Purpose of the consultation and overview

Note: References in this consultation to provisions in the Marriage Act 1949 are to the version of that Act that has been amended by the Marriage (Same Sex Couples) Act 2013.

This consultation is published in accordance with section 14 of the Marriage (Same Sex Couples) Act 2013, which requires the Secretary of State to arrange for a review of whether an order should be made under that section permitting marriages to be solemnized according to the usages (customs) of non-religious belief organisations (and if so, what provision should be included), and requires a full public consultation as part of the arrangements.

The law on the solemnization¹ of marriage in England and Wales is governed by the Marriage Act 1949 (the 1949 Act). The 1949 Act provides for religious marriage ceremonies (marriage according to the rites and ceremonies of the Church of England and the Church in Wales; the usages (religious customs) of the Jews and Society of Friends (Quakers); and marriage according to the rites of any other religion in their place of worship that has been registered for the purpose) and civil marriage ceremonies (marriages solemnized in the presence of a superintendent registrar and registrar in a register office or premises approved for the purpose such as a stately home or hotel). In most cases, the place in which a marriage takes place is central to its legal validity.

At present, the British Humanist Association (BHA) cannot marry couples in a legally valid humanist ceremony in England and Wales. They currently may carry out ceremonies in line with humanist beliefs but these do not have legal force and if the parties wish to be legally married they must do so in a ceremony which complies with the provisions of the 1949 Act (such as a civil ceremony by a registrar). The BHA is campaigning for the law to be changed to allow humanist celebrants² to conduct legally valid marriage ceremonies in England and Wales. Since June 2005, under section 12 of the Marriage (Scotland) Act 1977, the Registrar General for Scotland has granted temporary authorisation to certain humanist celebrants to conduct legally recognised marriages. The Marriage and Civil Partnership (Scotland) Act 2014 broadens the “religious” category of marriage to “religious or belief” and so will place humanist and any other belief bodies on the same footing as religious organisations.

During the passage of the Marriage (Same Sex Couples) Act 2013 a number of amendments were tabled to allow the British Humanist Association, and potentially any other non-religious belief organisation³, to solemnize marriages. In listening to and acknowledging the level of support for and issues raised concerning belief marriages within the parliamentary debates in both Houses, the Government accepted that the issue should be looked at further.

¹ Solemnization refers to the ceremony which forms legally recognised marriage between two people.

² Celebrants are people who conduct formal ceremonies, particularly weddings.

³ A non-religious belief organisation is defined in section 14 of the 2013 Act as “an organisation whose principal or sole purpose is the advancement of a system of non-religious beliefs which relate to morality or ethics”.

Section 14 of the Marriage (Same Sex Couples) Act 2013 requires the Secretary of State to arrange for a review of whether the law should be changed to permit marriages by non-religious belief organisations, and if so, what provision should be made. The arrangements for the review must include a full public consultation and a report on the outcome of the review must be published by 1 January 2015.

This consultation accordingly asks if there is a substantial case for changing the law to allow non-religious belief organisations (such as the British Humanist Association) to solemnize marriages of opposite and same sex couples or whether the current approach should remain.

We are also seeking views on which organisations would be captured by a change in the law, should it be determined that there is a case for such a change, and how such a change should be implemented.

Part 2 of this paper provides information on the forms of marriage ceremony currently permitted in England and Wales, and on the Marriage (Same Sex Couples) Act 2013, including Section 14 of the 2013 Act which makes provision for a review of whether legislation should be put in place to permit marriages by non-religious belief organisations.

Part 3 sets out the key issues and questions for consideration in relation to whether the law and practice relating to solemnization of marriage should be amended to facilitate legally valid belief marriage ceremonies and the specific questions on which the Government seeks your views.

We have undertaken an initial assessment of the likely equality impacts of the proposals. An Equality Statement is attached at **Annex A**. We welcome views on the potential equality impacts and also any evidence or information that will help inform our understanding and assessment of the impacts.

We have also assessed the potential economic costs and benefits for the public, private and third sectors, according to the different options set out for consultation. This is attached at **Annex B**.

Following this consultation, the issue of permitting belief organisations to solemnize marriages will be considered further in light of the responses received.

Who the consultation is aimed at

This consultation is aimed at members of the public in England and Wales. It is also aimed at non-religious belief organisations and religious organisations and their members, those providing wedding services and approved premises, local authorities and registrars, and other organisations and individuals with an interest in the solemnization of marriages in England and Wales.

Confidentiality

Information provided in response to this consultation, including personal information, may be published or disclosed in accordance with the access to information regimes (these are primarily the Freedom of Information Act 2000 (“FOIA”), the Data Protection Act 1998 (“DPA”) and the Environmental Information Regulations 2004).

If you want the information that you provide to be treated as confidential, please be aware that, under the FOIA, there is a statutory Code of Practice with which public authorities must comply and which deals, amongst other things, with obligations of confidence. In view of this it would be helpful if you could explain to us why you regard the information you have provided as confidential. If the Ministry of Justice receives a request for disclosure of the information it will take full account of your explanation, but it cannot give an assurance that confidentiality can be maintained in all circumstances. An automatic confidentiality disclaimer generated by your IT system will not, of itself, be regarded as binding on the Ministry.

The Ministry of Justice will process your personal data in accordance with the DPA and in the majority of circumstances this will mean that your personal data will not be disclosed to third parties.

PART 2 - Background

Current permitted forms of marriage ceremony in England and Wales

The Marriage Act 1949 is a consolidating Act and much of the marriage law in England and Wales dates back to 1836 when civil marriage was first provided for. With the exception of marriages conducted according to the rites of the Church of England and Church in Wales (which are subject to ecclesiastical preliminaries such as the reading of banns), nearly all marriages are solemnized on the authority of two certificates of a superintendent registrar which certify that the parties are eligible to marry one another.⁴

The 1949 Act sets out the procedure and premises where a marriage ceremony may take place. It provides for marriage by civil ceremonies; marriage according to the rites and ceremonies of the Church of England and the Church in Wales; marriage according to the usages of Jews and the Society of Friends (Quakers); and marriage according to all other religious rites (for example, Catholic, Methodist, and Muslim faiths), in a place of worship that has been registered for the purpose. The Marriage (Same Sex Couples) Act 2013 amended the 1949 Act to provide for same sex couples to be married in either a civil ceremony or a religious ceremony where the religious organisation has opted in to conducting marriages of same sex couples. The place at which a marriage ceremony takes place is generally crucial for the legal validity of the resulting marriage. Marriages must take place at a register office, approved premises, (such as a hotel), a church or chapel of the Church of England or the Church in Wales, a building that is certified as a place of worship that has also been registered for the purpose of solemnizing marriage, or at naval, military and air force chapels. Exceptions to these are marriages that take place at the residence of someone who is housebound, the detained, or of someone who is seriously ill and not expected to recover.

Members of the Jewish religion and the Society of Friends (Quakers) do not, however, have to register their place of worship for marriage ceremonies and can conduct marriages according to their rites in any place, including outdoors. This reflects the historic development of marriage law in England and Wales, and is the result of arrangements dating back over 250 years when provision was made enabling Jews and Quakers to conduct legal marriages outside the Anglican Church. These provisions have been maintained in current law although there are no provisions for other religious or civil marriage ceremonies to have this flexibility.

Legal preliminaries

Church of England and Church in Wales marriages usually follow the ecclesiastical preliminaries set out in Part 2 of the Marriage Act 1949. If a couple wishes to have their marriage solemnized following the publication of banns, they must give notice in writing to a clergyman in the church in which they wish to be married. The banns are then published

⁴ A superintendent registrar (SR) is a statutory officer of the local registration service in England and Wales. The SR has legal custody of all of the birth, marriage and death registers for the local district; is responsible for the legal preliminaries of marriage for residents of the district; and officiates at civil marriages within a register office or at approved premises.

by pronouncement during a church service on three Sundays preceding the solemnization of the marriage. Banns need to be read in the parish where each party lives, as well as the church in which they are to be married if that is somewhere else. On completion of the banns the marriage may be solemnized in one of the churches in which the banns have been published. The validity of the banns lasts three months from the date of completion. Once a marriage has taken place, the clergyman who solemnized the marriage must register it in the marriage register books for the church supplied by the Registrar General⁵.

In the case of any intended marriage where a party is a non-European Economic Area (non-EEA) national, the couple must apply for a common licence in accordance with the arrangements that have been put in place for dealing with these cases by the chancellor of the diocese. Before a common licence can be issued, the person responsible for granting the licence requires a letter from the minister who it is intended will conduct the marriage stating that he or she has met both parties (preferably on a number of occasions and at least once in their own home) and, having discussed the marriage with them, is satisfied that the intended marriage is genuine and that he or she is content to conduct the marriage.

If a couple wishes to have their marriage solemnized on the authority of certificates of a superintendent registrar, they must give a notice of marriage in the registration district in which they live (they must have been resident there for 7 days). This is not however the case for those subject to immigration control, who are required to go to a designated register office. Once notice is given the superintendent registrar files the notice of marriage and enters the particulars in the marriage notice book. The notice period for marriages is currently 15 days (this will change to 28 days when the Immigration Act 2014 comes into force).⁶ On expiry of this waiting period, where no objections have been raised, the superintendent registrar issues the certificates which enable the marriage to be solemnized. The validity of the notice lasts for 12 months from the date of completion.

The purpose of the notice and banns period is to enable any objection to the marriage to be raised.

In addition to complying with the relevant procedures described above, for a marriage to be valid in England and Wales certain legal requirements must be complied with⁷ and the marriage must be solemnized by one of the ceremonies detailed below. With the exception of Jewish and Quaker marriages, ceremonies must include the statutory declarations and contracting words. In England and Wales the statutory declaration is usually the following (there are slightly different alternatives to this with the same effect): “I do solemnly declare that I know not of any lawful impediment why I, __ may not be joined in matrimony to __”. This is followed by “I call upon these persons here present to witness that I __ do take thee __ to be my lawful wedded husband/wife.”

⁵ The Registrar General is the Head of the General Register Office (GRO). The GRO is part of Her Majesty's Passport Office and oversees civil registration in England and Wales. The GRO maintains the records of all births, marriages and deaths dating back to 1837.

⁶ The Immigration Act 2014 provides for a new referral and investigation scheme to tackle sham marriages and will increase the marriage and civil partnership notice period to 28 days in England and Wales.

⁷ Each of the parties must meet the specified age requirements (under 16s cannot marry; under 18s can marry with parental consent) and mental capacity requirements; the parties must not be close blood relatives or within the other prohibited degrees of relationship set out in Schedule 1 of the Marriage Act 1949; either of the parties must not already be in a valid subsisting marriage or civil partnership; the parties must understand the nature of the marriage contract they are entering into; and certain requirements must be met.

Ceremonies

Civil ceremonies

Civil ceremonies can take place in a register office or at approved premises in the presence of a superintendent registrar and registrar. A proprietor or a trustee of a building can apply to the local authority in which the building is situated for it to be registered to solemnize marriages. The local authority must approve the premises if the building is:

- a seemly and dignified venue;
- regularly available for public use for marriage and civil partnerships; and
- able to comply with the relevant health and safety requirements.

Once a building is approved by the local authority there are no restrictions on who can be married within it, provided that the legal requirements are met. No religious content may be used at a civil ceremony, it must be completely secular in nature, but other personal touches may be incorporated including those which reflect non-religious values and beliefs.

It is the registrar's responsibility to ensure that the legal preliminaries to the marriage have been completed correctly. Once a marriage is solemnized, the registrar must record details of the marriage into his or her marriage register book.

Religious ceremonies

Religious organisations (other than the Church of England or Church in Wales, which have a separate position in marriage law by virtue of their historical position as the established church, and the Society of Friends and the Jewish religion, which are exempt) may solemnize marriages provided that the marriage is solemnized in a building registered for that purpose in the presence of an authorised person or registrar. Authorised persons are usually members of the religious community (sometimes the minister or priest who is to perform the marriage ceremony), appointed by the religious organisation to carry out the functions of the registrar. Who can marry in registered religious buildings is a matter for the religion in question. For a building to be registered for marriages it must be certified as a place of religious worship under the Places of Worship Registration Act 1855.⁸

It is for a religious organisation to determine who conducts the marriage ceremony. The marriage can take place according to any rites and ceremonies of a religious body that the couple and person who is to perform the marriage ceremony agree to use, provided that the consent of the minister or the trustees of the building has been obtained. In addition, in some part of the ceremony in the presence of two witnesses, the couple must say the words of declaration and contract to each other as specified in the 1949 Act. These words cannot be separated from the ceremony and must form an integral part of it.

The marriage must be registered by a registrar or an authorised person. If the building is newly registered, a registrar must be present at all marriages for the first year after the registration of the building. To appoint an authorised person, the trustees or governing body

⁸ The 1855 Act requires a building to be used as a place of meeting for religious worship by a congregation or assembly of persons.

of the registered building must certify the name and address of the person they wish to authorise to the Registrar General and to the superintendent registrar of the district in which the building is situated. Duplicate marriage registers will be held by the authorised person in the registered building with quarterly returns made to the superintendent registrar.

For historic reasons, those marrying according to the usages of the Jews and Society of Friends (Quakers) are exempt from some of the conditions currently imposed on those marrying according to all other religious rites. Quaker and Jewish marriage ceremonies are not required to use prescribed words of declaration and contract; and it is not necessary for buildings in which Quaker and Jewish marriages are solemnized to be registered. This means that such marriages can take place anywhere, including outside, though the place still needs to be specified by the couple when notices of marriage are given. Only individuals who are members of the Society of Friends or who have been authorised by the Society of Friends may marry in Quaker ceremonies. Jewish marriages may only be solemnized between two persons professing the Jewish religion. The marriage is registered in the duplicate marriage registers held by the Secretary of the Synagogue or the registering officer appointed by the Recording Clerk of the Society of Friends.

Section 14 of the Marriage (Same Sex Couples) Act 2013

The Marriage (Same Sex Couples) Act 2013 (“the 2013 Act”) makes the marriage of same sex couples lawful in England and Wales. The Act will also enable civil partners to convert their partnership to a marriage if they wish to do so, and married individuals to change their legal gender without having to end their marriage, though these provisions are not yet in force. Although civil partners will be able to convert their partnership into a marriage, civil partnerships continue to be recognised as a legal union with new civil partnerships able to be formed.

During the passage of the 2013 Act a number of opposition amendments were tabled to allow the British Humanist Association, and potentially any other non-religious belief organisation, to solemnize marriages. The Government had not consulted on belief marriages as part of its consultation on marriage of same sex couples and felt that a public consultation should take place before a decision was reached on further amending marriage law in this respect. The Government brought forward an amendment to the Bill that requires a review and statutory consultation on whether belief organisations should be permitted to solemnize marriages on the authority of certificates issued by superintendent registrars. A “belief organisation” is defined as an organisation whose principal or sole purpose is the advancement of a system of non-religious beliefs which relate to morality or ethics⁹.

⁹ Section 14(7) of the 2013 Act states the following in relation to marriage according to the usages of belief organisations:

- (1) The Secretary of State must arrange for a review of
 - (a) whether an order under subsection (4) should be made permitting marriages according to the usages of belief organisations to be solemnized on the authority of certificates of a superintendent registrar, and
 - (b) if so, what provision should be included in the order.
- (2) The arrangements made by the Secretary of State under subsection (1) must provide for the review to include a full public consultation.
- (3) The Secretary of State must arrange for a report on the outcome of the review to be produced and published before 1 January 2015.

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

(5) An order under subsection (4) may –

(a) amend any England and Wales legislation.

(b) make provision for the charging of fees

(6) An order under subsection (4) must provide that no religious service may be used at a marriage which is solemnized in pursuance of the order.

(7) In this section “belief organisation” means “an organisation whose principal or sole purpose is the advancement of a system of non-religious beliefs which relate to morality or ethics”.

PART 3 - Consultation issues and questions

The following Part sets out the issues and specific questions on which the Government seeks your views.

1. The solemnization of marriages by belief organisations: is there a substantial case for change?

There is a need to consider the arguments for allowing non-religious belief organisations to solemnize marriages in England and Wales alongside consideration of the wider implications of opening a new route to marriage and a new system of regulation. In Scotland the law has been changed to allow for humanist and other belief marriages, but it should be noted that this is within a system where the “celebrant model” for marriages exists.¹⁰ In England and Wales we have a different system with different safeguards whereby the solemnization and registration of marriage is based predominantly on the registration of buildings. If we are going to make a change we need to make sure that we have properly considered what this means for our system and fully taken into account the full range of views on the matter.

In drafting this consultation paper the Government has been conscious of the views expressed by MPs and Peers during the Parliamentary debates on the Marriage (Same Sex Couples) Act 2013 in relation to belief marriages, as well as the views of humanists and other key stakeholders.

The overarching principles which underlie this consultation are:

- if there is a desire for change, that there should be a clear rationale for the need for non-religious belief ceremonies alongside religious and civil ceremonies;
- the need to preserve the particular status and dignity of marriage in society and manage any risk that may result from changing the law (for example, in relation to the problem of preventing forced and sham marriages);
- given our system of registering buildings for solemnizing marriages, and the fact that humanists do not have buildings which are associated with their beliefs (and that this may also be the case for any other belief bodies able to meet the criteria to

¹⁰ In Scotland the creation of a legally valid marriage is based on the *celebrant* being authorised by the Registrar General (RG) for Scotland rather than on the registration of *buildings*. Since June 2005, under section 12 of the Marriage (Scotland) Act 1977, the RG for Scotland has granted temporary authorisation to certain humanist celebrants to conduct legally recognised marriages (this is not available in England and Wales because the Marriage Act 1949 has no equivalent to section 12). There are currently five organisations providing humanist wedding ceremonies in Scotland. The Marriage and Civil Partnership (Scotland) Act 2014 broadens the “religious” category of marriage to “religious or belief” to allow for humanist and other non-religious belief marriages. To ensure the continued reputation of Scottish marriage ceremonies, and in light of increasing concerns over sham and forced marriages, the Act will also introduce tests for religious and belief bodies to meet before the body’s celebrants can be authorised to solemnise a marriage or register a civil partnership.

solemnize marriages), the need to consider where belief marriages would take place and the resulting implications for marriage law and practice; and

- the need to ensure that we do not undermine the religious protections that are fundamental to the legislation which has recently come into force to enable the marriage of same sex couples.

Humanist couples, like other couples who do not want to have a religious marriage, are able to have a civil marriage either in a register office or at approved premises. A civil ceremony can incorporate personal (non religious) elements such as involving others in the ceremony, writing personal vows, and choosing readings or songs, including those which reflect non-religious values and beliefs. If they wish, couples can also have a separate blessing or ceremony after the civil marriage ceremony.

The British Humanist Association (BHA) provide non legally binding humanist marriage ceremonies in England and Wales, and report that about 20% of the couples to whom they provide these ceremonies do not have an additional legally valid civil ceremony.¹¹

Those supporting a change in the law argue that humanists, and potentially others that adhere to a system of non-religious beliefs, suffer a disadvantage because they are not treated in the same way as those whose beliefs are religious who are able to marry in a legally valid ceremony which reflects their beliefs and is conducted by a celebrant who shares their religion (although a civil ceremony can incorporate personal non-religious elements it must be solemnized in the presence of a superintendent registrar and registrar).

Consideration is required as to whether the current law/civil marriage caters adequately for couples with humanist and other non-religious beliefs, given that couples with a range of non-religious beliefs can marry in civil ceremonies that they can personalise, including through the inclusion of (non-religious) personal vows based on their beliefs. The BHA argue that a humanist ceremony is more than, and different from, a secular occasion, with some 80% of couples who have a wedding conducted by the BHA choosing to have a humanist wedding in addition to a legal civil ceremony; and that it is of relevance that the registrar, however sympathetic, may not share the same beliefs as the couple.¹²

Supporters of non-religious belief marriage ceremonies contend that there is a genuine demand for such marriages. According to the BHA over 600 non-legally binding marriage ceremonies were conducted by humanist celebrants in England and Wales in 2013. In Scotland the proportion of humanist marriages has grown since their legal recognition in 2005, with 3052 such marriages taking place in 2013 (contributing 10% of marriages overall).¹³

¹¹ BHA submission to MoJ in response to the Marriage (Same Sex Couples) Act, Sept 2013.

¹² The BHA has submitted to government a range of testimonies from couples who have had both humanist weddings and civil ceremonies in England and Wales. Couples describe how important and meaningful it was for them to have a ceremony performed by a humanist celebrant in a setting that fully reflected their beliefs and was personal to them. Some couples said that their register office wedding was an additional inconvenience and expense, and a number expressed sadness and disappointment that on paper their wedding day was not the same as the day of their Humanist ceremony.

¹³ Table 7.5 - <http://www.gro-scotland.gov.uk/statistics/theme/vital-events/general/ref-tables/2012/section-7-marriages-and-civil-partnerships.html>

Whilst the BHA has been the most active in campaigning for a change in the law, there may be other non-religious belief organisations who would wish to conduct marriage ceremonies.

In considering whether there is a case for amending the law to open up the solemnization of marriage to a larger, and currently uncertainly defined, group of organisations and celebrants, we need to consider how we could preserve the particular status and dignity of marriage in society and also minimise any resulting risks. The potential risks and how these might be managed are set out in section 3 of this part of the paper which looks at the implications for marriage practice.

The main risks identified relate to a change in the law inadvertently creating a commercial market for the solemnization of weddings (which the Government does not want to do); and preventing forced marriages (where one or both parties does not consent) and sham marriages (where the marriage is not genuine, often for immigration purposes). There is also a need to consider the implications of potentially giving belief organisations greater freedoms than the majority of religious organisations and those afforded to conduct civil ceremonies (if we were to allow belief bodies to conduct marriage ceremonies outside, for example).

In the light of making any further legislative changes, we must also consider the recent changes established through the Marriage (Same Sex Couples) Act 2013 (the “2013 Act”) to allow marriages between same sex couples, aspects of which are still in the process of being implemented. This includes the need to preserve those provisions within the 2013 Act which protect religious organisations which do not want to marry same sex couples at the same time as allowing those who do to opt in.

Question 1: Is there a substantial case for a change in the law to establish non-religious belief ceremonies as a third type of legal ceremony, alongside religious and civil ceremonies, for getting married in England and Wales?

2. Which organisations are capable of meeting the criteria for belief organisations able to solemnize marriages?

The starting point for determining which organisations would be able to conduct belief marriage ceremonies if the law was changed is the definition set out in section 14(7) of the Marriage (Same Sex Couples) Act 2013. This defines a belief organisation, for the purposes of this review, as:

“an organisation whose principal or sole purpose is the advancement of a system of non-religious beliefs which relate to morality or ethics”.

Part of the purpose of this consultation is to seek views on which organisations, in addition to humanists, are capable of meeting the criteria set out in section 14 of the 2013 Act, and if the definition should be narrowed.

The definition excludes all types of religious organisation including non theistic religions¹⁴ such as Scientology, whether or not these organisations are currently registered to

¹⁴ Non-theistic religions do not have or involve a belief in a god or gods.

solemnize marriages under the Places of Worship Registration Act 1855. Marriage law maintains a separation between religious worship and secular 'belief', and for this reason humanists and any other non-religious belief organisations are not capable of having premises certified under the 1855 Act.

It is the Government's initial view that, should marriages by belief organisations be permitted, we would not want to include a commercial (or any other) organisation that is not a genuine belief body but is seeking to profit financially from a change to the regulations.¹⁵ It may also be the case that the definition of Humanism, and potentially other non-religious belief systems, provided in Section 14 is capable of capturing other types of organisations which, in the Government's view, are not appropriate for solemnizing marriages, for example, campaigning organisations or organisations that promote a cause.

Depending on the type and range of groups that might meet the definition of belief organisation, it may be appropriate to add additional restrictions for those who are able to solemnize marriages. In section 3 of this part of the paper we set out issues concerning the introduction of safeguards within marriage practice if belief marriages are allowed, and ask for your views on the principle of applying certain tests or criteria to belief organisations as part of an authorisation process. This includes, for example, consideration of whether a belief body which is able to solemnize marriages should be required through regulations to have charitable status. Such organisations would have to be for the benefit of the public (as opposed to mainly for the benefit of specific individuals) and could not have a political purpose (though, under the charity law, a charity is permitted to carry out political activity to further a charitable purpose).

Question 2: Which organisations other than humanists could be capable of meeting the definition set out in Section 14 of the Marriage (Same Sex Couples) Act 2013, and on what basis?

Question 3: If the Government were to change the law, do you think that certain criteria should be added to narrow the definition in section 14 in order to ensure that the types of organisations able to solemnize non-religious belief marriage are appropriate? If so, which types of organisations do you think are not appropriate?

3. The impact on marriage practice

Marriage is an important institution which affects legal rights and obligations and as such it is right that as well as regulating who can solemnize marriage we should regulate *where* and, to a certain extent, *how* marriage is solemnized. Consideration must then be given to what safeguards and arrangements would be required if the law was changed to permit belief marriages, to ensure that the status and dignity of marriage was protected and that the significant legal commitment made through marriage continued to be properly regulated and recorded.

¹⁵ An undertaking was given by Baroness Stowell (House of Lords, 8 July 2013, Column 94) that commercial organisations would be excluded from solemnizing marriages.

Regulations would need to provide for the minimum requirements for approval of an organisation and its celebrants, procedures for the issuing and safe keeping of marriage register books and certificates, and other relevant provisions in the Marriage Act 1949.

Where belief marriage ceremonies would take place

Given that the law on marriage solemnization is based broadly on the ceremony taking place in a building registered for that purpose (with the exemption of Quaker and Jewish marriages) there is a need to consider where, if allowed, belief marriages would take place.

In respect of the options set out below, consideration would need to be given to the safe keeping of the marriage register books and certificates. Within options 1 and 3 it would be possible to authorise individuals from belief bodies to both register and solemnize the marriage *or* to solemnize the marriage only, with a registrar then required to attend to register the marriage and keep the marriage register book and certificates.

Procedures would also need to be established in line with those set out in legislation concerning religious and civil ceremonies for individuals who are seriously ill and not expected to recover (Deathbed marriages) and marriages of detained and housebound people.

Option 1: register buildings

One option would be to replicate the approach taken to religious organisations and require that there be some form of registration of a building which belongs to the belief organisation or where the organisation meets to manifest its beliefs as a group. The trustees or governing authority of that registered building would then be able to authorise persons to carry out the functions of the registrar/celebrant. To appoint an authorised person, the trustees or governing body of the registered building would certify the name and address of the individual they wish to authorise to the Registrar General.

This option would however require belief organisations to have buildings to register or to be part of the governance structure of buildings in which they meet to manifest their beliefs.

Option 2: no restrictions

Under this option the Registrar General would register a belief organisation to solemnize marriages and designate an officer of that organisation to authorise persons to act as registering officers/celebrants on behalf of the belief organisation. To appoint an authorised person the trustees or governing body of the organisation would certify the name and address of the individuals they wish to authorise to the Registrar General. Marriages could take place anywhere (other than religious premises) that is meaningful to the couple, including outdoors.

This mirrors the position of the Quakers and Jews which is the result of arrangements dating back to 1753, when provision was made enabling them to conduct legal marriages outside of the Anglican Church. The relevant provisions take account of their particular position and rules and have been transposed to current law. No other marriages, religious or civil, are allowed to take place without restrictions. In practice, it is the case that the majority of Jewish and Quaker marriages take place in buildings. Quaker marriages are usually performed in a place where there is a regular Meeting for Worship held. Many Jewish marriage ceremonies take place in a synagogue, but Jewish weddings are also held in hotels and other places and venues.

Allowing belief organisations to conduct outdoor marriages without allowing the majority of religious organisations or registrars to do the same is likely to give belief organisations a benefit over organisations conducting marriages that are more restricted. In addition many couples, including those that choose to have a civil ceremony, may wish to get married outdoors or in a non registered building and so may view the change as unfair.

Option 3: approved premises

With this option, registered belief organisations would be restricted to solemnizing marriages at premises approved for this purpose by local authorities (such as stately homes and hotels), whilst still being able to hold legal ceremonies according to their beliefs conducted by a celebrant who shares those beliefs.

The Registrar General would register a belief organisation to solemnize marriages and designate an officer of that organisation to authorise persons to act as registering officers/celebrants on behalf of the belief organisation. To appoint an authorised person the trustees or governing body of the organisation would certify the name and address of the individuals they wish to authorise to the Registrar General.

This option would fit with the civil route to marriage in respect of where marriages could take place. It would mean that belief organisations, and the couples whose marriages they solemnize, were not treated more favourably than the majority of religious organisations, or the majority of couples marrying in a religious or civil ceremony, as it would not enable belief organisations to conduct marriage ceremonies outside.

Question 4: The Government invites your views on where belief organisations should conduct marriage ceremonies if marriage law were to be amended to allow for such marriages.

Providing appropriate safeguards

If it is decided that there is a substantial case for changing the law to allow for marriages by belief organisations, regulations will need to provide appropriate safeguards to ensure the continued reputation of marriage ceremonies in England and Wales, guard against any purely commercial interests, and minimise any increased risk regarding forced marriages and sham marriages. The regulations would also be able to include criminal offences similar to those in the 1949 Act.¹⁶

Sham marriages and civil partnerships (undertaken for immigration advantage by a couple who are not in a genuine relationship) pose a significant threat to UK immigration control. The number of reports of suspected sham cases received has continued to increase, with 2,135 reports received in 2013. The Immigration Act 2014 provides for a new referral and investigation scheme to tackle sham marriages. This legislation will increase the marriage and civil partnership notice period to 28 days in England and Wales and non-European Economic Area (non-EEA) nationals will only be able to marry in the Church of England and Church in Wales following civil preliminaries. Notices of marriage or civil partnership involving a non-EEA national will be referred to the Home Office where that person could

¹⁶ Sections 75-77 of the Marriage Act 1949 set out offences relating to the solemnization of marriages, the registration of marriages, and offences by authorised persons.

gain an immigration advantage from the marriage or civil partnership. Where the Home Office has reasonable grounds to suspect that a referred marriage or civil partnership is a sham, it will be able to extend the notice period to 70 days in order to investigate the genuineness of the couple's relationship. A couple will be unable to get married or enter into a civil partnership if they do not comply with an investigation. The Home Office is currently working towards the introduction of the scheme in early 2015.¹⁷

Like couples seeking to be married in either a civil or religious ceremony (including Church of England and Church in Wales ceremonies), couples intending to marry in a non-religious belief ceremony would be required to complete civil preliminaries before marrying. This would mean that the new referral and investigation scheme would apply to such marriages.

In 2013 the Government's Forced Marriage Unit provided advice or support related to a possible forced marriage in 1302 cases. However, we know that this does not reflect the full scale of the abuse, and that many more cases are not reported. The Government is currently working to introduce a new criminal offence of forced marriage and the breach of Forced Marriage Protection Orders will also be criminalised. The Anti-social Behaviour, Crime and Policing Bill received Royal Assent on 13 March 2014, and the new forced marriage offences will come into effect by summer 2014.

These changes will help with the prevention of forced marriages and help tackle the problem of sham marriages and sham civil partnerships. However, we know that legislation is not enough. For example, although reduced, there will still be some risk of the authorities failing to identify marriages that are not genuine during the notice period. This means that belief organisations authorised to solemnize marriages and their celebrants would need to have the knowledge and awareness that is relevant to identifying and tackling forced and sham marriages.

In Section 2 of this paper we ask if you think certain criteria should be added to narrow the definition in section 14 of the Marriage (Same Sex Couples) Act in order to ensure that the types of organisations able to solemnize non-religious belief marriage are appropriate. If the Government were to change the law, regulations would be able to provide for the minimum requirements for approval of a belief organisation and introduce tests which a belief organisation would have to meet before its registering officers/celebrants could be authorised to solemnize a marriage. This would avoid the situation whereby the Registrar General was given discretion to decide which organisations to be registered were of good repute without the aid of any agreed criteria.¹⁸

¹⁷https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/256257/Sham_Marriage_and_Civil_Partnerships.pdf

¹⁸ To ensure the continued reputation of Scottish marriage ceremonies, and in light of increasing concerns over sham and forced marriages, the Marriage and Civil Partnership (Scotland) Act 2014 introduces tests for religious and belief bodies to meet before the body's celebrants can be authorised to solemnize a marriage or register a civil partnership. The tests will not apply to the Church of Scotland in relation to opposite sex marriage given that Church of Scotland ministers and deacons are automatically authorised to solemnise opposite sex marriage by virtue of section 8 of the 1977 Act. As the tests will apply to all religious and belief bodies, the Scottish Government is in the process of reviewing the current regulations prescribing religious bodies whose celebrants are authorised to solemnise opposite sex marriage. When consulting on the 2014 Act the Scottish Government stated that the sort of tests which might be laid down in regulations were that the religious or belief body would not be allowed to solemnise marriages or register civil partnerships for profit or gain; would have to show that their celebrants were trained in areas such as tackling forced marriages and

The Government's initial view is that it would want to prevent commercial organisations from being able to profit from belief-based marriages. We would not however want to regulate in such a way as to prevent registered belief organisations from charging a professional fee or for the use of premises (as is the case with civil and religious marriages), or couples from making a donation to the funds of the organisation solemnizing their marriage (as is the case with religious organisations).

The sort of tests which might be laid down in regulations are:

- The belief organisation must have been in existence for ten years or more, OR, as an alternative, the belief organisation must have been in existence for five years or more
- The belief organisation must have charitable status, OR, as an alternative, be a registered charity, and principally concerned with advancing or practicing a non-religious belief
- The belief organisation must have in place written procedures for the selection, training and accreditation of persons to register and conduct the solemnizations of marriages which are rooted in its belief system
- The belief organisation must be able to demonstrate that their registering officers/celebrants are trained in areas such as tackling forced marriages and sham marriages, and in marriage law more generally including to avoid irregular marriages
- The belief organisation must be able to demonstrate that their celebrants discuss the forthcoming marriage with the couple
- The belief organisation must not intend to solemnize marriages for profit or gain

Requiring organisations to have been in continuous existence for at least five years, or possibly up to ten years, would ensure that the belief organisation is well established and would be intended to provide some guarantee of stability and responsibility.

Requiring an organisation to have charitable status should provide some additional safeguards in that such organisations will be governed by trustees and have to meet the public benefit requirement referred to in the Charities Act 2011. The merit of providing such safeguards needs to be considered alongside whether requiring organisations to be charities might exclude some genuine belief organisations from solemnizing marriages.

Unincorporated charities must subject their accounts to outside scrutiny but are not otherwise subject to external monitoring. However, unless a charity is specifically exempt, the Charity Commission can use its regulatory powers on an unregistered charity if there is a concern about its administration. Requiring belief bodies to be registered (as opposed to unincorporated) charities would provide a measure of scrutiny by the Charity Commission. It should be noted that registered charities that have a gross annual income of less than £25,000 are subject to a light touch regulatory regime. Requiring belief bodies to be registered charities might also exclude organisations with a gross annual income of

sham marriages; would have to show that their celebrants discuss the forthcoming marriage or civil partnership with the couple; and would have to show that their celebrants have a track record in carrying out relevant ceremonies (for example, marriages, funerals, and baptisms or baby namings).

less than £5000 as the Charity Commission will not register these organisations unless there are very unusual circumstances.

Requiring organisations to train and accredit their registering officers/celebrants would help to manage important risks such as forced and sham marriages and ensure that ceremonies were appropriately dignified and of good quality. There would, however, be a need to consider how it could be determined that the training and accreditation was of sufficient quality and if that quality was maintained over time, potentially linked to the power to remove accreditation.

The local training of registrars is currently determined and delivered by the corresponding local authority as registrars are local authority employees. However, working in partnership with local government, a National Training Strategy is in place, owned jointly by the Registrar General and the National Panel for Registration (which sets priorities and ensures training is delivered to an acceptable standard). A National Training Working Group also exists to support the overall objective of driving up standards within the registration service. The Registrar General, via the General Register Office (GRO), provides tools which support the delivery of registration training to ensure that the local registration service has the appropriate technical skills and competencies. Within this model most local authorities have training officers who feed into regional training groups, and together with GRO assist with the development of online and classroom based training packages, handbook updates and circulars. Sections 24 and 24A of the Immigration and Asylum Act 1999 place a duty on registration authorities and registrars to report suspected sham marriages and civil partnerships to the Home Office.

There is no national, formal training provided by GRO or the local registration service for religious organisations in respect of solemnizing and registering marriages. However some register offices provide training and support to assist them in their duties and GRO provides guidebooks and regular newsletters to the Clergy, Authorised Persons and Secretaries of Synagogues. Guidance is also provided to Authorised Persons on identifying a potential sham marriage at the time of the ceremony and advises that any suspicions are reported to the superintendent registrar. Both Authorised Persons and the Clergy are advised to contact the Forced Marriage Unit if forced marriage is suspected. A number of religious organisations provide training to their own clergy and ministers in respect of solemnizing and registering marriages but this is not universal.

It would be the case, therefore, that if we required training, and also potentially accreditation, for belief organisations in registering and solemnizing marriages, and/or in identifying sham and forced marriages, we would be requiring more of non-religious belief bodies than we currently require of religious organisations, and also potentially of some registrars as, currently, training of registrars is not standardised across the whole of England and Wales (although best practice is provided for, as well as training material, as part of the national training strategy). If we were to change the law we would need to ensure that we had a system that took account of the approach to training across all types of marriage ceremonies.

In addition to the sorts of tests outlined above, it would be possible to extend the safeguards that the Registrar General can apply to religious organisations to belief organisations. Regulations could specify that, as with religious organisations, all newly registered belief organisations must have a registrar attending all marriages in the first year of their registration; and that this requirement can be extended if there are procedural concerns. In addition, belief marriages, like religious and civil marriages, would have to take place 'with open doors' (in other words they must be publicly accessible).

Ceremonies

Section 14 of the 2013 Act says that marriages by belief organisations would need to be carried out ‘according to the usages’ of the organisations. The Act further requires that ‘no religious service may be used at a marriage’ of a belief organisation. If belief marriage ceremonies were to be allowed, it would be necessary to require through legislation the presence of witnesses (as in section 44(2) and elsewhere in the 1949 Marriage Act). A decision would be required on whether belief ceremonies should include the statutory declarations and contracting words required of civil and religious marriages by section 44(3) and (3A) of the 1949 Act (with the exception of Quaker and Jewish marriages, which are not subject to this requirement).

Specified requirements for the approval of a belief organisation and the authorisation of their celebrants, such as those set out in the tests outlined above, would help ensure that ceremonies were dignified and appropriate.

It is worth considering if belief marriage ceremonies should be confined to the members of the belief organisation, with the possible proviso in the case of a member marrying someone whose beliefs are incompatible with membership but who is nonetheless authorised by the belief organisation to be married within a ceremony it conducts. Such a provision could help ensure that the ceremony was rooted in the relevant belief and help guard against any tendency to commercialisation. Jewish marriages may only be solemnized between two persons professing the Jewish religion. For Quaker marriages only persons who are members of the Society of Friends or who have been authorised by the Society may marry in Quaker ceremonies. For other religions it is not specified who may be married by them, leaving the question for the organisation themselves.

Question 5: The Government invites your views on the principle of establishing tests that a belief organisation would have to meet before they could be authorised to solemnize marriages and what these tests might be.

Question 6: If belief marriages are allowed, should safeguards that are currently applied to new religious organisations that conduct marriages be extended to belief organisations?

Question 7: Should marriages by belief organisations, if allowed, be confined to members of the belief organisation?

4. Equality issues

Under the Equality Act 2010, Government must consider the equalities impact of any proposed changes and have due regard to the need to:

- eliminate discrimination, harassment and victimisation and other conduct prohibited by the Act;
- advance equality of opportunity between people who share a protected characteristic and those who do not; and
- foster good relations between people who share a protected characteristic and those who do not.

For the purposes of the public sector equality duty the relevant protected characteristics are: age; disability; gender reassignment; pregnancy and maternity; race; religion or belief; sex; and sexual orientation.

If belief marriages were to be allowed in England and Wales, the Government would need to determine whether belief organisations should be required to conduct both same and opposite sex marriages like civil registrars, or (as is the case in Scotland) be treated in the same way as religious organisations, with belief organisations having to 'opt in' to solemnize marriages of same sex couples. If belief organisations were required to conduct marriages of same sex couples, individuals could still be protected through regulations, so that no individual celebrant would be compelled to conduct marriages of same sex couples, and organisations would be able to appoint the individuals that they choose for this purpose.

We have undertaken an initial equalities assessment of the likely impact of our proposals, which is provided at **Annex A**. The assessment details potential impacts on marrying couples with protected characteristics, and concludes that these proposals and options are not directly discriminatory and are also unlikely to amount to indirect discrimination.

We welcome any further views on the potential equalities impacts of the proposals in this consultation as well as any related information to help with our understanding and assessment of the impacts.

Question 8: What do you consider to be the equality impacts of the proposed options on marrying couples who have protected characteristics?

Can you provide any evidence or sources of information that will help us to better understand and inform our assessment of the impact of these proposals?

Thank you for participating in this consultation exercise.

Annex A: Marriages by non-religious belief organisations - Equality statement

Policy objective

Non-religious belief organisations (such as humanists) cannot solemnize legally valid marriages in England and Wales. Humanists, and any other non-religious belief organisations can hold non-legally valid ceremonies of marriage, but if couples require a legally valid marriage they need to have a legally recognised civil ceremony (e.g. at a register office or at premises approved by the local authority).

Those supporting a change in the law argue that humanists suffer a disadvantage because they are not treated in the same way as those whose beliefs are religious and able to marry in a legally valid ceremony which reflects their values and which is conducted by a celebrant who shares their beliefs (although a civil ceremony can incorporate personal non-religious elements it must be solemnized in the presence of a superintendent registrar and registrar).

Section 14 of the Marriage (Same Sex Couples) Act 2013 requires the Government to carry out a review of whether an order should be made to permit marriages by non-religious belief organisations. The review must include a public consultation. The Government is required to publish a report on the outcome of the review by 1 January 2015.

Whilst the British Humanist Association has campaigned for a change in the law in relation to humanist marriage ceremonies, there may be other non religious belief organisations who would wish to conduct marriage ceremonies. The consultation aims to get a fuller picture of the impact of any potential change in the law.

The purpose of the consultation is to inform decisions on (i) whether there is a substantial case for change to allow non-religious belief organisations to solemnise marriages; (ii) to determine which organisations would be included in the definition of belief organisations provided by the 2013 Act, and if that definition should be narrowed to provide for any safeguards; and (iii) to get views on what practical arrangements should be put in place if such marriage ceremonies are allowed.

If the outcome of the review is that the law should be changed, to establish legally valid non-religious belief marriage ceremonies alongside religious and civil ceremonies in a way which:

- preserves the particular status and dignity of marriage in society;
- robustly manages risks that may result from changing the law (for example, in relation to the prevention of sham marriages);
- preserves the religious protections that are fundamental to the legislation which has recently come into force to enable the marriage of same sex couples; and
- prevents organisations that are not genuine belief organisations from being able to register as belief bodies able to solemnize marriages.

Equality duties

Section 149 of the Equality Act 2010 (“the EA”) requires Ministers and the Department, when exercising their functions, to have ‘due regard’ to the need to:

- Eliminate discrimination, harassment, victimisation and any other conduct prohibited by the EA;
- Advance equality of opportunity between different groups (those who share a relevant protected characteristic and those who do not); and
- Foster good relations between different groups (those who share a relevant protected characteristic and those who do not).

The ‘due regard’ duty relates to the relevant “protected characteristics” under the EA – namely race, sex, disability, sexual orientation, religion and belief, age, gender reassignment, pregnancy and maternity.

The MoJ has a legal duty to consider how the proposed policy proposals are likely to affect those people with protected characteristics and take proportionate steps to mitigate or justify the most negative ones and advance the positive ones.

Summary

Consideration has been given to the impact of the proposals against the statutory obligations under the EA. These are outlined below.

Direct Discrimination

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

Indirect Discrimination

Our initial assessment, based on the limited information available, is that either accepting or rejecting the allowing of belief marriage ceremonies would be unlikely to amount to indirect discrimination under the EA since any resulting changes to marriage law are unlikely to result in anyone sharing a protected characteristic being put at a particular disadvantage, compared to those who do not share that protected characteristic. Depending on the approach taken, if there were to be any difference in treatment between those sharing a protected characteristic and those who do not, the government’s initial assessment is that the proposed options are a proportionate means of achieving the legitimate aims of the policy objectives set out above.

In considering whether there is a case for changing the law, the government will take into account the need to have due regard to the need to eliminate discrimination and the effect of the proposals on those with and without protected characteristics. The consultation seeks further information on the equality impacts of the proposals.

Discrimination arising from disability and duty to make reasonable adjustments

Our initial assessment based on the limited information available is that the proposals will not result in discrimination arising from disability.

Harassment and victimisation

We do not consider that the proposals will give rise to harassment or victimisation within the meaning of the EA 2010.

Advancing equality of opportunity

The Ministry of Justice is mindful of the duty to consider advancing equality of opportunity and will consider the opportunity provided to those with religious beliefs and those with non-religious beliefs in so far as the proposals consider introducing legally valid non-religious belief marriage ceremonies alongside religious and civil ceremonies. Humanists believe that they suffer a disadvantage because they are not treated in the same way as those whose beliefs are religious as they are currently unable to solemnize marriages. Although treatment is not the same, consideration is required as to whether there is a substantive disadvantage, given that couples with a range of non-religious beliefs can marry in civil ceremonies that can incorporate non-religious elements including personal vows and can be held in any premises which are approved for the purpose.

The BHA currently does not have any buildings in which they could conduct marriage ceremonies and therefore the non-legally binding ceremonies they currently conduct are not restricted in terms of place and can also be held outside. This ability to conduct marriage ceremonies outside is not currently available to the majority of religious organisations or to registrars as the law currently requires buildings to be registered for the purposes of solemnizing marriages. For any change in the law to advance equality consideration may need to be given to any resulting differences in treatment between those holding non religious beliefs and religious beliefs with regard to where marriages can take place.

If belief marriage ceremonies are allowed the Government will need to determine if such marriages should be treated like civil ceremonies in respect of conducting marriages of same sex couples or (as is the case in Scotland) like religious ceremonies, with organisations having to 'opt in' to solemnize marriages of same sex couples.

Fostering good relations

Our initial assessment, based on the limited information available, is that it is unlikely that the proposals will impact on this area of the duty.

Methodology for Analysis

The British Humanist Association (BHA) currently conducts marriage ceremonies in England and Wales but these do not constitute marriages which have been legally solemnized. Around 600-800 such ceremonies are estimated by the BHA to take place each year. However, due to limitations in the available evidence, we are unable to identify the potential for the proposals to have any differential impact in respect of protected characteristics under the EA.

The Government acknowledges that it does not collect comprehensive information about couples who get married generally, and specifically information regarding protected characteristics. This limits government understanding of the potential equality impacts of

the proposals for reform. An attempt to collect further information on the demographics of users in these cases has been undertaken, but data is limited.

We will consider our initial assessment further in light of the consultation responses.

Equalities Questions

We have asked for views on potential equalities impacts through a question in the consultation paper.

Annex B: Marriages by non-religious belief organisations - Summary assessment of costs and benefits

1. This consultation considers the following Options for where legally valid non-religious belief marriages may take place, should the decision be made to allow such marriages. Currently there are no restrictions on where non-legally binding non-religious belief ceremonies may take place in England and Wales.

Option 0: Do nothing.

Option 1: Permit non-religious belief organisations to solemnize marriages within their own buildings or buildings where the organisation meets to manifest its beliefs and that have been certified for this purpose.

Option 2: Permit non-religious belief organisations to solemnize marriages anywhere (other than religious premises) meaningful to the couple, including outdoors.

Option 3: Permit non-religious belief organisations to solemnize marriages in 'approved premises' (other than religious premises), i.e. premises currently approved by local authorities to hold civil ceremonies.

Affected stakeholders

2. *Non-religious belief organisations* – would be affected as the proposed policies would allow them to register to legally solemnize marriages.
3. *Businesses and other bodies or organisations providing premises* – would be affected as the proposed reforms affect where non-religious belief marriages can take place.
4. *Local Authorities including Register Offices* – would be affected as the proposals may affect the number of people having a civil marriage ceremony and where non-religious belief marriages can take place, and may require registrars to supervise non-religious belief marriages during an initial 12 month period following registration of the belief organisation to conduct such marriages.
5. *Couples seeking legally binding marriages* – would be affected as they would have the additional choice of a non-religious belief marriage.

Costs

Costs to non-religious belief organisations

6. Non-religious belief organisations may be subject to a one-off fee for registering to solemnize marriages. The number of non-religious belief organisations which are able to meet the criteria provided in section 14 of the Marriage (Same Sex Couples) Act 2013 is expected to be very small.

7. Non-religious belief organisations may need to pay for a local authority to monitor their solemnization of marriages over the first 12 months.¹⁹
8. There may be additional one-off and ongoing costs to non-religious belief organisations for training and accrediting celebrants.
9. There may be additional one-off and ongoing costs to non-religious belief organisations from obtaining or hiring premises to hold ceremonies.
10. Non-religious belief organisations may be not for profit bodies. As explained in the benefits section we assume that they would charge fees for solemnising marriages in order to recover their costs of doing so. We therefore expect the net financial impact on non-religious belief organisations to be zero.

Costs to premises providers

11. Depending upon which Option is selected, there may be substitution between different types of premises ('approved' premises, unregistered premises, premises owned or hired by belief organisations), leading to an increase in activity and in costs for some premises providers, and a reduction in activity and in income for others.
12. As a result of ceremonies shifting between different premises providers, with some holding more ceremonies and others fewer, there may be business adjustment costs within the sector as a whole. Separately under Option 2 there may be some substitution away from holding ceremonies in premises at all and towards holding ceremonies outdoors. This may reduce the overall demand for using premises.
13. The profitability of businesses providing premises is assumed not to change as a result of the reforms. Where there is substitution between different types of premises as a result of the reforms, including substitution away from using premises at all and holding ceremonies outdoors, this may change the aggregate cost of providing all premises (for example if there an overall shift from using high cost premises to using low cost premises, and a shift away from using premises at all to going outdoors). Any change in aggregate costs of provision is assumed to be covered by a change in the aggregate fees charged for the use of all premises.
14. Equally for other premises providers who are not businesses and who might be third sector organisations, public sector bodies or other not for profit bodies, a change in their aggregate costs of providing premises is assumed to be covered by a change in their fee income, with a neutral net financial impact.
15. If the aggregate costs of providing all premises are lower following the reforms, this implies resources would be freed up for other profitable or productive activities.

Costs to Local Authorities

16. Couples choosing a non-religious belief marriage in future who previously chose to get married in a non-legally binding non-religious belief ceremony would no longer need to

¹⁹ The Marriage Act 1949 requires all newly registered religious organisations to have a registrar supervising and registering all marriages in the first year of their registration. This requirement can be extended beyond one year if there are procedural concerns.

have an additional civil ceremony in order to have a legally valid marriage. This may lead to a reduction of civil ceremonies taking place, with reduced fee income for local authority registration services (this would apply after the first 12 months if local authority registrars are required to monitor the solemnization of non-religious belief ceremonies over this initial period, and to charge the same fee as for a civil ceremony for doing this).

17. In addition some couples who currently choose a civil ceremony may in future choose a non-religious belief marriage. If so there would be a reduction of civil ceremonies taking place, with reduced fee income for local authority registration services.
18. If local authority registrars monitor the solemnization of non-religious belief ceremonies over the first 12 months they would incur costs from doing so. As explained in the benefits section, they are expected to charge fees to cover these costs so their net costs should be zero.
19. Procedures for the issuing and safe keeping of the marriage register books and certificates for non-religious belief marriages will have to be determined and may require the involvement of local authority registrars, with local authorities incurring costs accordingly. As explained in the benefits section, they are expected to charge fees to cover these costs so their net costs should be zero.
20. Where local authorities act as premises providers they will be affected as explained in the above section on premises providers.

Costs to couples seeking legally binding marriages

21. Where couples currently have a non-religious belief ceremony which is not legally valid, and where they continue to do so in future (if the law is not changed to permit legally valid belief ceremonies) no additional costs would be incurred. Equally no additional costs should be incurred by couples who currently have a non-religious belief ceremony together with a legal civil ceremony, and who in future have a legally binding non-religious belief marriage.
22. There may be increased fees for couples who currently have only a non-religious belief ceremony which is not legal, and who in future have a legally binding non-religious belief marriage. This is because any increased costs to a non-religious belief organisation of solemnizing marriages are expected to be passed to couples via the fees they are charged. These fees might be higher in the first 12 months, when non-religious belief marriages may have to be monitored by local authority registrars.
23. Couples may incur other costs as a result of marriages being held in different premises than beforehand. This would depend upon which Option is adopted and upon the behavioural response of couples. In particular we assume that any change in the costs of providing premises will be passed to couples via the fees they are charged for using premises.

Benefits

Benefits for non-religious belief organisations

24. Non-religious belief organisations are expected to charge couples fees to cover their costs. Their aggregate fee income should be higher than currently, in order to cover their increased aggregate costs.

25. Non-religious belief organisations would have the choice of whether or not to register to be able to solemnize marriages, and are expected not do so if this would be loss-making for them.
26. Where the non-religious belief organisations are not-for-profit bodies, we expect their additional fee income to match the increased costs they incur, with a net benefit of zero.

Benefits to premises providers

27. As explained in the costs section, premises providers are expected to charge fees to cover their costs. Where premises providers are businesses their profitability is assumed to remain unchanged as a result in any change in the pattern of demand. Premises providers who are not businesses are also assumed to be left in a financially neutral position as fee income is assumed to continue to cover costs.
28. In summary where costs of providing premises increase, for example because demand for premises is higher, this would be matched by the benefits of increased fee income. Conversely where fee income is lower, for example because demand for premises is lower, this would be matched by the benefit of reduced costs. In these circumstances the resources no longer needed would be freed up for other profitable or productive activities.

Benefits for Local Authorities

29. Where there is a reduction in the volume of civil ceremonies local authorities would benefit from an associated reduction in costs. This would free up resources to be allocated to other productive activities. As explained in the costs section, this reduction in costs would be associated with a reduction in fee income with a neutral financial impact overall for local authorities.
30. Where local authority resources are required to support non-religious belief marriages, local authorities are expected to charge fees to cover these costs. Again the overall financial impact on local authorities should be neutral.

Benefits for couples seeking legally binding marriages

31. Couples would benefit from a greater choice in types of legally binding marriage. Couples are expected to exercise this increased choice when it provides them with net benefits.
32. There may be reduced costs for couples who currently have a non-legally binding belief ceremony together with a legal civil ceremony, and who in future would have a legally binding non-religious belief marriage.
33. Whilst there may be increased fees for couples who currently have only a non-legally binding religious belief ceremony, and who in future have a legally binding non-religious wedding, these increased fees are expected to be outweighed by the value these couples place on their marriage being legally binding.

About you

Please use this section to tell us about yourself

Full name	
Job title or capacity in which you are responding to this consultation exercise (e.g. member of the public etc.)	
Date	
Company name/organisation (if applicable):	
Address	
Postcode	
If you would like us to acknowledge receipt of your response, please tick this box	<input type="checkbox"/> (please tick box)
Address to which the acknowledgement should be sent, if different from above	

If you are a representative of a group, please tell us the name of the group and give a summary of the people or organisations that you represent.

Contact details/How to respond

Please send your response by 18th September 2014 to:

Maya Sooben
Ministry of Justice
Family Justice
4.31, 4th Floor
102 Petty France
London SW1H 9AJ

Tel: 020 3334 3127

Email: MarriagesbyNon-ReligiousBeliefOrganisations@justice.gsi.gov.uk

Complaints or comments

If you have any complaints or comments about the consultation process you should contact the Ministry of Justice at the above address.

Extra copies

Further paper copies of this consultation can be obtained from this address and it is also available on-line at <http://www.justice.gov.uk/index.htm>.

Alternative format versions

Alternative format versions of this publication can also be requested from this address.

Publication of response

A paper summarising the responses to this consultation will be published by 1 January 2015. The response paper will be available on-line at <http://www.justice.gov.uk/index.htm>.

Representative groups

Representative groups are asked to give a summary of the people and organisations they represent when they respond.

Consultation principles

The principles that Government departments and other public bodies should adopt for engaging stakeholders when developing policy and legislation are set out in the consultation principles.

<http://www.cabinetoffice.gov.uk/sites/default/files/resources/Consultation-Principles.pdf>

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Any enquiries regarding this publication should be sent to us at MarriagesbyNon-ReligiousBeliefOrganisations@justice.gsi.gov.uk