

Marriage Law Working Group

1. The Marriage Law Working Group (the ‘Group’) was established by the Archbishops’ Council and the Business Committee in October 2002 following the debate in General Synod in July 2002 on *The Challenge to Change* (GS 1448). The recommendations in that report and the resolutions passed by the Synod in July 2002 are set out at **Annex 1**.

A. PROGRESS TO DATE

2. The Group met for the first time in January 2003. Its progress on the recommendations of GS 1448 and the resolutions passed by the Synod in July 2002 is set out below.

Preliminaries and registration

3. Changes proposed to civil legislation in respect of marriage and set out in a Government consultation document published in July 2003 (*Civil Registration: Delivering Vital Change*) include a new system of preliminaries to and registration of marriage similar to that already in operation in Scotland. The proposals also include removing the present civil law restrictions on the time and place of marriage. The result, so far as the civil law is concerned, would be a ‘celebrant-based’ system rather than a place-based system as at present¹.
4. In general, the same framework of legislation would apply to all marriages – religious as well as civil – leaving religious bodies and denominations free to stipulate their own internal arrangements.
5. The Church of England (and the Church in Wales) would retain a special position in the new arrangements. So far as preliminaries are concerned, there would be a new system of joint Church-State preliminaries in which the clergy would continue to play a central role. It is recognised that there will continue to be legal restrictions on where Church of England marriages can be solemnised without the Archbishop of Canterbury’s Special Licence, but under the new proposals this will be determined by a Measure of the General Synod rather than by Act of Parliament.
6. The proposals in respect of marriage envisage substantial changes to the Marriage Act 1949 and form part of a wider legislative package aimed at reforming the whole of the civil registration service. The Government’s intention has always been to give effect to those changes by a Regulatory Reform Order (RRO) under the Regulatory Reform Act 2001, rather than

¹ The removal of the civil law restriction on the place of marriage would have the effect of making it possible to use Canon B43.9 to permit the use of a parish church for marriages according to the rites of Churches to which the Church of England (Ecumenical Relations) Measure 1988 applies.

by Bill. This involves statutory consultation processes and a timetable partly determined by the 2001 Act.

7. As part of this process of legislative change, the Group's early work in collaboration with staff from the Office for National Statistics (ONS) focussed on refining the recommendation in GS 1448 for the joint Church-State preliminaries and on preparing a submission for inclusion in the Government's consultation document *Civil Registration: Delivering Vital Change*. The Group's submission is fully in line with the outline included in GS 1448, which was endorsed by the Synod, and forms part of chapter 3 of the consultation document (see **Annex 2**).
8. The detail of the Government's proposals in this regard are set out at Annex 2, but the proposed system is briefly as follows:

As a first step, the couple would need to arrange a meeting with the member of the clergy responsible the church where they wished to marry. He or she would be responsible for enquiring whether there was any impediment to the marriage, for collecting the information needed for the notice of marriage, and for sending this to the relevant register office. The registration officer would then be responsible for checking the accuracy and completeness of the information, giving public notification of the marriage and entering the information onto the central database. (In exceptional circumstances only, the registration officer might have to contact the couple direct or might need to see them to resolve any discrepancies.) Once the statutory 15 clear days had passed, and provided that the registration officer was satisfied that there was no impediment to the marriage, he or she would issue a 'schedule' – a computer generated document giving some of the details regarding the couple, confirming their legal capacity to marry each other and details of the proposed wedding (such as venue, date and time) as confirmation of this.

Once the marriage had taken place, the schedule issued by the registration officer prior to the marriage would be completed and the minister, the couple and the witnesses would sign the schedule as proof that the marriage had taken place. It would then be the responsibility of the couple to return the schedule to a registration authority from the area where it was issued. The information would be entered onto a central database, which would then form the legal registration of the marriage. This would replace the process of entering the information on paper registers immediately after the marriage.

It is envisaged that registers of marriage services would be kept on a similar basis to other Church registers (e.g. baptisms), and these could be signed at the end of the ceremony in a similar way to the present registers, but they would no longer constitute legal proof that a couple were married.

9. Church legislation will be needed to give effect to the proposed changes in respect to the Church of England. This will certainly involve a Measure and possibly also a Canon and some new rules (see paragraphs 21 –27 for details of the projected legislative timetable).

Place of Marriage – Diocesan licensing of non-parochial places of worship

10. Much of the Group’s work in recent months has focussed on the places where marriages may be solemnised, and in particular on parochial places of worship and cathedrals. The progress the Group has made in this area is set out in paragraphs 28 – 34 below.
11. However, the Group was also charged with working out the detail of a locally regulated (diocesan) licensing system to permit marriages in non-parochial places of worship without a Special Licence. The basic principle would be to license a *place* rather than the *couple* who wish to marry there.
12. The Group has not yet finalised the details of the proposed system, but in the light of submissions from the Ecclesiastical Law Association and others, it considers that the non-parochial places of worship which might be covered fall very broadly into two categories:
 - (a) the main category (and that envisaged in *The Challenge to Change*) consists of those belonging to institutions which have a **Chaplain licensed by the diocesan bishop** under the Extra-Parochial Ministry Measure²; and
 - (b) a smaller category of other non-parochial places which are used for public worship but do not have a chaplain licensed by the diocesan bishop. The Group proposes that, in addition to the other requirements for a licence application, a place of worship in this category should not be licensed without the consent of the incumbent or priest-in-charge of the parish in which it is situated.
13. The Group recognises that further thought will need to be given to the criteria the bishop is to apply in deciding whether to grant a licence. For example, it will need to give further consideration to what arrangements should be made for church plants in this regard so that there is no conflict with the thrust of the report on ‘Mission-shaped Church’ and the recommendations of the Toyne Report on the Review of the Dioceses and Pastoral Measures³. In addition, it should not be assumed that the

² Under the 1967 Measure the performance of offices and services by such a chaplain does not require the consent of and is not subject to the control of the minister of the parish in which the institution is situated. The restrictions on marriage in the Measure would themselves need amendment as part of the legislation to be brought to the Synod.

³ GS 1523 and 1528. Both were debated by the General Synod at the February 2004 Group of Sessions, and a Follow-Up Group is now being established to carry forward the recommendations of the Toyne report.

diocesan bishop would necessarily agree to the licensing of a place within category (b) in paragraph 12 above.

14. Further work will also be needed on the arrangements for monitoring compliance with any conditions in the licence. If a licence were granted for a place within category (b) in paragraph 12 above, the Group considers that it could require more careful monitoring than those falling within category (a), and that the process of monitoring could be expected to involve the parish priest (which is one reason why he or she would need to approve the application).
15. The Group does not consider that it would be appropriate to permit chapels in private houses which were not used for any kind of public worship to be licensed for the solemnisation of marriages.
16. Non-parochial places of worship where comparatively few marriages are likely to be solemnised may not find it worthwhile to apply for a licence from the bishop. However, they will still have the option of leaving it to each couple to seek a Special Licence.

Training

17. A group of recommendations in GS 1448 related to clergy training and the provision of good quality marriage preparation.
18. Like its predecessors, the Group regards the provision of high quality marriage preparation, pastoral care and support for couples and continuing ministerial education for clergy to be of vital importance, most particularly so that everyone can benefit fully from the new opportunities associated with the Group's proposals for change. It continues to work closely with staff and other groups to ensure that a programme of education is in place to train clergy in the new procedures and to identify and explore other areas of best practice in the Church's marriage provision.
19. A substantial research project into marriage preparation and adult relationship support, funded by the Lord Chancellor's Department (LCD), conducted by the Roehampton Social Research Unit and aided by a steering group chaired by the Rt Revd John Gladwin, was completed in 2003. In September 2002, Sue Burridge, Policy Adviser for Marriage and the Family in the MPA Division, convened a group with representatives from the steering group, the FLAME network, the Mothers' Union, the Marriage Law Working Group and the Ministry Development Officers Network to consider training issues around the results of that research and the changes in marriage law. Called the Marriage Training Development Group, it gained a further grant of £15,000 from the LCD to assist in developing a pilot training project focussing on best practice in the area of marriage preparation and marriage support and on opportunities offered by the proposed changes in marriage law. The pilot training project was

held in the Diocese of St Edmundsbury & Ipswich in March this year and the feedback and experience derived from it are currently being assessed.

20. Two key factors which affect when and how the initial training can eventually be rolled out are the legislative timetable – careful judgements will have to be made as to when training should commence and which groups of clergy should be trained as a priority – and the financial resources available to pay for the training courses. As noted above, resources have been made available by the Lord Chancellor’s Department for initial training development and the pilot course. Resources for further development and actual training courses will probably need to be sought from a combination of central, external and diocesan sources.

B. TIMETABLE FOR LEGISLATION

21. The Group has been aware from the outset of the need to produce a timetable for taking legislation through Synod which ties in satisfactorily with the proposed RRO timetable (see paragraph 6), since Church legislation in this area cannot take effect before civil legislation has been amended. It is also essential to ensure that the two sets of legislation dovetail satisfactorily and that there are no inconsistencies or ‘gaps’ remaining unfilled.
22. The Group’s original timetable, based on that of the Government, was to introduce draft legislation to Synod at the July 2004 Group of Sessions at around the same time as the draft RRO was being introduced to Parliament. However, when the Government’s statutory consultation period on the proposals contained in *Civil Registration: Delivering Vital Change* closed in October 2003, there had been such an overwhelming response to the consultation (almost 3,400 responses, far in excess of the number normally received or expected on this occasion⁴) that its timetable for analysing the responses and producing the necessary documentation to support the introduction of the RRO to Parliament had been substantially delayed.
23. As a result, the RRO dealing with provisions concerning marriage will not now be laid before Parliament until late October/early November 2004. It is anticipated that it will complete its passage through Parliament in late 2005, with implementation of the Government’s legislation commencing during late spring/early summer 2006.
24. This means that it will not now be possible to bring forward draft Church legislation for First Consideration until February 2005 at the earliest. The consequence of this is that the conclusion of the legislative process will need to be carried over into the next quinquennium.

⁴ Although relatively few related to the proposals regarding marriage according to the rites of the Church of England or the Church in Wales.

25. Assuming that there is no further slippage in the Government's timetable, it is possible that Final Drafting and Final Approval of the draft Measure could be taken in November 2005, but only if the Revision Committee Stage can be completed extremely quickly. Failing that, the Final Drafting and Final Approval Stages could be expected in February 2006. Depending on the passage of the Measure through the Ecclesiastical Committee and Parliament, this could mean that implementation of the Church's legislation may not be possible until early 2007, giving a time lag of up to a year between the Government's and the Church's legislation coming into effect.
26. The Group hopes that every effort can be made to minimise the inevitable and undesirable time lag by completing the passage of the Measure through the Synod by November 2005 – the first Group of Sessions of the next quinquennium – if at all possible.
27. The unexpected delay does, however, give the Group the opportunity to seek a decision from the Synod as to how the draft Measure which is brought to it for First Consideration should be framed. There is a group of issues regarding the places where marriages may be solemnised in the Church of England and resolving those issues at this stage will assist in the preparation of the draft legislation. It is hoped that it will also simplify and speed the passage of the legislation through the synodical processes.

C. PLACE OF MARRIAGE

'Demonstrable connection'

28. A key recommendation of GS 1448 was the application of the principle of 'demonstrable connection'. Under this recommendation, the couple would retain their existing legal right to marry in the parish church of the parish in which one or both of them were resident or entered on the church electoral roll (subject to exceptions such as where one of them had previously been married and the former spouse was still living). However, the 'demonstrable connection' principle would mean that couples would also be able to marry in the parish church⁵ of another parish if one or both of them could demonstrate a connection falling within any of a number of categories to be laid down by Church legislation. GS 1448 was not specific about what those categories might be, but referred back to GS 1436, which set out some general principles.
29. The Working Group has considered this recommendation at length. In doing so:

⁵ Throughout out this report, the term 'parish church' includes other parochial places of worship such as parish centres of worship.

- (a) one of its main concerns has been that any new legislation must be clear and straightforward for parochial clergy to operate, and not likely to give rise to disputes and/or legal challenge;
 - (b) it has received advice given on behalf of the Legal Advisory Commission (LAC) on the implications of the Human Rights Act 1998 in this connection. This advice stressed the risk that if clergy were given a discretion to allow or refuse marriage in a particular place on personal or subjective grounds that would leave them open to challenge under Article 14 of the European Convention on Human Rights (which deals with discrimination). Thus the advice given on behalf of the LAC was that ‘like the existing right to marry, based on residence in the parish (or entry on the church electoral roll), any new criteria should confer a right to marry in a parish church or other parochial place of worship provided that the couple can prove factually that they come within the criterion relied on’;
 - (c) the Group has also noted the advice given on behalf of the LAC that the European Convention on Human Rights and the Human Rights Act do not confer any right to be married at a particular time, and that if too many couples wished to be married in the same church during the same period, it would remain open to the clergy, as at present, to offer alternative dates and times; and
 - (d) the Group recognises that it is not essential for the criteria to cover every possible situation where a couple might legitimately say that one or both of them had a genuine connection with a particular parish or parish church. It will remain open to one or both of the couple to have themselves entered on the church electoral roll after habitually attending public worship in the parish for six months and so obtain the right to be married there on those grounds. In addition, couples will still be free to seek a Special Licence if they feel that their case is worthy of special consideration and their application has the support of the member of the clergy concerned.
30. With these considerations in mind, the Group has agreed an initial draft of a set of criteria under which couples who could demonstrate that one or both of them fell within one or more of the criteria would **have a right** to be married in the parish church concerned on the same basis as parishioners and those whose names are entered on the church electoral roll. The draft criteria are set out at **Annex 3**.
31. However, the Group recognises that when it reaches the stage of preparing draft legislation further work will need to be done on the precise terms of some of the criteria. In addition, while its aim has been and will continue to be to keep the potential for disputes to a minimum, it

will also need to consider the possibility of a simple and straightforward mechanism for resolving any disagreements.

32. The Group has consulted the Association of English Cathedrals and recognises that cathedrals (including those which are or which include parish churches) are in a special position and that some – perhaps most – of them would not be in a position in practice to operate such a system. The advice which has been given to the Group on behalf of the LAC is that if there were good practical reasons, such as lack of capacity and staff time, for treating cathedrals as a category differently, that would not appear to be a breach of human rights legislation. Thus the Group has been advised that it would be possible to allow cathedrals to ‘opt in’ to ‘demonstrable connection’ and that this would involve less risk of legal challenge than allowing them to ‘opt out’, which could be regarded as discriminatory in itself.
33. The Group’s proposal here is, therefore, that cathedrals should have the opportunity to ‘opt in’ to the ‘demonstrable connection’ arrangements on an individual basis. Parishioners of all cathedrals which are or which include parish churches would, of course, retain their right to marry there. If a cathedral did not wish to ‘opt in’, it would still be possible for a couple who wished to marry there with the agreement of the cathedral authorities to seek a Special Licence.
34. Apart from the places covered by the new diocesan licensing system outlined in paragraphs 10 – 16 above, marriage in any other place would continue to be subject to the Special Licence procedure operated by the Faculty Office of the Archbishop of Canterbury.

A shift in direction?

35. During the course of its considerations, the Group has become aware that a shift in perceptions of and views on this matter has been underway even since GS 1448 was debated in July 2002.
36. The number of marriages solemnised according to the rites and ceremonies of the Church of England continues to fall. In 2002, for the first time since 1994, when provision was made for civil marriages to take place in ‘approved premises’, more marriages took place in ‘approved premises’ than in the Church of England/Church in Wales⁶.
37. The Group has also received a number of letters and representations asking it to consider options in addition to, or as an extension of, ‘demonstrable connection’.

⁶ Figures for 2002 (source: Office for National Statistics):
‘approved premises’: 61,580
Church of England/Church in Wales: 58,710

38. The Group has not seen evidence of any strong pressure to allow couples to be married in places other than places of worship, save in exceptional cases permitted by the Archbishop's Special Licence. Equally, it is not aware of any substantial pressure to go beyond the recommendations in GS 1448 so far as non-parochial places of worship are concerned.
39. However, the Group has been aware of what appears to be an increasing number of people, both clergy and laity, who consider that the Church should take a positive and welcoming attitude to couples who come to a parish church seeking marriage, even if the parish is not one to which they have had any particular connection in the past. The view expressed is that the occasional offices offer the Church mission and pastoral opportunities and that the Church should not place unnecessary barriers in a couple's way if they have identified a church other than their own parish church as the one in which they wish their marriage to be solemnised.
40. At the same time, it is clear to the Group that there are some who, while accepting that some relaxation of the present arrangements may be desirable, have reservations about any major change over and above that which the Synod has already accepted in principle. They have given a variety of reasons for this, including concern at a growing 'rootlessness' in society.

D. THE OPTIONS

41. Because of this, in addition to the recommendation on 'demonstrable connection', the Group has considered some further alternatives for legislation regarding marriage in parish churches. It has sought advice from the Legal Advisory Commission as to whether the principles set out in paragraph 29(b) above would apply to those alternatives and, although there has not been an opportunity for the full Commission to consider the matter, the Group has received preliminary advice on this from a sub-group of the LAC. Preliminary consultations have also taken place with the Archbishops' Council and the Bishops' Meeting, and both bodies have made clear that they consider a relaxation of the present system desirable, though there was no clear consensus on which of the alternatives they favoured.
42. As a result of its work on a number of possibilities, the Group has decided against pursuing some of them. For example, the Group investigated the possibility that, in addition to adopting the 'demonstrable connection' principle, new legislation on the place of marriage might make provision for the diocesan bishop to designate individual churches which already had or wished to develop a special ministry in marriage and marriage preparation as special 'marriage churches'. The basic idea was that any couple, or possibly any couple within a deanery or other specified area, would have the right to be married in such 'marriages churches', subject

to the present statutory exceptions. It became clear that a great deal of further work would be needed on the details of this proposal, but that on any footing it was likely to involve substantial legal complications and could well create very real practical problems. The Group has, therefore, decided against putting it to the Synod as a viable option.

43. The outcome is that the Group has identified two clear options which it now wishes to present to the Synod, so that the Synod can decide on what basis the legislation on the place of marriage should be drafted and brought to it for First Consideration. In both cases, the right to be married in any given parish church would be subject, as in the case of marriage in a person's own parish church, to the existing statutory exceptions (see paragraph 28) and to there being no right to be married at a particular date or time:

- (a) **The 'demonstrable connection' principle** – see paragraphs 28 to 31 above and Annex 3: The reasons for such a proposal and its potential benefits have previously been explored at length in GS 1436 and GS 1448, and Synod endorsed the principle in July 2002.

As explained in paragraph 29(b) above, the LAC has advised that any legislation to give effect to this option should be to **give couples the same right** to marry in a parish church where one or both of them could demonstrate a connection within the criteria laid down by the Synod as a parishioner at present has in his or her own parish church. This is to avoid leaving clergy open to the risk of legal challenge on the grounds of discrimination contrary to Human Rights legislation.

It would remain open to a couple who were unable to demonstrate that they fell within one or more of the criteria agreed by Synod to have themselves entered on the church electoral roll after habitually attending public worship there for six months or, with the support of the member of the clergy, to make an application for a Special Licence (assuming they fell within the criteria applied by the Faculty Office).

- (b) **Any parish church:** i.e. that couples would be free to marry in any parish church of their choice. The advice from the sub-group of the LAC is that the same principles regarding the Human Rights Act apply to this option as to (a), so that any legislation to give effect to this option should **give couples the same right** to marry in any parish church of their choice as a parishioner at present has in his or her own parish church.

One of the concerns raised in connection with this option is that clergy at so-called 'pretty churches' or churches which are particularly popular because, for example, of a convenient nearby

venue for wedding receptions, might find themselves inundated with applications to be married there. The Group notes that most weddings are arranged quite some months, if not years, in advance of the event itself, which should give clergy the opportunity to plan in advance. Nevertheless, giving everyone the legal right to be married in any parish church of their choice could prove burdensome for individual clergy.

It has also been pointed out that this option would give couples a greater legal right to marry in a particular place than would exist under the proposed new civil marriage law.

The debate in Synod

44. The Group is anxious that the Synod should have the opportunity to decide the direction of the Group's future work in this respect. In order to allow for that within the Synod's procedures, the motion in the Synod agenda will be in favour of option (a) in paragraph 43, the 'demonstrable connection' principle, which the Synod has already endorsed. However, the object of this is to leave the way open for a Synod member to move an amendment which asks the Group to prepare draft legislation on the basis of option (b), the 'any parish church' option, rather than option (a). It would of course also be open to Synod members to put forward other amendments if they wished to do so.
45. The Business Committee has allocated sufficient time for the debate on this report to allow for both options to be canvassed and voted upon, so that after the debate the Group can be confident that they are proceeding with their work in the direction the Synod wishes them to take.

Recommendations

46. Synod is invited:
 - (a) to welcome the progress made by the Working Group in taking forward the matters covered by the Synod's resolution in July 2002 regarding changes in the law on marriage; and
 - (b) to consider the options concerning the place of marriage (paragraph 41).

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June 2004

Membership of the Marriage Law Working Group

The Rt Revd Martin Wharton, Bishop of Newcastle

The Very Revd George Nairn-Briggs, Dean of Wakefield (Wakefield)

The Ven David Lowman, Archdeacon of Southend (Chelmsford)

The Revd Prebendary Brian Tubbs (Exeter)

The Revd Canon Tim Barker (Lincoln)

The Worshipful Sheila Cameron, Dean of the Arches & Auditor

Mrs Ruth Dunnett (Chichester)

Mrs Stella Vernon (York)

Staff

Mrs Sue Burridge, Marriage & Family Policy Officer, MPA

Mr Nicholas Hills (Secretary)

Miss Ingrid Slaughter, Assistant Legal Adviser

Recommendations in GS 1448

- (a) The application of the principle of ‘demonstrable connection’ to all places of worship;
- (b) The introduction of a locally regulated licensing system, based on nationally agreed criteria, to deal with marriages in non-parochial places of worship;
- (c) That marriage be permitted outside places of worship subject to the Special Licence procedure operated by the Faculty Office of the Archbishop of Canterbury;
- (d) The adoption of a new Church/State preliminary as proposed at paragraphs 13 and 14 [of GS 1448];
- (e) The introduction of ‘marriage announcements’ to continue the tradition of banns;
- (f) That church marriage registers should be retained alongside the new procedures, although they would no longer constitute legal evidence that the parties had been married;
- (g) That marriage be permitted outside the current times (8.00 a.m. – 6.00 p.m.) in negotiation between the Minister and the couple, together with those responsible for the venue;
- (h) That good quality marriage preparation be made available in all cases and that couples be encouraged to take advantage of it;
- (i) That in the light of changes to civil law, clergy be encouraged to review the pastoral and practical aspects of preparing for and solemnising marriage;
- (j) That dioceses ensure that appropriate programmes of continuing ministerial education are available to assist clergy in adjusting to the changes recommended in this Report.

Motion passed by Synod at the July Group of Sessions 2002:

That this Synod:

- a) welcome the report’s proposals for a positive response from the Church that is faithful to its theological and pastoral understanding of ministry, and that fully recognises the mission opportunities presented by the proposals on marriage in the Government White Paper *Civil Registration: Vital Change*;
- b) endorse the recommendations in the report; and

- c) request the Archbishops' Council and the Business Committee to establish a Working Party to take forward, in consultation with the House of Bishops, the process of:
- (i) working together with Government Departments in the outworking of the White Paper, and in particular in securing legislation to amend or replace the relevant provisions of the Marriage Act 1949 in accordance with the recommendations in the report;
 - (ii) in the light of (i), preparing draft legislation and other material for submission to the Synod to implement those recommendations in the report which require action by the Synod; and
 - (iii) initiating proposals to implement the other recommendations in the report and the proposed new legislation on marriage, including support for clergy and parishes.

Extract from *Civil Registration: Delivering Vital Change*

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Joint Church/State preliminaries for marriage

3.7.32 The current ecclesiastical preliminaries of banns would be removed, together with the restrictions on where banns of marriage can be published, and the provisions relating to the licensing of buildings by a bishop for the calling of banns. Instead, for marriages according to the rites and ceremonies of the Church of England, a member of the clergy would enquire whether there was any impediment to the proposed marriage, and establish that the couple were able to marry in their chosen venue eg that they were resident in the parish, on the electoral roll, etc. The criteria for where couples could marry according to the rites and ceremonies of the Church of England would be regulated by the Church, as with all other religious bodies. If satisfied that the couple had the capacity to marry each other, and could do so at their chosen venue, the member of the clergy would then have a legal duty to complete a notice of marriage form for each of the couple. This form would be based on the notice of marriage form for all other marriages. The clergy would be entitled to collect a fee for his or her involvement in the process.

3.7.33 The member of the clergy would be given a legal power to require the bride and groom to provide him or her with evidence of their name, age, marital status, usual address and nationality. This requirement may be imposed at any time, on or after the giving of the notice, but not once the notices have been sent to the registration authority – see below. The couple would have a legal duty to provide such evidence.

3.7.34 The member of the clergy would have a duty to send the notice forms, the necessary documentary evidence and the relevant fee, payable by the couple to the registration authority, to their local registration authority who would complete the civil part of the preliminaries, as for all other marriages. This fee would be a nationally set, statutory fee. To avoid important and valuable documents being sent through the post, it is proposed that the member of the clergy should see the original documents and that photocopies of these [authenticated by the member of the clergy] should be provided to the registration authority in lieu of the originals.

3.7.35 The registration authority would have the legal responsibility for checking the accuracy and completeness of the information and documents provided, against the information held on the central database. They would also be responsible for publicising the marriage in the same way as for all other marriages. These marriages would also be included on the central list of proposed marriages to be publicised by the Registrar General via the internet.

3.7.36 In exceptional circumstances, the registration authority may have to contact the couple in order to resolve any discrepancies there might be in the information they have provided and would be able to require the personal attendance of the couple in certain circumstances. The registration authority would also be able to require the couple to provide further documentary evidence if they were not satisfied with that already produced, or where this did not agree with the information held on the central database.

3.7.37 Once the 15 day waiting period had passed since the notice was entered onto the central database and provided that no impediment to the proposed marriage has been shown to exist, the registration authority would issue a marriage schedule as confirmation that there was no legal impediment to the marriage, in the same way as for all other marriages. The marriage schedule would be used as the basis for the registration of the marriage.

3.7.38 Legally, it would be possible to complete the preliminaries to marriage up to twelve months prior to the date of a marriage as the schedule would be legally valid for twelve months from the day the notices were entered onto the central database. However, for marriages according to the rites and ceremonies of the Church of England, it is likely that the preliminaries would often continue to be left until nearer the time of the marriage ceremony.

Registration

3.7.89 There would continue to be a requirement for all marriages to be registered but it is proposed that the means of registering a marriage is altered so that greater use can be made of technology. In order to make the system more efficient, it is proposed to dispense with marriage registers and to register marriages according to the rites and ceremonies of the Church of England on the central database. The marriage schedule issued by a registration authority would serve as the registration document at the time of the marriage ceremony.

3.7.90 The schedule would, amongst other things, contain details relating to the bride and groom that were provided when the notice of marriage was given. Prior to the marriage ceremony, the member of the clergy would make enquiries of the couple in order to verify, as far as possible, that the information contained in the schedule was correct. Any changes since the notice was given or inaccuracies would be noted and initialled on the schedule by the member of the clergy. Following the ceremony, the member of the clergy who solemnised the marriage would sign the schedule, as would the couple and the two witnesses, to confirm that the details recorded were correct. The signing of the schedule would have no bearing on the validity of the marriage ceremony which, would be concluded once the member of the clergy had made a declaration that the couple are now husband and wife.

3.7.91 Following the marriage ceremony, it would be the legal responsibility of the couple to return the schedule to a registration authority from the area where it was issued within seven days of the ceremony having taken place. It

would be possible for the schedule to be returned by post or in person. Alternatively, they could arrange for someone to return it on their behalf. For example, in Scotland, where this system has been in operation for 25 years, it is the best man who usually returns the schedule, even though the legal responsibility for doing so lies with the couple.

3.7.92 The Minister did consider whether this legal responsibility should rest with a member of the clergy or whether there was some other person on whom the responsibility could be placed. In doing so, it is acknowledged that there might be occasions when a schedule has been issued and is not returned due to the fact that the marriage has not taken place. The reason for this may be unknown to the member of the clergy. Also, it is considered that two persons primarily interested in having the marriage registered will be the couple, and that it is therefore primarily in their interest for the schedule to be returned so that this can be done. As such, it is concluded that placing the legal responsibility for the return of the schedule on the couple is more likely to achieve the desired outcome than placing the responsibility on some other person.

3.7.93 On receipt of the completed schedule, the registration authority would be required to register the marriage by entering the details onto the central database in the usual way. This would form the legal registration of the marriage.

3.7.94 It would be open to the Church of England to legislate for churches and chapels to keep registers of marriage services, comparable to other registers of services, in which a record would be kept that a marriage service had taken place, and to provide, among other things, for the signing of that register. However, these registers would not be the legal evidence of the bride and groom's civil legal status as a married couple.

3.7.95 As statutory marriage registers would no longer be available, and as there would be no state involvement in the issue of an Archbishop of Canterbury's Special Licence, arrangements would need to be made for the registration of marriages following the issue of such a licence.

Proposed criteria for establishing a ‘demonstrable connection’

- (i) One or both parties have a present family home in the parish (parents/guardians/grandparents/step-parents/foster parents/godparents);
- (ii) One or both parties has been resident in the parish or on the church electoral roll;
- (iii) Even though neither (i) nor (ii) applies, the parents/guardians/grandparents/step-parents/foster parents/godparents of one or both of the parties are or have been resident in the parish or have or have had their names on the church electoral roll;
- (iv) One of the parties was baptised and/or confirmed in the church/place of worship;
- (v) The parents/guardians/grandparents/step-parents/foster parents/godparents of one of the parties were married at the church/place of worship;
- (vi) One or both parties are or have been regular worshippers at the church/place of worship, even if not resident in the parish and/or not on the church electoral roll;
- (vii) One of the parties attended a church school in the parish and/or was a member of an organisation in the parish sponsored by the Church.