

Marriages by Non-Religious Belief Organisations

Section 14 of the Marriage (Same Sex Couples) Act 2013 required the Ministry of Justice to consult on “whether the law should be changed to allow Humanists and any other non-religious belief organisations to conduct legally valid marriage ceremonies.”

This consultation was launched by the MoJ In June 2014 and the Archbishops’ Council of the Church of England submitted a response on behalf of the Church in September 2014.

The full text of the response is published at the bottom of this page.

A Summary of The Church’s Response

The Church of England is very well aware from its own experience that a marriage ceremony where the officiant shares openly the beliefs of the couple can be a source of strength in a marriage and would not wish to deny that opportunity to couples who profess humanist beliefs. In this respect, humanism (in the sense of secular humanism) supports a positive view of ethics in society and of the importance of marriage. Some other non-religious belief organisations do not share such a ethic of marriage and so all such bodies should not be treated as equivalent in terms of permission to officiate at weddings.

So the church is sympathetic to the case for allowing an organisation like the British Humanist Association to provide officiants at weddings.

However the Archbishops’ Council response noted that couples who wish to include humanist materials, or materials from other non-religious belief systems, are able to do so within a civil ceremony, whereas no religious material is permitted in civil marriage ceremonies. There is thus an existing imbalance which should not be exacerbated by giving further freedoms to non-religious belief organisations which are not permitted to religious groups.

But this raises a much larger question which goes well beyond the scope of this consultation.

In England, weddings may take place only in certain legally recognised premises which, in the case of religious organisations usually means their places of worship, whereas civil weddings which may take place in a wider range of approved premises may not include religious material of any kind. If humanists were to be permitted to officiate at weddings, the current premises-based system would imply that humanists should acquire and use their own premises for marriage ceremonies. To allow humanist weddings to take place in any location, subject only to it being a publicly accessible place, would introduce a new inequality in the comparative treatment of religious and non-religious belief organisations to the disadvantage of people seeking religious wedding ceremony.

The church’s response concluded that any change to the current system under which marriages must take place in specific legally recognised buildings, involved some extremely difficult questions which could not be resolved in a consultation exercise on the questions

posed by the Ministry of Justice. If such a wider consultation were to take place, the Church of England would need to re-examine its current commitment to the premises-based marriage law in England and would respond accordingly.

The Result of the Consultation

The Ministry of Justice published its response to the consultation on 18 December 2014. The majority of respondents were in favour of changing the law to allow marriage ceremonies by non-religious belief organisations. It noted that, of the 1,443 respondents identified as being from individuals, 1,063 appear to have made use of a guide on answering the consultation questions provided by the BHA to its members and supporters.

Whilst the consultation recognised that a majority of respondents had supported a change in the law, it went on to identify a number of difficulties. The response to the consultation comments that:

One key difficulty concerns where belief marriages would take place. ... allowing belief marriages to take place at unrestricted locations would create a further difference in treatment in our marriage law and is opposed by the Church of England (CoE) and Church in Wales on the basis that it would create an inequality for the majority of religious groups and couples who are restricted to their registered place of worship. Registration services report a growing demand for outdoor marriages, and the Government is aware that allowing belief marriages in unrestricted locations may also be seen as unfair by couples who are neither religious nor humanist but who also may want a greater choice of marriage venues. ...

The Government would also want to see further consideration of managing risk through the use of qualifying criteria, particularly in relation to preventing sham and forced marriages, inappropriate ceremonies, and the commercialisation of marriage solemnization. Our view is that to apply such criteria is not straightforward and may be open to successful challenge by excluded groups, including on the basis that, as the law stands, religious groups would not be subject to the same restrictions.

The response concludes that:

We wish to avoid any negative consequences that may result from undertaking further piecemeal legislation. Therefore ... the Government's view is that it is now necessary to consider carefully the legal and technical requirements of marriage ceremonies and registration before or at the same time as making a decision on whether to take forward the specific proposal to permit legally valid marriage ceremonies for those with non-religious beliefs.

The Government will therefore ask the Law Commission if it will begin as soon as possible a broader review of the law concerning marriage ceremonies.

Marriages by Non-Religious Belief Organisations

a response on behalf of the Archbishops' Council of the Church of England

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?

We understand the case for a change to the law but do not believe it to be substantial. Civil ceremonies can already incorporate non-religious materials designed by the couple. This allows secular, humanist principles¹ (for example) to be incorporated into a civil wedding ceremony, so the wording of the vows, readings, reflections and so on can follow humanist forms and principles. Similar provision is not available to allow the incorporation of religious materials into a civil ceremony. So in considering whether to address one perceived anomaly it is important not to create others.

In assessing the case for change it is particularly important to think through the implications carefully for the present framework of law, which is place rather than celebrant related, draws a clear distinction between religious and civil ceremonies, reflects the social importance and seriousness of marriage vows and minimises the risk of commercial competition around the provision of the marriage ceremony itself (as opposed to the celebration which follows). There is a danger of making what may seem quite a minor change but, in fact, undermining the whole basis on which the law in England is founded.

We do, nevertheless, understand that some humanists feel that there remains a “missing element” because the celebrant in a civil ceremony for humanist couples is not able to identify him or herself as a humanist and thereby to be a full participant in the spirit of the occasion. As the Church of England believes its own ministers’ commitment to the Christian values expressed in the wedding service to be of great importance, we acknowledge the similar desire among humanists to have such a relationship between the celebrant and couples who choose a humanist wedding. Having a celebrant who is committed to the same beliefs and principles as the couple can be a practical help in constructing a meaningful ceremony; and a ceremony which fully embodies the beliefs under which a couple intend to live their married lives can be a source of strength for the future of the marriage.

So we agree that it is worth considering how humanist celebrants might be authorised to conduct wedding ceremonies, provided that in so doing, no consequent damage ensued, either to the social significance of marriage or to the current arrangements for other bodies authorised to solemnise matrimony.

¹ For brevity we generally use the term ‘humanist’ in this response to refer to what would arguably be more accurately termed ‘secular humanism’, that is a belief system which is explicitly non religious. Throughout history there have been people of faith to whom the description ‘humanist’ could be applied in its broader sense, of whom the ‘Christian humanists’ Erasmus and Sir/St Thomas More would be notable examples.

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?

We endorse the government's concerns over creating (whether by design or default) a commercial market in types of wedding ceremony. Clearly since the introduction of approved premises in 1994 a market of kinds has developed for civil ceremonies since those who wish to have civil weddings can choose a venue where they can have both the ceremony and the reception. But this is different from introducing a commercial market between different types of ceremony, not least if those from a particular belief system were able to offer non religious ceremonies normally available only for civil weddings.

Whilst there may be a case for enabling humanist celebrants to conduct wedding ceremonies, we are extremely cautious about opening the door more widely to other organisations. There is the possibility, recognised in the consultation document, of having weddings conducted by organisations ('religious' or otherwise) whose involvement would risk trivialising the institution of marriage, but the problem is more fundamental than this and turns on the broad scope of the term "non religious belief organisation".

Some organisations, which are counted as "belief organisations" under the Equality Act, are committed to positive beliefs about (for example) virtuous living and the nature of good social and personal relationships. We would count humanism, and therefore the BHA, as being among such bodies. Others, however, are defined by beliefs about what they oppose – in other words, their identity is essentially about standing against things they regard as bad rather than positively promoting their understanding of the good. It would not, in our view, be conducive to the support of marriage in society for weddings to be conducted by organisations which are not constituted with the explicit purpose of promoting a positive account of good social and personal relationships in which marriage features explicitly as a social good.

In short, the definition of a belief organisation in Section 14 encompasses organisations which, whilst seeking to advance "a system of non-religious beliefs which relates to morality or ethics", have no policy which is positively in favour of the social institution of marriage. Indeed, the definition of a belief organisation may in principle include organisations whose moral and ethical stance is explicitly anti-marriage or of a nature that would diminish the serious nature of marriage were they to be entrusted with conducting weddings. Whilst this might be an unlikely scenario, it is not beyond possibility that an organisation which holds to a view which is actively opposed to marriage might seek to undertake "weddings" constructed in such a way as to treat marriage humorously or irreverently rather than as a significant social institution.

We would argue, therefore, that any organisation which seeks to be registered to conduct wedding ceremonies should be capable of demonstrating two important characteristics:

- That they promote positive moral and ethical principles and are not defined primarily by what they are against,
- That the moral and ethical principles which they promote are compatible with treating marriage as a socially important and valued institution which should be celebrated publicly with suitable dignity.

In our view, humanist organisations would, in general, meet these conditions, but we are not aware of other belief organisations which ought to be considered for this role.

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.

This is an extremely important question since the present system of registered and approved buildings has not only served the nation well for centuries but contributes in important ways to emphasising the public nature of marriage. We reject Option 2 (no restrictions) because it does not seem to us that any kind of premises, subject only to having “open doors”, provide either in practical or symbolic terms the necessary condition that marriages should be conducted in publicly accessible and publicly identifiable places. The present system of approved premises seems to us to be sound.

We note that religious weddings take place in religious places of worship and that Quaker and Jewish weddings, which are covered under separate legislative provision, usually take place in the places of worship of those faith communities or sometimes in hotels or other registered premises. We have no difficulty in principle in buildings owned by humanist organisations being registered for weddings. This would tackle the anomaly that present exists in law. **We would therefore be content with Option 1.**

The fact that humanist organisations own few buildings does not seem to us a reason for not pursuing this option. We can see why it has, however, led the Government to raise the possibility of Option 3, whereby humanist weddings could, like civil ceremonies take place in approved premises. The difficulty about this is that it would be discriminatory on grounds of faith and belief to enable humanists to solemnise weddings in locations when non civil celebrants more generally could not conduct weddings (we don't see the longstanding special arrangements for Quakers and Jews as analogous). We do not believe it would be a sound basis for legislation to allow one particular non-religious belief system in effect to cherry pick elements from the present framework for civil and religious weddings.

If the government wishes to pursue Option 3 therefore, it seems to us that it will need first to consult more widely on whether religious celebrants more generally should, if their denomination so wishes, be able to conduct weddings at approved premises. The Church of

England has not considered in recent years what view it would take if this possibility were to be offered (it was not in favour in the 1990s before the law was changed to allow weddings at approved premises but would need to look at the arguments again in current circumstances).

The Government would also need to consider whether it could make this change without moving (as in Scotland) to a wholly celebrant based system or whether, as we would favour, it could retain the longstanding premises-based system as the norm for non-civil weddings, supplemented in some way that would need discussion so that a wider range of celebrants could conduct religious and humanists ceremonies at approved premises.

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.

We have already noted under Questions 2 and 3 that non religious belief organisations wishing to be registered to conduct wedding ceremonies should be able to demonstrate that the positive ethical and moral values which they promote are compatible with the social significance of marriage to which the government is (as described in the consultation document) committed.

We agree with the consultation document's view that organisations able to conduct weddings should be well-established, stable and responsible. We also agree that this may helpfully be safeguarded by confining registration to organisations which have charitable status, since charities have to meet a public benefit test. In our view, the fact that this would exclude some non-religious belief organisations is not an objection since (as we have argued) the right to conduct weddings should not be accorded to every organisation which might fall within the definition of a non-religious belief organisation. In order that the importance of marriage is maintained, some organisations that come within that definition should not be allowed to conduct weddings whereas others might. Those that ought to be considered eligible are likely to be well-established bodies with charitable status already.

The principle of being a well-established organisation is, in our view, best secured by requiring that the organisation shall have been in existence for a minimum of ten years before being considered for eligibility for conducting weddings. In a context where organisations can be rapidly set up and equally rapidly disbanded, ten years is not a very long time to ensure stability, and requiring charitable status in addition will be helpful evidence of the organisation's stability and seriousness.

We believe, moreover, that an organisation permitted to conduct weddings ought to be able to demonstrate that it can offer this provision across England and Wales so that those who desire such a wedding can have one without undue geographical upheaval. This factor points toward the registration of non-religious belief organisations which operate at national level

rather than the registration of locally-based organisations or local branches of national organisations.

We agree that the organisation must have in place written (and publicly accessible) procedures of selecting, training and accrediting persons conducting wedding services on its behalf. The training, accreditation and monitoring systems already in place under the auspices of the Registrar General and the GRO should be capable of providing appropriate models of good practice for celebrants from non-religious belief groups. This should ensure that training in (e.g.) marriage law, sham and forced marriages is properly and consistently handled. In our view, it is not necessary that training (etc.) of those registered to conduct marriages should be standardised across all religious, civil and non-religious groups, but it is clearly important that basic standards are observed and the National Training Strategy and National Training Working Group should form the basis for training non-religious belief group celebrants.

Following our suggestion that only those organisations which promote a positive approach to the social and personal significance of marriage should conduct wedding ceremonies, we believe that any organisation registered for conducting weddings should be able to show how its belief-system supports marriage and to be committed to discussing this with prospective couples who approach the organisation to conduct their wedding.

Ceremonies

The requirement in Section 14 that “no religious service may be used at a marriage” conducted by a belief organisation raises the complex question of defining what constitutes a “religious service”. We fully agree that the overall wedding ceremony conducted by a belief organisation should not purport to be a religious ceremony, nor be constructed in a way that deliberately apes a religious wedding with the intention of mocking or parodying religious weddings. But we do not believe that the boundary between humanism and some religions is sufficiently rigid to preclude the use, during a humanist wedding ceremony, of some materials which might strictly be construed as religious – for example a poem about marriage which uses religious imagery but which nonetheless speaks eloquently of mutual love, support and fidelity which are virtues which many humanists share with many religious people, or music originally composed for a religious context.

Common sense suggests that couples choosing a wedding conducted by a non-religious belief organisation are most unlikely to want a predominantly religious ceremony but that they might legitimately be permitted to include some material which is not strictly definable as “non religious”.

Lack of hard boundaries in this respect may be perceived as impossible to enforce, but that is where restricting registration for weddings solely to established, stable and responsible non-religious belief organisations allows for effective self-policing, given that such organisations would be most unlikely to encourage the use of religious material where it would be so distinctively religious as to undermine their own teachings.

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?

If the government were to go ahead with a proposal to enable suitable non-religious belief organisations to conduct wedding ceremonies, it would inevitably be an innovation and would require eligible organisations to adapt existing practices and develop new ones. This would test the capacity and resilience of the organisation's structures in the early stages, and probably for longer if the demand for such weddings proved to be higher than anticipated.

For these reasons, it makes good sense to apply the same safeguards to non religious belief organisations as are currently applied to new religious organisations which are permitted to conduct marriages.

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

In many religious organisations, the concept of “membership” has a range of meanings – people may be strongly committed, developing a growing commitment, or loosely affiliated, whilst all being regarded as part of the religious community concerned. In contrast, bodies such as the British Humanist Association are membership bodies in a stricter sense. However, we do not believe that humanism as a belief is significantly different from most religions in respect to the various degrees of commitment and affiliation which avowed humanists may demonstrate. For some people who are not paid-up members of any belief organisation, a humanist wedding may come closer to expressing the foundations of their beliefs and the principles upon which they seek to base their marriage than a civil wedding or a wedding in any religious tradition.

Although the BHA (for example) has a clearly defined membership, we do not see that membership should be a pre condition for being able to choose a humanist wedding conducted by a BHA officiant, should they become possible, provided that the BHA is satisfied that they are serious about living by the beliefs and values represented by humanism.

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

We have argued that humanists should not be granted privileges that are not available to other belief systems, including religions.

This would suggest, for the sake of philosophical consistency that non-religious belief organisations that wish to offer same sex marriages (as we imagine that they will) should, like religious organisations, need to opt into the provision of same sex marriages.

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?

No.