
Evangelical Alliance submission to Law Commission Weddings review

Jan 2021

Background

The Evangelical Alliance UK is the largest and oldest body representing the UK's two million evangelical Christians. Established in 1846, today we work across a diverse constituency of over 18,000 individual members, as well as 3,000 churches and 500 organisations. The Evangelical Alliance is the founding member of the World Evangelical Alliance, which unites evangelical alliances based in different countries around the world, representing anywhere from 300 million to a billion evangelical Christians. This global reach reflects the influence of evangelical faith, which can also be seen in the huge social and ethnic diversity in British evangelical churches. All of our member churches will be significantly impacted by the new proposals, and evangelical Christians across the UK highly value the institution of marriage and will be interested in Government efforts to safeguard it. The Evangelical Alliance has frequently partnered with Marriage Week to highlight the importance of marriage to couples and to society, and has spoken up in public and in political debates to defend and promote marriage.

Question 3:

14.3 We invite consultees to share with us their experience with weddings during the pandemic.

For many Evangelical couples, marriage remains an important transition, after which the couple will begin living together. For them, the impact of lockdown measures was even more significant than it might have been for others who do not see marriage in these terms. For many, the lockdown meant that other life decisions were impacted, including housing, relocation and employment.

With this in mind, when weddings have been permitted, evangelical couples have been more inclined to take the opportunity to get married under whatever conditions imposed, rather than waiting until they can have the wedding they might have initially envisaged. This is due to the importance given to beliefs around marriage among evangelical Christians. Many such couples quickly arranged or rearranged their weddings during this period, not knowing whether the situation would change at very short notice. Some weddings, for example, were brought forward in order to continue with 30 guests rather than 15, whereas other couples were left in the dark until the last moment as to whether they could have any form of reception.

Question 23:

14.24 We provisionally propose that:

- (1) for religious organisations other than the Church of England or the Church in Wales, the relevant governing authority of the organisation should be responsible for nominating officiants at weddings; and**
- (2) (if Government enables non-religious belief organisations to officiate at weddings) the relevant governing authority of the non-religious belief organisation should be responsible for nominating officiants to officiate at weddings.**

Do consultees agree?

The Evangelical Alliance broadly agrees with the proposal in 14.24(1). We have no opinion on 14.24(2).

It is important that the relevant governing authority is able to determine who does and does not conduct weddings on behalf of that body. However, different churches will have different structures that require the decision to be taken at different levels. What is more, these structures are not simply pragmatic ones, but reflect genuine theological differences between – or even within – faiths. In the Christian tradition, for example, some churches will see the local congregation (and its trustees) as the authority over the minister. For others, such as the Church of England, the denomination has greater significance as a governing authority. In addition, all churches will be members of a wide range of looser networks and organisations, such as the Evangelical Alliance – though we do not consider ourselves to be a relevant governing authority for the purposes of nominating officiants. The churches we represent therefore have a wide spread of structures and it is vital that these are understood, and that any system of recognizing such civ can adapt to these differing views.

Alongside such diverse structures, as acknowledged by the consultation document, there will be differences between religious organisations on whether to conduct certain marriages (e.g. same-sex marriages or remarriages after divorce). The exemptions for churches from being compelled to hold weddings contrary to that church's doctrine will have implications for determining relevant bodies for nominating officiants. We believe that denominations should retain the right to determine the position on marriage taken by its churches, and be able to insist that weddings in that denomination conform to its view of marriage. We would oppose a system where individual churches in denominations are their own governing authorities, able to change their individual view of marriage without the denomination having a means of redress. Governing authorities should also have the freedom to require nominated officiants to confirm support for the religious body's views and beliefs around marriage. The protections granted to religious groups in the the Marriage (Same-Sex Couples) Act 2013 will need examining to ensure that they continue to provide rigorous protection if changes are made.

In addition, we are concerned at the potential confusion which may arise if a single person could be a nominated officiant for more than one relevant body. The concern here is that a specific person could circumvent the authority of a governing body to define what weddings are permitted by becoming a nominated officiant with a different body that holds to different rules. Because of the removal of the tie to a venue this could lead to a situation where religious body B nominates someone as an officiant who is also an officiant of religious body A. There would then be significant

ambiguity as to who is responsible for and endorses that person. There is also some confusion here as to what happens in the event of a conflict between a national body and local group.

Question 25:

14.27 We provisionally propose that religious organisations and (if enabled by Government to officiate at weddings) non-religious belief organisations should be able to nominate officiants if the body has:

- (1) at least 20 members who meet regularly for worship or in furtherance of their beliefs,**
- (2) a wedding service or a sincerely held belief about marriage.**

Do consultees agree?

The Evangelical Alliance supports this proposal and considers that it will allow significant freedom for churches in our membership outside of the Church of England to conduct weddings in accordance with their faith. At present those churches who own their own building (or have a long lease on one) can register it for weddings. However, many of our churches rent rooms or buildings for services from other organisations (e.g. schools, local councils, or theatres), and are unable to host weddings.

Indeed, many newer churches may choose never to take on permanent physical venues, either with practical concerns such as cost in mind, or because of a theological conviction that the church is not a building but a group of believers. The current reliance on registering buildings creates an inequality in the freedom of religious practice based on wealth or theological principle, which should end. The new system would allow all religious bodies to register church leaders as officiants and hold weddings at a suitable location.

The list of criteria given at this question seems to imply that the local religious community is to be seen as the relevant governing authority, as opposed to the denomination. However, as we noted in response to Question 23 at 14.24, some Christian traditions will put a higher priority on the wider denominational structure to such an extent that this would be the more natural governing authority. As noted above, there should not be ambiguity as to which body nominates officiants in a particular case. Officiants should only be registered with one governing authority to avoid pressure groups licensing their own officiants within religious bodies.

On the criteria itself, we believe that the initial list needs further development. Many evangelical churches will not have a fixed wedding service or liturgy, and will therefore rely on proving that they have a sincerely-held belief about marriage. While the Christian tradition has the resources to meet this criteria, we would be concerned if groups relying on this criterion found it harder to prove than groups with a set marriage service, as this would be privileging one form of religious practice over another. To this list of criteria, however, we would add the need for a formal disciplinary process for those who merit it, as these governing authorities – local or denominational, will have the primary responsibility of determining who should be officiants.

Question 26:

14.28 We invite consultees' views as to whether the law should expressly exclude religious organisations and (if enabled by Government to officiate at weddings) non-religious belief organisations from nominating officiants if the organisation promotes purposes that are unlawful or contrary to public policy or morality.

We believe that the state has a legitimate role in preventing criminal activity associated with marriage (e.g. forced marriage, fraud and immigration offences), and that governing authorities should not be able to nominate officiants if they are found to be complicit or negligent in this area. However, the criteria in this question are much wider than this. We are unconvinced for example, that removing or suspending a body's right to nominate officiants at weddings will be a more appropriate sanction than others if a body is promoting unlawful purposes which are unrelated to weddings. The list of unlawful actions which could prompt the revocation of the right to nominate officiants should be exhaustive, and clearly set out, and these unlawful actions should be limited to those directly relevant to weddings themselves.

Question 28

14.30 We provisionally propose that nominations of officiants by religious and (if enabled by Government to officiate at weddings) non-religious belief organisations should be made to the General Register Office, which should be responsible for keeping a public list of all nominated officiants.

We recognize the value of the General Register Office in maintaining records of officiants, to ensure that someone is only nominated as an officiant by a single governing authority. However, in the case of officiants nominated by governing authorities (e.g. religious organisations), we question the need for this list of religious leaders to be made public. We note that in some cases, the religious leaders of certain Christian convert communities may wish to remain anonymous, given the hostility and attacks they may face for their conversion. We believe that it would be unjustified to insist that these religious leaders place their information – and that of their religious organization – on a public list, which could be misused by opponents. We also believe that the General Register Office would only need a minimum amount of information – if indeed any – from officiants who are nominated by governing authorities (e.g. religious organisations), as the primary responsibility for training and discipline will lie with the governing authority itself.

Question 29

14.31 We provisionally propose that (if enabled by Government to officiate at weddings) independent officiants should be able to apply to the General Register Office to be authorised and included on the public list of officiants.

We agree that if independent officiants are permitted, the General Register Office should have a role in holding them to account and authorising them. However, there must be a clear distinction between independent officiants and those nominated by other organisations, including churches, so as to avoid confusion. It would be problematic, for example, if independent officiants were

permitted to use religious buildings and give the impression of carrying out a religious service as sanctioned by a particular religious group.

Question 30

14.32 We provisionally propose that religious organisations and (if enabled by Government to officiate at weddings) non-religious belief organisations should be responsible for ensuring that the persons they nominate as officiants are “fit and proper” persons.

We agree that it should be the responsibility of the relevant nominating organization to ensure that their nominated officiants are “fit and proper”. However, what is meant by “fit and proper” person needs strict definition to ensure it does not become a state sanctioned test for who can be a religious leader. Many religious groups, after all, will wish to nominate their leaders as celebrants, and being ineligible for registration would be a significant restriction on their ability to lead a religious community. The list of “common” requirements for officiants demanded by the state should therefore be clear, short and specific, perhaps including a minimum age. Religious organisations should naturally be free to impose their own requirements, in terms of doctrine, character or mandatory training.

Question 31

14.33 We provisionally propose that (if enabled by Government to officiate at weddings) independent officiants applying to be authorised should be required to demonstrate that they are “fit and proper” persons by proving that they:

- (1) are aged at least 18**
- (2) understand the legal requirements for being an officiant and performing the role; and**
- (3) have undergone mandatory training and continuing professional development in the legal aspects of being an officiant, with the content to be determined by the Registrar General**

We recognize the need for the Registrar General to have some oversight of independent celebrants, if these are allowed. However, we would be concerned if this role, strictly applying to *independent* celebrants, were to transform into a more general oversight role of celebrants nominated by religious organisations. Instead, it should be up to the nominating organization to impose requirements beyond the minimum (e.g. an age limit), with any Government oversight being of the nominating organization and its processes, rather than the individual officiant.

We believe it would be justified to expect independent officiants to undertake mandatory training, but to make this voluntary for those nominated by an organization, or to work with larger organisations on a faith-specific training program of their own. We believe that religious organisations, particularly the larger ones, are best placed to decide what is appropriate for their officiants. The training proposed would place a higher standard on independent officiants precisely because they operate outside a larger group.

Question 34

14.36 We provisionally propose that, if Government enables independent celebrants and/or non-religious belief organisations to officiate at weddings, it should not be possible for the same person to be:

- (1) authorised as an independent officiant and nominated by either a religious or a non-religious belief organisation; or**
- (2) nominated by both a religious and a non-religious belief organisation.**

Do consultees agree?

We agree to both (1) and (2). In fact, we would support a stronger requirement, that an officiant can only be nominated by one organization, religious or otherwise, *or* be registered as an independent officiant if nominated by no other organization. An officiant should not be able to be nominated by two different religious organisations, for example, as different organisations could have different standards of training and beliefs around marriage, blurring the line between wedding services that are authorized by different religious groups. We also consider it important that religious bodies with buildings have discretion as to which officiants, be they religious, non-religious or independent, can officiate at weddings held on their premises.

Question 35

14.37 We provisionally propose that officiants should have a responsibility to uphold the dignity and solemnity of marriage.

Do consultees agree?

We agree with the importance of the dignity and solemnity of marriage. However, we would note that dignity and solemnity are culturally laden terms. Even within Christianity in the UK, there has been substantial growth in newer churches whose cultural expectations around weddings are very different from what has gone before. One church's dignity might appear to lack solemnity to someone else. We believe that enforcing this should be a matter for nominating religious organisations, and that any engagement by public bodies on these grounds should take care to be culturally understanding and exhibit religious literacy.

Nonetheless, there are common Christian beliefs about marriage which, when communicated, should imbue it with dignity and solemnity. We consider that evangelical Christian beliefs around marriage as solely between a man and a woman for life is a view that upholds dignity and is held coherently and widely across the world. However, in a society where different groups hold different views of marriage, it is important that the freedom to hold such views is protected.

Finally, we would note that the dignity and solemnity of marriage is in fact preserved more by the commitment of the couple to each other in the years that follow the marriage, much more than by the wedding ceremony itself. Many churches run marriage preparation courses and offer counselling to couples with this in mind.

Question 36

14.38 We provisionally propose that the General Register Office should issue guidance to all officiants on how weddings should be conducted.

If the General Register Office were to issue any mandatory guidance to all officiants, it should be the bare minimum standards required to prevent criminal offences (e.g. forced marriage or fraud). Beyond this there is also a role for voluntary guidance, and for working with nominating organisations. However, more detailed central guidance risks standardising weddings, which would not reflect the religious diversity in the UK (see answer to 14.37 above).

Question 37

14.39 We provisionally propose that the primary responsibility for monitoring officiants and requesting withdrawal of authorisation if they fail to comply with the fit and proper person standard or their duties or responsibilities should lie with the organisation that nominated them.

We agree that the primary responsibility for monitoring officiants and withdrawing authorization should lie with the nominating organisation. Moreover, we believe that state authorities should only be able to withdraw such authorization unilaterally in very specific circumstances, generally centering on the celebrant's complicity or negligence in connection with criminal offences being committed. As noted above, we believe that "fit and proper person" needs to be defined much more strictly, with an exhaustive list of circumstances in which this would be appropriate.

Question 38

14.40 We provisionally propose that the General Register Office should have the power to de-authorise nominated officiants if they fail to comply with the fit and proper person standard or their duties or responsibilities, and if the body who nominated them fails to act.

If the General Register Office is to have the power to de-authorise nominated officiants there needs to be clarity as to what is meant by "fit and proper". Where the designation of a fit and proper person lies with the authorizing body there is flexibility for the terms to fit what is appropriate for that context. If the GRO intends to overrule the actions or inaction of a religious body with regards to an individual there needs to be clear reasons and justification for doing so. A "fit and proper" person needs a strict definition, as previously mentioned it could include an exhaustive list of circumstances where a person would be deemed "unfit", focused on preventing criminal offences connected with registering marriages. It should not be a wide-ranging discretionary power, which in the context of religious organisations could be seen as a state veto on who may lead religious communities and preside over a core manifestation of their faith.

Question 42

14.44 We provisionally propose that:

- (1) during every wedding ceremony, the parties:**
 - (a) should be required to express their consent to be married to each other, whether orally or otherwise, but**
 - (b) should not be required to express that there is no impediment to their marrying each other (with the issue of impediments being addressed during the preliminaries);**
- (2) religious organisations and (if enabled by Government to officiate at weddings) non-religious belief organisations should be able to submit details of their wedding ceremonies to the General Register Office, to identify the way(s) each party expresses consent in accordance with their beliefs;**
- (3) the schedule (or marriage document) should contain a declaration to be signed by each party that they had during the ceremony expressed consent to be married to the other, or they were now consenting to be legally married to the other, the signing of which would itself be an expression of consent if the ceremony did not contain an expression of consent; and**
- (4) the marriage should be formed at the point when both parties have expressed consent to be married to each other, whether during the ceremony or when signing the declaration in the schedule (or marriage document).**

It is essential that both parties in the wedding ceremony express their consent to be married. This should occur in public, either orally or in another way that is publicly witnessed. Likewise we consider that it is vital that declarations that there are no impediments occur within the ceremony, in front of witnesses, as well as previously in the preliminaries. While the signing of the marriage document or schedule can be taken as an expression of consent it should not remove the requirement for this to take place publicly in front of witnesses.

We agree with the proposal that religious bodies can submit forms of words to the GRO to identify how consent to be married will be expressed in their ceremony. Our only concern in this regard will be the need for a significant degree of religious literacy to acknowledge and understand the diversity of religious expression, even within one religious group such as Christianity.

Question 45

14.47 We provisionally propose that religious content should be permitted in civil wedding ceremonies, provided that the ceremony remains identifiable as a civil ceremony rather than a religious service.

14.48 We invite consultees' views as to whether specific examples of religious content should be expressly allowed at civil weddings, and, if so, what those examples should be.

The Evangelical Alliance recognizes that some couples who get married through civil wedding ceremonies would value the inclusion of religious material within that wedding ceremony. We

understand this and would not oppose it. In the UK, Christian traditions are often seen as culturally foundational even if the couple do not actively practice religion or faith. However, the distinction between religious and civil ceremonies should be maintained so that marriage doctrines made by denominations are not undermined.

Some examples of religious content that could be allowed at civil weddings include prayers, both formal and extemporaneous, Bible verses and Christian hymns or songs. As long as the distinction is maintained between religious and civil *ceremonies*, we do not think there should be a list of prohibited materials.

Question 48

14.51 We provisionally propose that all weddings should be legally permitted to take place anywhere.

14.52 We invite consultees' views as to whether the law should limit weddings in any particular venues, including:

- (1) outdoors;**
- (2) on inland waters such as lakes or rivers;**
- (3) in the air, and/or**
- (4) in private homes**

The Evangelical Alliance recognizes the benefits from enabling weddings to take place in a wide variety of places. In particular, this will be of great help to churches and denominations that do not have permanent places of worship, but instead make use of other venues for meeting together to worship (e.g. schools, theatres, community centres). The shift from focusing on venue to officiant will enable couples to have weddings with their church community and led by their church leader (assuming they are an officiant), in any venue they choose.

We acknowledge the concerns that some have expressed that by deregulating the location of wedding ceremonies that locations will be used which undermine the dignity and solemnity of the occasion and of the marriage the couple are entering into. We also do not think that weddings should be permitted in private homes as this would not provide sufficient potential for scrutiny and would increase the risk of an abuse of process.

Question 49

14.53 We provisionally propose that civil wedding locations should not have to be publicly accessible or regularly available to the public for the solemnization of civil marriages. Do consultees agree?

We disagree. We consider it a vital safeguard to the integrity of marriage and wedding ceremonies that they are where possible public or regularly available to the public.

Question 50

14.54 We invite consultees' views as to whether the law should prohibit:

- (1) civil weddings from taking place in religious venues and (if non-religious belief organisations are enabled by Government to officiate at weddings) non-religious belief venues?**
- (2) (if non-religious belief organisations are enabled by Government to officiate at weddings) religious weddings from taking place in non-religious belief venues?**
- (3) (if non-religious belief organisations are enabled by Government to officiate at weddings) non-religious belief weddings from taking place in religious venues?**

This is a highly complex aspect of the proposed changes. In removing the requirement for weddings to take place in regulated venues, it is then harder to regulate what is or is not a religious, or non-religious belief venue. As noted previously some churches do not meet in venues that are classified as places of worship with the GRO, but meet in other buildings for their regular services. It is also not clear what is defined as a non-religious belief venue unless it is a very narrow category relating to where non-religious groups meet. However, many of these venues are likely to be multi-purpose venues and could also be used by religious groups for services.

Changes to wedding law should also recognize the autonomy of religious bodies to refuse permission for officiants from other religious bodies to hold weddings in their premises, and have complete discretion as to what ceremonies are allowed. The owners of religious premises will require explicit protection from claims of discrimination based on religion or belief or on sexual orientation if they choose only to allow their venue to be used by certain officiants or for some ceremonies and not others. For example, churches should be free to not allow officiants from religious bodies with different beliefs to their own, and also other churches with different views on same sex marriage.

We agree, however in cases where churches do not operate in religious venues (e.g. in a school or community hall), religious weddings should still be allowed to take place in these locations. This change could be beneficial for evangelical churches who do not own their premises. Our research has shown that many churches in the UK gather in a variety of venues such as private homes, converted shops, engineering factories and industrial units, so this would help churches who meet in unconventional locations.

For the distinction from civil weddings to be maintained within the proposed regime, we consider it sensible that such ceremonies are not permitted in religious buildings. More broadly, we think it should be left to the discretion of whoever is in charge of a venue to decide which weddings, if any, take place there. This would allow religious groups with a high view of the church building to limit use from those who do not share their faith and are not conducting weddings in line with that belief system. It would also allow other groups to hire out their property for weddings by others if they so desire.

Question 52

14.56 We provisionally propose that, as a part of their responsibilities, officiants should ensure that the wedding location is:

- (1) safe, and**
- (2) dignified**

While the Evangelical Alliance broadly agrees with this proposal, the criterion of “dignified” is hard to quantify and is likely to be at least somewhat culturally determined. We are concerned that notions of dignified could be used to object to culturally diverse practices, and with regards to the Evangelical Alliance’s membership we have in view here a range of Christian traditions represented in England and Wales and the cultural contexts they inhabit. Guidance should therefore be produced specifying what these requirements mean in a culturally sensitive way.

In most cases, ensuring a location is safe and legal is a straightforward requirement for those who are responsible for the venue. This will certainly be true for a hired building, for example. If the officiant is not also responsible for the venue concerned, it is unclear what duties should be theirs on top of those already imposed on the location’s legal owner, if applicable.

Question 57

14.63 We provisionally propose that any one of the following factors on its own should render a marriage void:

- (1) the failure of both or either part to give notice of the intended marriage to the registration service, or (if Anglican preliminaries are retained) the relevant Church authority;**
- (2) the wedding taking place after authority to marry had lapsed;**
- (3) the knowledge of both parties that the ceremony was not officiated by an authorised officiant; or**
- (4) the knowledge of both parties that the necessary opt into same-sex marriage had not been given by the relevant religious governing authority, in the case of same-sex marriages.**

We consider that if either party know that the necessary opt into same-sex marriage had not been given by the relevant religious governing authority then this should render a marriage void in the cases of same-sex marriages. We have no comment on the other factors.

14.64 We provisionally propose that the following factors should not render a marriage void:

- (1) mistakes in the issuance of the schedule or (if Anglican preliminaries are retained) marriage document;**
- (2) the absence of witnesses; and**
- (3) a failure to sign the schedule or (if Anglican preliminaries are retained) marriage document, or to register the marriage**

We consider that the presence of witnesses is an essential component of public trust in the institution of marriage and the integrity of wedding ceremonies and therefore the absence of them should render a marriage void.

Question 59

14.67 We provisionally propose that the presumption that a couple is married if they have cohabited for a long period of time and are believed to be married by friends and family should be abolished.

We agree with this proposal. The value of a wedding ceremony as a public declaration of marriage is a crucial legal safeguard. Therefore, a couple shouldn't be presumed to be married without the evidence of them having taken part in a legal ceremony.

Question 85

14.97 We invite consultees' views on: (1) whether the current law discourages or prevents couples from getting married; and (2) whether our provisional proposals would facilitate couples getting married leading to an increase in the number of couples who are legally married. Please provide us with any evidence you have of the scale of the impact of the law or any benefits.

We believe that many of the proposals will be of great convenience to many evangelical churches, some of whom will not own their own buildings. However, we should note that, because of the high value placed on marriage among Christians, many of those marrying in these churches would have been married anyway.

We believe that the wedding ceremony itself is only one part of encouraging legal marriage in the UK. As the marriage is greater than the wedding day itself, so measures to strengthen marriage will need to be examined which are beyond the remit of a consultation on weddings alone. These include financial incentives (or removing financial disincentives) for those in marriages, including those on benefits. They may also include an emphasis on the importance of commitment and marriage in relationships education – and legal education and literacy in the context of formal schooling should be part of the Commission's final recommendations. Some of these policies are outlined in the 2018 *Manifesto to Strengthen Families* produced by some Conservative MPs.¹

Danny Webster
Head of public policy
d.webster@eauk.org
07766 444650
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¹ <https://www.strengtheningfamiliesmanifesto.com/>