

Consultation Response to ‘Tying the Knot: Reforming Weddings Law in England and Wales’

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Introduction

This Consultation is most welcome. As I have argued in my work, the law on getting married in England and Wales has not kept up to date with how people marry.² It excludes many religious ceremonies that take place outside a registered place of worship as well as ceremonies conducted by belief organisations such as Humanists UK and independent celebrants. The current law is discriminatory and clearly not human rights compliant.³ The need for reform is not only compelling, it is overwhelming.

In *Religion and Marriage Law: The Need for Reform*, I argued the need to move from a law that largely regulates buildings to one that regulates officiants.⁴ As I pointed out, this would mirror the approach taken in a number of neighbouring jurisdictions and their legislation provides templates that can usefully be adopted.⁵ I am pleased to see this move from regulating buildings to regulating officiants is the crux of the Consultation proposals, building upon the excellent work of the Law Commission.

My work has made it clear that marriage reform needs to be comprehensive. Simply adding new categories to existing legislation will simply create new forms of discrimination. In a recent article, I argued that independent celebrants needed to be legally recognised as part of the reform since to do otherwise would defeat the purposes of the reform, such as the need for clarity and to remove discrimination, disadvantage and inconvenience.⁶ The Government’s initial view that independent celebrants should be included is very welcome.

The same is true of the Consultation’s proposals as to the regulation of independent officiants. Unlike the Law Commission who suggested central regulation of independent celebrants, the Government proposes that ‘independent officiants would be required to belong to a recognised, regulator-approved membership organisation similar to the approach proposed for belief groups’ [77]. This is in line with my suggestions to the Law Commission and is a much better approach since it means that the central regulator can play the same role in relation to all officiants and can serve as the regulator of their regulators.⁷

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² Russell Sandberg, *Religion and Marriage Law: The Need for Reform* (Bristol University Press, 2021). Copies of all publications cited are available on request.

³ *R (on the application of Harrison and others) v Secretary of State for Justice* [2020] EWHC 2096 (Admin).

⁴ Russell Sandberg, *Religion and Marriage Law: The Need for Reform* (Bristol University Press, 2021).

⁵ See *ibid* 111-116 for suggested draft legislation based on this.

⁶ Russell Sandberg, ‘The Rite Time: The Need for Inclusive Marriage Law Reform’ (2026, Jan) *Family Law* 101-107, <https://orca.cardiff.ac.uk/id/eprint/182744/1/Sandberg%20AAM.pdf>

⁷ Russell Sandberg, ‘Déjà I Do: Some Initial Thoughts on the Law Commission’s ‘Celebrating Marriage’ Report,’ *Law and Religion UK*, 23 July 2022, <https://lawandreligionuk.com/2022/07/23/deja-i-do-some-initial-thoughts-on-the-law-commissions-celebrating-marriage-report/>

Overall, the Consultation document is exemplary. It successfully improves upon the Law Commission's work in several respects. As I have argued, however, there are five small tweaks that could be made to improve matters further:⁸

- [1] The need to list rather than classify officiants
- [2] The need to recast the rules on the expression of consent
- [3] The need to rethink 'disturbances' under the dignity framework
- [4] The need to clarify the rules on use of religion or belief materials in the ceremony
- [5] The need to think the purpose of defining religion or belief

This response will deal with each of these points (and other thoughts) in order as it discusses the questions posed in the Consultation. However, the first point merits attention at the outset given that it underpins many of the other concerns.

The Need to List Rather than Classify Officiants

It is a significant strength of the Consultation document that it treats all officiants the same wherever possible. Indeed, the main weaknesses of the proposals are where there is differential treatment. Moreover, this often arises where there are attempts to group types of officiants. Such classifications were integral to the Law Commission's proposals which recommended different treatment of different types. By contrast, the Consultation has moved on from these recommendations and there is no need to classify groups of officiants.

The Consultation's glossary defines 'officiant' as 'a person who is legally responsible for ensuring that a wedding complies with the law and who oversees the legal formation of the marriage. This includes registration officers, Anglican clergy, nominated officiants, independent officiants and maritime officiants' [9].

This list approach is unproblematic and should be adopted throughout.⁹ However, unfortunately this is not the case and this complicates matters considerably. The Glossary unhelpfully makes further distinctions. It adopts a distinction drawn by the Law Commission between:

“‘Belief officiants’”: Anglican clergy and nominated officiants from religious or non-religious belief organisations’ and “‘Civil officiants’”: The person who would be legally responsible for ensuring that a civil wedding complies with the law and who oversees the legal formation of the marriage, under proposed reforms. This includes registration officers, independent officiants and maritime officiants’ [6].

I have been critical of this distinction and the Law Commission's differential treatment of independent celebrants that flowed from them being treated as being under the 'civil' category.¹⁰ Such a distinction makes little sense given that they have more in common with humanist celebrants than registration officers.

⁸ Russell Sandberg, 'Five Suggestions on Wedding Law Reform', Law and Religion UK, 7 September 2026, <https://lawandreligionuk.com/2026/09/07/five-suggestions-on-wedding-law-reform/>

⁹ Ibid.

¹⁰ Russell Sandberg, 'Déjà I Do: Some Initial Thoughts on the Law Commission's 'Celebrating Marriage' Report', Law and Religion UK, 23 July 2022, <https://lawandreligionuk.com/2022/07/23/deja-i-do-some-initial-thoughts-on-the-law-commissions-celebrating-marriage-report/>

This is underlined by the definition given of an ‘independent officiant’ as officiants ‘that will be neither state appointed registration officers, nor officiants acting on behalf of a religious or non-religious belief organisation, under the proposed reforms’[8]. This underscores that the distinction between civil and belief officiants is unhelpful since independent officiants can be distinguished from bedfellows in each category.

The ‘belief-civil’ distinction can be confusing given that the main distinctions envisaged in the Consultation are not between belief and civil officiants. For the most part, all officiants are treated the same. Under the Consultation, the only significant dividing lines are types of officiants is between State officials and all others in terms of regulation and, between Anglican weddings and all other weddings in terms of universal rules as to preliminaries. (There are some proposed differences but I will argue below that they should not apply). This shows that there are important differences within both the ‘belief’ and ‘civil’ groups and that these labels hinder.

The term ‘belief’ is problematic in that it has various different legal meanings. In relation to human rights and discrimination law, protection is afforded to ‘religion or belief’. On its face this suggests that beliefs are different to religions and, although it is often said that both religious and non-religious beliefs are included, many beliefs are not defined by the absence of religion.

The definition of the term ‘civil’ is also contentious ‘Civil’ has two different meanings in the Consultation. For the most part, ‘civil marriage’ refers to officiants other than Anglican clergy and nominated officiants (representing religions or beliefs). However, ‘civil preliminaries are defined as those that apply to ‘all non-Anglican weddings’ [7]. This means that Catholic and Humanist weddings, for example, would be conducted by ‘belief officiants’ but undergo ‘civil preliminaries’. This will lead to confusion.

It is true that in common parlance, there is understood to be a distinction between civil and religious weddings. However, this distinction is not found in the Marriage Act 1949 which adopts the list approach (see section 26). It was originally reflected in the civil partnership legislation but civil partnerships can now be conducted by religious officiants.

The preferable approach is not to distinguish between ‘belief’ and ‘civil’ officiants but to simply include the list of officiants as in the definition given of officiants. The ‘civil’ label can then be kept for the discussion of preliminaries where it denotes anything non-Anglican. Many of the proposals in the Consultation would be even clearer if the discussion was organised around the five categories of officiant (registration officers, Anglican clergy, nominated officiants, independent officiants and maritime officiants) rather than using broader categories that conflate officiants and have little meaning in terms of the few differences in treatment of officiants that is being proposed.

The Consultation document is a master class in communicating complex information clearly and sweeping away unhelpful distinctions. The inclusion of definitions for and therefore a distinction between civil and belief officiants is a rare blip and needs to be removed. As the following will show by looking at the questions posed, adopting a list based approach would remedy many of the (few) shortcomings in the proposal.

Preliminaries

Questions 1-4

The tightening and modernising of the requirements on preliminaries and the adoption of a universal approach (with the exception of Anglican weddings) is welcome. Indeed, these proposals could probably stand alone from the rest of the reform proposals as being inherently sensible changes in their own right. I have no specific views on the questions asked which are probably best suited for those with experience of such matters and of dealing with sham and forced marriages.

The Legal Formation of Marriage

Questions 5-7

These questions concern the expression of consent and provide an example of where the Consultation tries to classify groups of officiants with unfortunate results. I have suggested that a preferable approach would be to have a universal rule to the effect that in all ceremonies, the expression of consent should take the form of suggested words of consent with limited variation that could include action permitted at the discretion of the officiant.¹¹

The Consultation proposes that in ‘religious and non-religious belief ceremonies’, ‘consent should be capable of being expressed through actions as well as words’ and that this would better reflect the diversity of traditions and practices used in wedding ceremonies’ [33]. Given the important role they play in terms of interfaith marriages, it may be argued that this rule should also apply to independent officiants.

The Consultation argues that ‘civil ceremonies should continue to have a clear, standardised and identifiable expression of consent’ in the form of ‘required words of consent’ [33-34]: ‘This protects the state’s interests in ensuring that both parties have freely agreed to marry and provides certainty in law’ [33]. Surely, however, this should be true of all weddings.

It is proposed that, for civil weddings, ‘limited variation should be permitted through the use of “words to the same effect”’ and that ‘the officiant should be responsible for determining whether any variation is acceptable, supported by guidance provided by the regulator’. Arguably, this should apply to all weddings with this obligation applying in relation to permitting consent through action. Indeed, consent through action could be seen as a ‘limited variation’ meaning that there would not be different rules as to how consent is expressed in different types of ceremonies.

The Consultation paper states that the Government believes that these different rules are justified: ‘It would accommodate different belief practices, while improving consistency and legal clarity in all marriage ceremonies’. Yet, the need for a universal approach here is compelling. Conversely, if a line is to be drawn as the Consultation proposes, then independent officiants are currently placed on the wrong side of this line.

The discussion of consent underscores the problem with the ‘belief-civil’ distinction and provides further reason for disregarding it. Should different rules be necessary, it would be clearer to distinguish officiants by type using the five-fold list.

¹¹ Russell Sandberg, ‘Five Suggestions on Wedding Law Reform’, Law and Religion UK, 7 September 2026, <https://lawandreligionuk.com/2026/09/07/five-suggestions-on-wedding-law-reform/>

The Dignity Framework

Question 8

A major, if not *the* major, innovation by the Consultation is the suggestion of a dignity framework that would enable officiants to determine whether locations and ceremonies are safe and dignified. This will go a long way to overcoming fears that widening the law on marriage would mean that weddings would lack dignity. The Consultation is correct to point out that currently ‘the dignity of weddings is protected unevenly’ [36]. The officiant-based model would constitute a significant improvement because ‘the legal responsibility for upholding the dignity and significance of marriage would sit with the officiant’. As with the proposals on preliminaries, the instigation of a universal approach will increase standards as well as modernising the law.

The considerable detail provided on the dignity framework runs the risk of overshadowing the intention that it should enable ‘discretion in order to reflect the particular circumstances of each wedding’ [37]. In particular, in chapter 6, it is noted:

‘The Government recognises that the overwhelming majority of weddings currently take place in a dignified manner. It does not expect concerns about the dignity or significance of wedding ceremonies to arise routinely under the reformed system. However, where reforms allow weddings to take place in a wider range of locations and in more flexible forms, it is important that the legal framework contains proportionate safeguards.

‘In practice, the Government expects that many weddings will continue to take place in established venues commonly used for weddings, such as register offices, approved premises and places of worship. In those cases, the assessment required of an officiant is likely to be straightforward. A more detailed assessment is more likely to be needed where a couple proposes a new, unusual or highly personal location or ceremony, or where the officiant has not previously conducted a wedding at that place’ [58].

It would be helpful for this to be explained at the start of the discussion of the dignity framework. More generally, there is a question of how much of this framework should be articulated in legislation as opposed to the guidance developed by regulators. I think there is an argument for a minimal elucidation in legislation.

Questions 9-13

Looking at the various parts of the dignity framework, one aspect that I have found objectionable is the mention of ‘disturbances’ and ‘focus’.¹² This might be better articulated as requiring the officiant to be in control of the environment. Moreover, I think it is important to make a distinction between the dignity required during the legal expression of consent as opposed to the rest of the ceremony. Other focuses and things that for some might constitute a disturbance are not objectionable if they are not proximate to the ‘legal bit’ of the ceremony. For me, it makes a significant difference whether the potentially undignified action is part of the legal expression of consent or is an adjunct part of the ceremony akin to a reading. It would be good to see this articulated more clearly in the dignity framework.

¹² Russell Sandberg, ‘Five Suggestions on Wedding Law Reform’, Law and Religion UK, 7 September 2026, <https://lawandreligionuk.com/2026/09/07/five-suggestions-on-wedding-law-reform/>

The Consultation proposes that officiants should be clear that the ‘dignity of the occasion will not be undermined by distraction or trivialisation’ [38]. These are very subjective terms. The reference to ‘distraction’ is particularly problematic; a distraction for whom? In a religious wedding, the religious rituals could be seen as a distraction from the main event of the wedding in some eyes. It is stated that:

‘Locations characterised by unavoidable interruption or distraction, such as nightclubs during normal operation or stadiums during live sporting events, will not meet the proposed standard. Settings that require participants to focus on another activity during the ceremony, such as skydiving, white-water rafting, rollercoasters or other amusement rides, will also fall short of the standard’ [41]

However, how does this differ from religious or cultural weddings where there are other rituals, practices or traditions ongoing? The idea that a closed nightclub or sports arena might be a suitable venue but an open one would not goes against the ‘public’ nature of marriage.

The Consultation later suggests a number of factors to be taken into account including ‘Control of the environment: whether the officiant is able to maintain appropriate control over the immediate environment, including preventing interruptions or distractions during the ceremony’ [42].

This would seemingly allow other focuses provided that they can be policed. This would be a preferable approach to banning ‘distractions’ or other focuses.

Indeed, the Consultation stresses that this is not ‘intended to exclude all non-traditional locations. For example, ‘a tethered hot-air balloon or a busy public beach may require careful consideration but could be permitted provided the officiant is satisfied that the ceremony can be conducted safely, seriously and without avoidable distraction’ [41]. This example suggests that the test should be control of the environment rather than a ban on all disturbances and an insistence on there being only one focus.

The significant thing missing from the Consultation’s discussion is the proximity of the other event from the ‘legal’ part of the ceremony, the expression of consent. Surely, this makes a huge difference. This is why a communion service during the wedding ceremony is unobjectionable – the religious ritual does not disturb the legal part of the ceremony since the two are not at the same time. The same logic would apply to non-religious activities.

Somewhat bafflingly, the Consultation gives the following example:

‘if a couple wanted the ceremony to be performed as a parody or comedic sketch, with the expression of consent treated as part of the performance, this would not meet the proposed standard. In those circumstances, the ceremony would not reflect the seriousness required for the legal act of marriage’ [42].

Surely, the issue would be whether the sketch was the legal part of the ceremony. How different would be a recitation of a comedy routine to any other reading? It would be fine as part of the ceremony provided it is not the expression of consent.

This is the nub of the issue. It needs to be made clearer that interpreting and applying the dignity framework, attention is to be afforded to the proximity of the potentially undignified matter with the legal expression of consent.

Questions 14-15

Questions fourteen and fifteen relate to whether two ‘specific restrictions should apply to the ceremony to help preserve the dignity and significance of marriage’ [43]. This undermines the comprehensiveness of the framework and which are probably best left to the guidance by regulators.

The second proposed specific restriction is that the ceremony ‘must not include elements that are gimmick-based or trivialising and which would detract from the significance of marriage as a legal act’. This is perhaps the most subjective of all of the elements of the dignity framework. All religious or cultural practices could once be seen in this manner by at least some people. The Consultation goes on to say:

‘This would not preclude the inclusion of light-hearted elements such as a reading from Shakespeare, a sing-along to Sweet Caroline or other similar contributions, so long as these remain within the bounds of dignity and do not amount to excessive or inappropriate displays’.

I am not sure how light-hearted Shakespearian readings are and what is meant by an excessive or inappropriate sing-along. Again, as with the parody example, surely it matters whether this is the expression of consent. If it is not, then the question should be its proximity to the legal act. If it is a mere reading then provide that it is not offensive then I struggle to see how it would be inappropriate.

Questions 16-17

These questions concern the use of religious or belief content in ceremonies other than those conducted by officiants nominated by a religion or belief group. The proposals here improve upon the Law Commission’s proposals but appear convolute because the Consultation distinguishes between belief and civil groups of officiants. Using this distinction is then undermined and confused by the need to distinguish independent and maritime officiants from civil registrars.

This could be avoided by recasting the rule by just listing the officiants. This would simplify matters considerably. The rules could be articulated as follows:

- Anglican clergy and nominated officiants should use the ceremonies prescribed by their regulators;
- Independent officiants and maritime officiants cannot use such ceremonies in full but can use them or in part;
- Registration officers cannot lead or participate in any such elements but many permit others to do so as part of the ceremony.

Specific Locations for Weddings

Questions 18-19

The move from regulating buildings led the Law Commission to recommend that ‘there should no longer be a requirement for venues to be pre-approved’ [50]. Instead ‘officiants would decide whether the location of each wedding they conduct is suitable, including considering the safety and dignity of the location’. The Government, while agreeing that ‘the law should no longer require weddings to take place in pre-approved venues’, nevertheless is consulting on whether ‘there may be value in allowing venues to apply voluntarily for pre-authorisation as suitable wedding locations’. The Consultation points out:

‘This would enable a list of established venues to be available. It could support couples who do not have a specific or unique location in mind and improve the efficiency of the system by avoiding the need for repeated assessments of the same venue, particularly where that venue hosts weddings on a regular basis (subject to the officiant retaining discretion to conduct a site visit if required).’

This seems inherently sensible.

Question 20

This question welcomes views on whether further protections are needed to guard against forced, predatory and sham marriages or abuse and to ensure that private homes are safe and suitable locations for wedding ceremonies’. This would seem to undermine the comprehensiveness of the dignity framework and any additional safeguards needed in the home could and should be added to the framework generally.

Questions 21-22

I have no view on these questions.

Role of Officiants

Question 23

Chapter 6 begins by drawing a distinction between ‘two broad categories of officiant: civil officiants, including registration officers, independent officiants and maritime officiants; and belief officiants, including Anglican clergy and officiants nominated by religious or non-religious belief organisations (referred to as “nominated officiants”)’ [56].

Yet, as argued above, this distinction is rarely relevant to the proposals in the Consultation (as opposed to those by Law Commission) and greater clarity would be achieved by a list system. This is shown in the way in which many of the roles of officiants apply across the board including the list on page 57 and the proposal that all ‘officiants should have a specific legal duty to uphold the dignity and significance of marriage’ [58].

This is a sound proposal and one that should apply to all officiants. Indeed, the more rules and requirements that are universal in their application the better.

Questions 24-26

These questions concern the requirements for nominated officiants. The Consultation focuses on trying to define the nature of the nominating body. It ties itself in knots attempting to define ‘religious belief organisations’ and then ‘non-religious belief organisations’ [61]. As I have argued, misses the point.¹³ The question is whether the nominating body is able to serve effectively as a regulator for the purposes of marriage law.

Under the proposals, celebrancy membership organisations will perform similar regulatory functions for independent officiants as religion or belief organisations will perform for officiants representing them. Yet, no attention is afforded (rightly) to the question of how a celebrancy membership organisation is defined; the focus is rather on whether it is able to serve effectively as a regulator.

Chapter 7 of the Consultation deals with the ‘Regulation of Officiants’ and explores many suggested requirements, some of which are only to apply to independent and maritime officiants. Most of the time, however, it would make sense for these to apply to all officiants including those nominated by religion or belief bodies.

In particular, question 36 consults on the eligibility criteria ‘that would be necessary for membership organisations to become approved, both in relation to the organisation’s structure and to how it appoints and oversees officiants’. It would make sense for these to apply not only to celebrancy membership organisations but to nominating bodies –religion or belief bodies.

If nominating officials are to be limited to belief organisation, then all that would need to be added to this the rule suggested by the Law Commission that such ‘organisations should only be eligible to nominate officiants where “it would be a manifestation of an individual’s religion or beliefs to have a wedding officiated at by an officiant nominated by that organisation”’ [62].

This could be buttressed by excluding certain types of organisations such as political parties and trade unions from the definition, an approach taken in other jurisdictions that the Law Commission rejected but that the Consultation now raises [65], as suggested by question 26. This seems a sensible addition.¹⁴

The discussion of defining ‘religious belief organisations’ and ‘non-religious belief organisations’ [61] is unconvincing and unnecessary.

The discussion definition of what the Consultation calls ‘religious belief organisations’, erroneously claims that the case law¹⁵ provides ‘certainty’ [60]. The case law is about defining a building registered for religious purposes rather than an officiant or person. The

¹³ Russell Sandberg, ‘Five Suggestions on Wedding Law Reform’, Law and Religion UK, 7 September 2026, <https://lawandreligionuk.com/2026/09/07/five-suggestions-on-wedding-law-reform/>

¹⁴ For an illustration of what this could look like see Russell Sandberg, *Religion and Marriage Law: The Need for Reform* (Bristol University Press, 2021) 112.

¹⁵ *R (Hodkin) v Registrar General* [2013] UKSC 77. For critique of this decision see Russell Sandberg, ‘Defining the Divine’ (2014) 16 *Ecclesiastical Law Journal* 198-204. For wider discussion of the case law on defining religion see Russell Sandberg, ‘Clarifying the Definition of Religion under English Law: The Need for a Universal Definition?’ (2018) 20 *Ecclesiastical Law Journal* 132-157.

case law definition is fuzzy, to say the least. Yet, the Consultation not only uncritically adopts it but problematically cites the Charity Commission's application of this case law 'alongside other considerations' to exclude Jediism [61]. However, the purpose and substance of the definition of religion in charity law differs from that in marriage law. Indeed, it may be asked why the line should be drawn where the Charity Commission has drawn it - particularly since a *Star Wars* inspired ceremony – with a dignified expression of consent – would presumably be permitted by an independent officiant.

The question of whether an organisation meets the definition of religion is a red herring. The focus needs to be on the regulation of the officiant and the regulating body but solely in terms of the needs for marriage law rather than the status of the organisation.

The same is true of the attempt to define 'non-religious belief organisations' [61]
The Consultation reasons:

'Given that the proposed definition of religious groups refers to "spiritual or non-secular belief systems" it cannot be applied directly to non-religious belief organisations. In addition, feedback to the Law Commission's consultation indicated that replicating the features of the definition of a religion would be neither appropriate nor desirable for non-religious belief organisations, which may operate differently from religious groups'.

This seems to equate non-religious belief organisations with being secular and non-spiritual. This is a different definition than that taken in other areas of the law and one that those who subscribe to such beliefs might object to.

Indeed, the Consultation agreed with the Law Commission definition of those 'whose sole or principal purpose is the advancement of a system of non-religious beliefs which have a level of cogency, seriousness, cohesion and importance that brings them within the meaning of article 9 of the European Convention on Human Rights'. However, this assumes the ambit of Article 9 is more certain than it is.¹⁶

It further notes that 'the requirement that beliefs demonstrate "cogency, seriousness, cohesion and importance" reflects criteria established in case law (known as the "Grainger criteria")¹⁷ for determining what constitutes a protected philosophical belief in the workplace under the Equality Act 2010' [61-62]. Yet, this ignores the extraordinary contradictory and confused case law that those criteria have led to.¹⁸

The concern seems to be to 'safeguard against parody or insincere organisations from being able to conduct legally binding weddings' [62]. Yet, it might be asked what the policy reasoning behind this is and where is the line to be drawn.

These matters are not subject to Consultation questions. Question 24 asks whether organisations need to be established for a minimum of three years before being able to

¹⁶ A point that has proved problematic in Welsh education law where a similar definition has been adopted: Russell Sandberg, *Religion in Schools: Learning Lessons from Wales* (Anthem Press, 2022).

¹⁷ *Grainger PLC v Nicholson* [2009] UKEAT 0219/09/ZT, para 24.

¹⁸ On which see Russell Sandberg, 'Is the National Health Service a Religion?' (2020) 22 *Ecclesiastical Law Journal* 343-354.

nominate. This reflects the recommendations of the Law Commission that said that a minimum time should be included [62]. On the one hand, this is sensible but again this is focusing on the wrong thing. The question is whether the nominating body is able to serve effectively as a regulator for the purposes of marriage law. The time it has been in existence may indicate a degree of permanence and establishment but this is hardly likely to be the major factor to decide whether or not a body can serve as a nominator.

Similarly, question 25 focuses on how many household members a belief organisation needs to have. Again, it may be questioned why this matters. The number of households is evidence of how well established a belief system is but this does not seem to be a definitional matter in terms of whether a belief system is established enough to discharge its functions as a nominating body for the purposes of marriage law. Moreover, in a system that (rightly) includes independent celebrants, an adherent of a belief system that does not meet the household requirement could simply ask a co-adherent to become an independent officiant to circumvent this rule.

The requirements laid out in question 36 would seem to be more relevant to the question of whether a nominating body should be recognised. If there is a need to limit such bodies to religion or belief groups then all that would be needed in addition to the requirements for celebrancy membership bodies would be the rule that the body must exist for the manifestation of religion or belief and a list of exclusions.

Question 27

Leaving aside the question of maritime officiants, the arguments for inclusion of independent celebrants are compelling, as I have argued elsewhere.¹⁹ It is great to see the Government support of this, which as they rightly note ‘would create a more flexible and inclusive system, provide greater choice for couples and support a level playing field between different types of ceremony’ [67].

The arguments given by the Consultation document are convincing. Including independent officiants would not only ‘align England and Wales with a number of other jurisdictions’ [67]. But it would also avoid and overcome problems faced in other jurisdictions that have not included them. To legally recognise only humanist ceremonies or ceremonies conducted by a representative of a belief organisation would simply replace one type of discrimination with another.²⁰ It would not fulfil the stated purpose of a law on marriage that is equitable, clear and simplified.

Moreover, the Consultation is correct to say that including ‘independent officiants would support the Government’s objective of enabling couples to have weddings that are meaningful to them and reflect their values, beliefs and circumstances’. To most couples, independent celebrants are indistinguishable to humanist celebrants offering as they do bespoke wedding ceremonies that at the moment are not legally binding.²¹ If the Government wishes to shift to regulating officiants rather than buildings and to allow couples to get married on beaches and at heritage sites, then it needs to realise the reality that many of these

¹⁹ Russell Sandberg, ‘The Rite Time: The Need for Inclusive Marriage Law Reform’ (2026, Jan) *Family Law* 101-107.

²⁰ *Ibid.*

²¹ *Ibid.*

ceremonies are currently conducted by independent rather than humanist celebrants. The objectives of wedding law reform would not be met if independent celebrants are excluded.

Further, the Consultation rightly observes that independent celebrant ceremonies are ‘particularly important for mixed faith and interfaith couples, who represent around a fifth (21%) of all couples’ [67-68] and that ‘independent officiants could benefit couples with non-religious, spiritual or personal beliefs who want a meaningful ceremony without affiliating with a specific religious or non-religious belief organisation’[68]. I agree. Excluding independent celebrants would arguably not be human rights compliant.²² Article 9 does not simply protect recognised belief systems. The points of principle in the *Harrison*²³ case would apply to those who seek to manifest their beliefs by having a ceremony conducted by independent celebrants.

The Consultation notes that the ‘Government is aware of concerns that independent officiants would be commercial celebrants, rather than state officials or officiants acting on behalf of a religious or non-religious belief organisation’ but rightly concludes that ‘permitting independent officiants would, in of itself, introduce undue commercialisation into weddings law’.

As anyone who has got married will testify, weddings are commercial affairs; all officiants charge for their services or for use of their premises.²⁴ Opposition to a ‘free market’ comes from pure self interest. And the idea that independent celebrant led ceremonies by their nature would cheapen and devalue the institution of marriage is a baseless slur.

Ceremonies by independent celebrants are no more likely to devalue the dignity of marriage than any other officiant led ceremony and that if this occurred under a new legal framework that legally recognised such ceremonies then there would be regulatory repercussions for such independent celebrants in the same way as there would be for any other officiant.

Questions 28-29

I have no view on these questions.

Regulation of Officiants

Questions 30-33

As discussed above, as many of the requirements regulating officiants should be as universal as possible. This includes the ‘fit and proper’ requirement, monitoring requirements, periodic renewal and a deauthorisation process. Interestingly the Consultation discusses this with reference to how ‘in New Zealand independent officiants are required to provide supporting documentation and pass an online test to demonstrate good character, as well as provide four signed letters of support and two separate character referees’ [73]. There is no reason why such requirements should not apply to all officiants. Indeed, much of the discussion of the regulation of independent officiants in chapter 7 could apply universally. For instance, the Consultation notes that the Law Commission proposed that ‘independent and maritime

²² Ibid.

²³ *R (on the application of Harrison and others) v Secretary of State for Justice* [2020] EWHC 2096 (Admin).

²⁴ Russell Sandberg, ‘The Rite Time: The Need for Inclusive Marriage Law Reform’ (2026, Jan) *Family Law* 101-107.

officiants must not act where there is a conflict of interest'. Surely this requirement should apply to all officiants.

Questions 34 and 35

Unlike the Law Commission, the Consultation proposes that 'independent officiants would be required to belong to a recognised, regulator-approved membership organisation similar to the approach proposed for belief groups' [77]. This is in line with my suggestions to the Law Commission and is a much better approach since it means that the central regulator can play the same role in relation to all officiants and can serve as the regulator of their regulators.²⁵

There is a clear need for a central regulator who plays the same role in relation to nominated, independent and maritime officiants. The focus of the central regulator will be on the monitoring of nominating and membership organisations alike. Nominating and membership organisations would be responsible for monitoring individual officiants subject to the central regulator. They would also be responsible for developing guidance, good practice and responding to queries and questions, again subject to the central regulator.

Question 36

The articulation of the proposed eligibility criteria for membership organisations to become approved is sound. Indeed, as noted above, these criteria should be the requirements for nominating bodies too since they would be more relevant than the question of how to define religious and non-religious beliefs.

Question 37

I have no view on this question.

Question 38

This asks whether as with belief groups, membership organisations should be responsible for delivering training. Again, this differs from the Law Commission's proposals that 'the regulator should act as the primary direct provider of training for independent and maritime officiants, or belief organisations where they are unable to provide their own training' [79]. This again is a preferable approach to the Law Commission's proposals.

Question 39

This asks who should be the central regulator. I have no firm view on this. To some extent, it matters not whether it is a new regulator or the GRO taking on a new function. Either way, it will be a completely new development and needs proper funding and time to be set up. This further underlines the need for the body not to play two roles in relation to independent celebrants and for membership organisations to play an equivalent role to nominating bodies.

²⁵ Russell Sandberg, 'Déjà I Do: Some Initial Thoughts on the Law Commission's 'Celebrating Marriage' Report,' Law and Religion UK, 23 July 2022, <https://lawandreligionuk.com/2022/07/23/deja-i-do-some-initial-thoughts-on-the-law-commissions-celebrating-marriage-report/>