

## THE BENCH OF BISHOPS OF THE CHURCH IN WALES A RESPONSE TO THE LAW COMMISSION GETTING MARRIED: A CONSULTATION PAPER ON WEDDINGS LAW

The Church in Wales is a constituent church of the Anglican Communion and formed part of the established Church of England until disestablishment in 1920, pursuant to the *Welsh Church Act 1914* and the *Welsh Church (Temporalities) Act 1919*. As the consultation paper notes the Church in Wales, despite disestablishment, retains a number of quasi-establishment provisions in relation to marriage (and burial), the most important being the common law right of all residents to be married in their local parish church.

This response has been prepared on behalf of the six Diocesan Bishops of the Church in Wales, known as the Bench of Bishops. The Bishops have consulted with a selection of parish clergy in preparing this response and have been assisted in the preparation of the response by the Legal Department of the Representative Body of the Church in Wales.

The Bishops are thankful for the opportunity to comment, and commend the Law Commission for its careful and thorough work to date. Whilst we do not agree with every proposal, we are most grateful for the clarity of thought behind them and the way in which they have been presented. In respect of each of the consultation questions, we respond as follows:

	<b>Consultation Question</b>	<b>Church in Wales Response</b>
1	We invite consultees to tell us if they are in a marriage that is not recognised by the law, whether celebrated in a religious or non-religious ceremony. And if so: (1) did you understand that the marriage would not be recognised by the law at the time of the wedding, and if not, when did you find out? (2) was it your choice not to have a legally binding wedding (and if so, what were your reasons for doing so)? (3) have you experienced any consequences from not being in a legally recognised marriage?	Not applicable.
2	We invite consultees to tell us about any legal barriers that prevented them from having a legally binding wedding that was meaningful or personal to them, whether they are legally married or not.	Not applicable.
3	We invite consultees to share with us their experience with weddings during the COVID-19 pandemic.	Initial cancellation of weddings at relatively short notice in March resulted in some anger directed towards ministers of religion and church officials, although this was relatively short-lived and the majority of correspondents understood the context and the reasons. The most difficult aspect has been the number of times changes (numbers at service, numbers at reception) etc

		<p>have been introduced at very short notice. This has been particularly difficult for couples who have had to change their guestlists a matter of days before a wedding.</p> <p>Whilst many couples have rearranged their wedding for a fresh date with their church, we are aware that some couples have instead opted for a civil ceremony in, for example, a hotel. With the situation being so volatile, some couples felt it easier to deal with a single venue for their ceremony and reception.</p> <p>The Archbishop's Faculty Office were superb throughout both in issuing guidance and in dealing with an increased number of Archbishop's Special Licences for marriage. Many more Licences than usual were issued for (a) persons terminally ill, (b) for weddings in hospital chapels for frontline NHS workers (c) weddings for military personnel shortly to deploy overseas.</p>
4	We provisionally propose that the requirement that couples are resident in an English or Welsh registration district for seven days prior to giving notice of their intention to marry to the superintendent registrar should be abolished. Do consultees agree?	Yes.
5	We provisionally propose that it should be possible to start the notice period by giving notice online, by post or in person at any registration district, and that any person giving notice online or by post would be required to attend a separate in-person interview at a later date. Do consultees agree?	Yes, although we favour the retention of Banns/Common Licence/Special Licence as an alternative, as set out in more detail in below responses.
6	We invite consultees' views as to whether the minimum period between the in-person interviews and the date from which the couple can get married should be: (1) three days; (2) seven days; or (3) another period of time.	We see no reason for any extended period between the meeting and the service, particularly in the case of a couple who are getting married a considerable distance from their home address. We feel three days is sufficient.
7	We invite consultees' views as to whether it should be possible for interviews to take place remotely, in the future, with the possibility of an in-person interview being required where concerns arise about sham or forced marriages or the capacity of either party to consent.	We would note that a remote video meeting may present risks surrounding forced marriages (e.g. prompts from a family member out of shot). We would also have concerns about the possibility of discrimination on the grounds of protected characteristics where an in-person interview can be required at the discretion of the Registrar (e.g. disproportionately requiring this of BAME or disabled persons).
8	We invite consultees' views as to whether it should continue to be possible for notice to be given outside England and Wales where one of the couple	We take no view.

	who is resident in Scotland, or in a specified Commonwealth country or territory, or on a naval ship at sea, and both are relevant nationals or exempt from immigration control.	
9	We provisionally propose that notices of marriage should be publicly displayed online, save where this would expose either of the couple to a risk of harm. Do consultees agree?	<p>We agree. Exceptions to the rule should have to be clearly set out and justified; we would oppose anything that would have the affect of exempting the (say) rich or famous from the provisions which apply to the public at large. We consider that the existing system (publication on the door of the Register office) is little known to the public at large and gives no real opportunity for objections to the marriage to be ascertained. We consider this likely to be considerably less effective than the publication of banns in this regard.</p> <p>We consider that there may be cases where there are good and proper reasons for non-publicity, but which likely do not fall into the category of 'risk of harm'. For example, ministers of religion occasionally get married by Common or Special Licence so that they may have a small family wedding without risk that their entire congregation is tempted to turn up.</p>
10	We provisionally propose that the schedule should be valid for 12 months from the date of issue. Do consultees agree?	We agree
11	We provisionally propose that: (1) the schedule should identify the officiant who will officiate at the wedding; and (2) at the parties' request, the registration service should issue an amended schedule with a substitute officiant. Do consultees agree?	Insofar as this relates to an individually-registered officiant, we agree. For a Church of England or Church in Wales wedding (where officiants are automatically authorised by virtue of their ordination status) the schedule should identify that the wedding may be officiated by any Clerk in Holy Orders.
12	<p>We provisionally propose that a substitute officiant should be able to officiate at the wedding if the officiant named in the schedule is unexpectedly unable to act because of death, sudden illness or unavoidable delay. Do consultees agree?</p> <p>We invite consultees' views as to whether a substitute officiant should be able to act in other circumstances.</p>	<p>We agree.</p> <p>We would repeat our answer to question 11 above. If that is not accepted, then we would wish to see a further heading such as 'pastoral emergency' – a vicar needing to delegate a wedding so that they could attend to a dying parishioner might not be seen as 'unavoidable delay'.</p>
13	We provisionally propose that banns published in Scotland, Northern Ireland or Ireland should no longer authorise an Anglican wedding in England or Wales.	We agree. The calling of English or Welsh Banns in Scotland, Northern Ireland or The Republic of Ireland has fallen into desuetude. Common Licences are regularly and uncomplicatedly granted in the case of persons resident in Scotland or on the island of Ireland.

14	We provisionally propose that the rules about where banns can be published to authorise an Anglican wedding if a church is injured by war damage should be repealed. Do consultees agree?	We agree that at today's date the provisions serve no useful purpose. The Commission may wish to consider whether it is simpler for this provision to remain to cover the eventuality of <i>future war damage</i> .
15	We invite consultees' views as to whether banns to authorise an Anglican wedding should be required to be published only in the church where the wedding is to take place.	We are in favour of banns publication being simplified, if possible. However, we wonder whether the other way around might be better - that Banns be required to be called only in the parish(es) of residence of the couple. This (it appears to us) holds better to the notion of the intention of banns (to discover whether there is an impediment to the marriage), as the couple may not have a particularly strong connection to the church in which they are getting married. Parish of residence is something which can easily be confirmed with the local church, and this would reduce the need of calling the banns to one or two parishes maximum. Meeting with the local minister in the <u>parish where one lives should be straightforward in virtually all cases.</u>
16	We invite consultees' views as to whether to authorise an Anglican wedding clergy should: (1) have the power to call for documentary evidence and be required to check such evidence; and (2) be required to meet with each of the couple separately, before banns are published.	<p>We currently advise clergy to check evidence of relevant nationality before calling banns and would not be opposed to it becoming a legal requirement. We would support the process being simplified by identifying <u>one</u> cleric required to undertake this process (rather than up to three if banns need to be called in three parishes). We are unconvinced that powers additional to those set out in s8 of the Marriage Act 1949 (as amended) are required, but would not oppose them being introduced.</p> <p>We would not oppose a requirement for a meeting with each of the couple separately by the officiating minister before the wedding takes place, but do not see the need for this to be duplicated at the banns stage. Such a meeting could easily form part of the marriage preparation required by the law of the Church in Wales (and the Church of England).</p>
17	We invite consultees' views as to whether both of the couple should be required to attend and make separate declarations that there is no impediment to their marriage in order for a common licence to be granted to authorise an Anglican wedding.	We do not oppose this, but do not consider it necessary. The liturgy of the Church in Wales requires both parties to make a declaration of no impediment as part of the marriage liturgy itself (and would be committing a fraud if they answer falsely). Introduction of such a requirement might affect a minority of cases where (for example) one of the couple is overseas until shortly before the wedding.
18	We invite consultees' views as to whether: (1) Anglican preliminaries should continue to be recognised as legal preliminaries to weddings officiated by the Church of England and the Church in Wales; or (2) all weddings should be preceded by civil preliminaries.	In the absence of a single national point of publication for civil preliminaries, we would strongly oppose the abolition of Anglican preliminaries; there is no evidence to suggest that any other method of publication is more or less likely to lead to an impediment to the marriage being discovered.

		<p>If a single national point of publication for civil preliminaries is introduced we would still oppose the abolition of Anglican preliminaries; we consider they form an important part of the pastoral landscape in preparing couples for marriage (as the Church in Wales understands it) and an opportunity for them to make contact with the pastoral support of their local church community. We do not consider that there is any evidence of the system being broken and thus in need of fixing, though we do recognise the simplicity of a single integrated national system for the publication of notices of marriage.</p> <p>We would also observe that the decentralised nature of the Anglican preliminary system is a positive in practical terms. We have concerns about civil registration offices' ability to service increased numbers of preliminary applications, particularly in times of civil unrest or pandemic. Recently we have heard stories of significant delays in arranging appointments to give notice at Register Offices. In Spring 2020 all Register Offices were closed; there would have been no provision for couples to get married at all, but for the existence of Anglican preliminaries.</p> <p>We would take issue with the comment at paragraph 4.108 that <i>“The very fact that there is a separate system of Anglican preliminaries raises issues of inequality of treatment...”</i>. It is the common law duty of the Church in Wales (and Church of England) to marry any resident (of whatever faith, or no faith), save in very particular circumstances set out in statute, that underpins the parallel system of preliminaries and is not some advantage or privileged position enjoyed by one religious denomination.</p> <p>The Commission's proposals do not seek to do away with this common law right to be married in one's local (Anglican) parish church. Yet no thought seems to have been given to the effect of removing regulation of Anglican weddings from civil legislation on the canon law of the Church of England and Church in Wales. The canon law of the Church in Wales is binding only on its members<sup>1</sup>. We would therefore potentially be in a situation where non-members were exercising their right to be married, but the Church in Wales</p>
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<sup>1</sup> Welsh Church Act 1914, s3(2)

		did not have power to pass rules/laws relating to the exercise of those rights that bound those persons. We understand that similarly complex constitutional issues would affect the Church of England, and note that the General Synod of the Church of England voted against the abolition of ecclesiastical preliminaries in 2017.
19	We provisionally propose that all weddings should be attended by an officiant who should have a legal duty to: (1) ensure that the parties freely express consent to marry each other; (2) ensure that the other requirements of the ceremony are met; and (3) ensure that the schedule or (if Anglican preliminaries are retained) marriage document is signed. Do consultees agree?	We agree.
20	We provisionally propose that registration officers should only be able to officiate at civil weddings. Do consultees agree?	We take no view (save that they should not be able to officiate at Anglican weddings).
21	We provisionally propose that only one registration officer should need to officiate at a civil wedding. Do consultees agree?	We take no view.
22	We provisionally propose that clerks in Holy Orders within the Church of England and the Church in Wales should be recognised as officiants by virtue of their office. Do consultees agree?	<p>We agree, noting that the definition of a Clerk in Holy Orders is subtly different in the Church of England and the Church in Wales. In the Church in Wales it is defined in Chapter I of the Constitution of the Church in Wales<sup>2</sup>, whereas in the Church of England it is defined by a range of Ecclesiastical Legislation (and the common law).</p> <p><b>We have answered the other consultation questions in this Section 5 on the basis that this remains the case and would wish to be reconsulted if proposals emerge which require individual registration/authorisation of Clerks in Holy Orders.</b></p>
23	<p>We provisionally propose that:</p> <p>(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 to officiate at weddings; and</p>	We take no view.

<sup>2</sup> "...a Clerk in Holy Orders of the Church in Wales means a person in deacons', priests' or bishops' orders holding:

- (a) an ecclesiastical office in the Church in Wales; or
- (b) an ecclesiastical licence granted by a Bishop; or
- (c) permission to officiate granted by a Bishop."

	(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.	
24	<p>We provisionally propose that, if Government enables non-religious belief organisations to officiate at weddings, such organisations should be defined (to mirror the description of religion in R (Hodkin) v Registrar General of Births, Deaths and Marriages as <i>An organisation that professes a secular belief system that claims to explain humanity's nature and relationship to the universe, and to teach its adherents how they are to live their lives in conformity with the understanding associated with the belief system. Do consultees agree?</i></p> <p>We invite consultees' views as to whether there should be a list of types of organisations that should not amount to a non-religious belief organisation for the purpose of officiating at weddings, and if so, what types of organisations should be listed.</p>	<p>We are concerned that this definition is so wide as to include such belief groups whose view of marriage is antithetical to the current understanding of the institution of marriage in the laws of the jurisdiction (e.g. that a sincerely held belief that marriage is a 3-yearly renewable contract).</p> <p>We note the difficulties for the Commission in this, given that the question of 'what marriage is for' is not within scope of the Commission's work. We also wonder whether, in practice, the GRO will be sufficiently robust in refusing applications, given the high risk of judicial challenge.</p>
25	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, and (2) a wedding service or a sincerely held belief about marriage.	<p>(1) We observe that 20 members seems a very low threshold indeed.</p> <p>(2) Following on from what we say in q24 we would suggest that the sincerely held view belief about marriage would need to be a belief broadly compatible with the current understanding in law of the institution of marriage.</p>
26	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 support this in relation to unlawfulness. We would wish to see a very clear definition and procedure in relation to allegations that an organisation's purposes were contrary to public policy or morality.
27	We invite consultees' views as to whether religious organisations and (if enabled by Government to officiate at weddings) non-religious belief organisations should be able to nominate officiants by office, in addition to nominating named individuals.	We take no view.
28	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. Do consultees agree?	We agree (save as to Anglican clergy).
29	We provisionally propose that (if enabled by Government to officiate at	We agree.

	weddings) independent officiants should be able to apply to the General Register Office to be authorised and included on the public list of officiants. Do consultees agree?	
30	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. Do consultees agree?	We take no view.
31	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. Do consultees agree?	We take no view.
32	We provisionally propose that officiants nominated by religious and (if enabled by Government to officiate at weddings) non-religious belief organisations should be prohibited from making a business of officiating at weddings, by elevating the making of profits above the expression of their beliefs.	Whilst supportive of the principle behind the proposal, we are entirely unclear how this could be monitored and enforced in practice.
33	We provisionally propose that (if enabled by Government to officiate at weddings) independent officiants should be prohibited from acting with a conflict of interest but that there should not otherwise be limits on the fees that they can charge for officiating at a wedding.	We take no view.
34	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.
35	We provisionally propose that officiants should have a responsibility to uphold the dignity and solemnity of marriage. Do consultees agree?	We agree.
36	We provisionally propose that the General Register Office should issue guidance to all officiants on how weddings should be conducted. Do consultees agree?	We agree.
37	We provisionally propose that the primary responsibility for monitoring	We take no view.

	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. Do consultees agree?	
38	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. Do consultees agree?	We agree.
39	We provisionally propose that the General Register Office should issue guidance to all officiants on how weddings should be conducted. Do consultees agree?	We agree.
40	We provisionally propose that there should be no time limit on the authorisation of officiants. Do consultees agree?	We take no view.
41	We provisionally propose that an independent officiant's authorisation would lapse if they failed to comply with the obligation to engage in continuing professional development. Do consultees agree?	We take no view.
42	<p>We provisionally propose that:</p> <p>(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);</p> <p>(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;</p> <p>(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</p> <p>(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</p>	We agree, save that we do not agree that the issues relating to impediments is dealt with by the preliminaries. There may be a fresh impediment which has been created between the completion of the preliminaries and the date of the wedding.

	or when signing the declaration in the schedule (or marriage document). Do consultees agree?	
43	We provisionally propose that all weddings should take place according to the form and ceremony chosen by the parties and agreed to by the officiant. Do consultees agree?	We believe the form and ceremony should be chosen by the officiant and agreed to by the couple. This is a subtle shift in emphasis, but is likely to be of importance, particularly to religious organisations.
44	We provisionally propose that there should be no special rules about the form of Anglican, Jewish or Quaker weddings, and that there should be no legal limitations on who can have those types of wedding (but like all religious groups, Anglican Jewish and Quaker groups will continue to be able to impose their own requirements as a matter of their own practice). Do consultees agree?	<p>We see no particular reason for the repeal of the provisions of the Marriage Act 1949, the Church of England Marriage Measure 2008 and Marriage (Wales) Act 2010, which govern who may marry in Anglican Weddings (and where they have entitlement to marry), but do not strongly oppose the proposal. However, an alternative means of regulation may need to be provided for, as the canon law of the Church in Wales binds only its members. We would need to ensure that (for example) non-members seeking to be married in Church in Wales churches were restricted to those rites and ceremonies approved by the Church in Wales.</p> <p>We raise at this stage that significant time (<u>at least</u> 18 months) would be required to introduce internal constitutional replacements for these rules, were the statutory requirements to be repealed.</p>
45	<p>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. Do consultees agree?</p> <p>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.</p>	We would support a small amount of religious material (a bible reading or popular hymn) being permitted in a civil wedding ceremony, provided that the ceremony remained clearly identifiable as a civil ceremony). Detailed and careful guidance would need to be provided to couples and officiants in this regard.
46	We provisionally propose that the provision to permit a religious service to be conducted after a civil wedding ceremony (section 46 of the Marriage Act 1949) should be repealed. Do consultees agree?	We take no strong view, but note that the current legislative provision would appear to permit an Anglican non-legal <i>wedding</i> service (as opposed to a service of blessing) after a civil service and thus may not be entirely redundant.
47	We provisionally propose that the existing requirements for a wedding to take place with open doors, or otherwise for public access to be allowed, should be repealed. Do consultees agree?	We believe marriage to be a public act and therefore do not agree.
48	<p>We provisionally propose that all weddings should be legally permitted to take place anywhere. Do consultees agree?</p> <p>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</p>	We do not oppose the relaxation of the requirements for a venue, but do not believe a wedding should be able to take place anywhere. We believe it should take place in public (see question 47 above) and in a suitable place with regard to the (proposed) duty to uphold the dignity and solemnity of marriage.

	lakes or rivers, (3) in the air, and / or (4) in private homes.	
49	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 do not agree as set out above at question 47.
50	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?	It must be clearly set out that religious organisations have an absolute right to refuse non-religious or civil weddings taking place in the religious venues of that organisation (and be clear that this is not subject to challenge under the <i>Equality Act</i> or otherwise). That being so, we would not oppose this.
51	We provisionally propose that it should be the responsibility of the officiant to decide whether the location for the wedding should be approved. Do consultees agree?	We take no view.
52	We provisionally propose that, as a part of their responsibilities, officiants should ensure that the wedding location is: (1) safe, and (2) dignified. Do consultees agree?  We provisionally propose that guidance should be produced by the General Register Office to provide advice to officiants on how to assess whether a location is safe and dignified for a wedding. Do consultees agree?	We take no view.
53	We invite consultees' views as to whether there should be an optional preapproval process available for locations that frequently host weddings, that operates alongside the general rule that the officiant must agree to the location. If consultees agree that there should be such a pre-approval process: (1) who should be responsible for it, and (2) how should it work?	We do not see what such a system would add.
54	We provisionally propose that after a wedding ceremony, the schedule or (if Anglican preliminaries are retained) marriage document should be able to have added to it: (1) the date of the wedding; (2) the location of the wedding; and (3) the names and occupations of the parties' parents, each of whom the parties should be able to identify as "mother", "father", or "parent". Do consultees agree?	We agree.
55	We provisionally propose that couples should have the choice of registering their marriage in English only, in Welsh only, or in both English and Welsh. Do consultees agree?	We agree. We would oppose any attempt to prevent Welsh being used (including for weddings taking place in England).

56	<p>We provisionally propose that an option for electronic registration should be introduced at a later date when infrastructure is in place to provide a high level of security. Do consultees agree?</p>	<p>We agree, but urge that progress is made on this as swiftly as possible. Whilst perhaps out of scope for the Commission, we would strongly counsel that the currently proposed move away from the existing processes for registration of marriages should be delayed until such a point as a full electronic system (electronic marriage schedules and marriage documents, electronic registration of marriages and the creation of an electronic register) is ready to be launched.</p>
57	<p>We provisionally propose that any one of the following factors on its own should render a marriage void:</p> <ul style="list-style-type: none"> <li>(1) the failure of both or either party to give notice of the intended marriage to the registration service, or (if Anglican preliminaries are retained) the relevant Church authority;</li> <li>(2) the wedding taking place after authority to marry had lapsed;</li> <li>(3) the knowledge of both parties that the ceremony was not officiated by an authorised officiant; or</li> <li>(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. Do consultees agree?</li> </ul> <p>We provisionally propose that the following factors should not render a marriage void:</p> <ul style="list-style-type: none"> <li>(1) mistakes in the issuance of the schedule or (if Anglican preliminaries are retained) marriage document;</li> <li>(2) the absence of witnesses; and</li> <li>(3) a failure to sign the schedule or (if Anglican preliminaries are retained) marriage document, or to register the marriage. Do consultees agree?</li> </ul>	<p>We agree with all points, save that we think further consideration should be given as to whether the absence of witnesses should render a marriage void. Witnesses play an important role, particularly (for example) in circumstances where future questions might arise as to the capacity of the parties to consent to marriage.</p>
58	<p>We provisionally propose that the following factors should result in a non-qualifying ceremony:</p> <ul style="list-style-type: none"> <li>(1) both: <ul style="list-style-type: none"> <li>(a) failure of one or both parties to the marriage to give notice of the intended marriage, and</li> <li>(b) either: (i) the knowledge of both parties that the ceremony was not officiated by an authorised officiant, or (ii) in the case of same-sex marriages the knowledge of both parties that the necessary opt into same-sex marriage had not been given by the relevant religious governing authority; or</li> </ul> </li> </ul>	<p>We agree.</p>

	(2) failure of one or both parties to express consent to the marriage. Do consultees agree?	
59	<p>We provisionally propose that a presumption in favour of the validity of a marriage should arise where:</p> <p>(1) the couple have signed the schedule or (if Anglican preliminaries are retained) marriage document, or</p> <p>(2) the couple have given notice and gone through a ceremony with a person acting as officiant, but should not require the couple to have cohabited for any period after its celebration. Do consultees agree?</p> <p>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. Do consultees agree?</p>	We agree.
60	We provisionally propose that the three-year time limit on petitioning for nullity on the basis of lack of consent should be abolished. Do consultees agree?	We agree. A declaration that a marriage never existed is (both legally and theologically) very different from a declaration that marriage which previously existed has been dissolved.
61	We provisionally propose that it should be an offence: (1) for any person to purport to be an officiant and deliberately or recklessly mislead either of the couple about their status or the effect of the ceremony; or (2) for an officiant deliberately or recklessly to mislead either of the couple about the effect of the ceremony. Do consultees agree?	We agree.
62	We invite consultees' views as to whether there are any problems with the law governing weddings of persons who have a terminal illness, are detained in a prison or hospital, or are housebound.	We see no issues with the law as it currently stands, but note that the system works well because of the availability of Archbishop's Special Licences and the work of the Faculty Office. We would strongly oppose the abolition of Special Licences, as we believe this will make it harder not easier for such weddings to take place.
63	We provisionally propose that parties who have a terminal illness should be required to give notice of their intention to marry and be interviewed by a registration officer prior to the schedule being issued. Do consultees agree?	We do not agree if the implication is that Special Licences would no longer be available for this purpose – which are often issued in the final hours of life. A requirement for a face-to-face (or video) meeting may mean a marriage is unable to take place. Marriages pursuant to a Special Licence are often arranged on days, or hours, notice. We would strongly oppose any additional requirements which would be likely to introduce delays into this incredibly sensitive and time-critical process.
64	We provisionally propose that the Registrar General's licence should be abolished, and that there should be a single form of civil authority to marry – a	We take no view.

	schedule – issued by registration officers. Do consultees agree?	
65	We provisionally propose that schedules issued to couples where one or both parties has a terminal illness should be valid for 12 months. Do consultees agree?	We agree.
66	We provisionally propose that schedules issued to couples where one or both parties are detained in prison or hospital or are housebound should be valid for 12 months. Do consultees agree?	We agree.
67	<p>We provisionally propose that weddings legislation should contain a power for secondary legislation to make emergency provisions that would permit:</p> <p>(1) the validity of schedules and other forms of authority to marry to be extended until after a national emergency;</p> <p>(2) both stages of civil preliminaries to take place entirely remotely;</p> <p>(3) the officiant, the couple, and the witnesses to each attend the wedding ceremony remotely; and</p> <p>(4) the schedule to be signed by each of the officiant, the couple, and the witnesses remotely, or for each to sign a different copy of the schedule.</p> <p>Do consultees agree?</p> <p>We provisionally propose that the emergency provisions should be able to apply to all couples, depending on the nature and length of the emergency. Do consultees agree?</p> <p>We provisionally propose that the emergency provisions should facilitate weddings of those who might be at risk of death, rather than requiring evidence that the person is seriously ill and is unlikely to recover. Do consultees agree?</p>	<p>We agree with (1).</p> <p>In respect of (2) we are sympathetic to the principle, but worry about the potential for abuse.</p> <p>As to (3), we strongly oppose the option of a wedding itself taking place ‘remotely’. We believe that the couple, minister and witnesses should be in the same place. We consider the potential for abuse in respect of entirely remote weddings as outweighing the benefits of making such provision. To take the most obvious example, we do not see how the officiant could be sure that both the couple were giving informed consent to each other, as there may be persons ‘out of shot’ pressuring them.</p> <p>As to (4) It logically follows that, if those persons are all present, they would all be able to sign the schedule.</p>
68	We provisionally propose that weddings should be able to take place in the territorial sea, and in bays and other coastal waters, adjacent to England and Wales. Do consultees agree?	We take no view.
69	We provisionally propose that weddings should be able to take place in international waters under the law of England and Wales, on board cruise ships registered in the United Kingdom with a port of choice in England or Wales. Do consultees agree?	We take no view.
70	We invite consultees’ views as to whether weddings should be able to take place in international waters under the law of England and Wales, on board	We take no view.

	vessels other than cruise ships, and if so, which types of vessel	
71	We provisionally propose that couples should be required to give the name and registration number of the ship on which they intend to marry in international waters, when giving notice of their intention to marry, but should not be required to give the name of the officiant. Do consultees agree?	We take no view.
72	<p>We provisionally propose that weddings on ships in international waters should be officiated by:</p> <p>(1) deck officers who have been authorised by the Registrar General as maritime officiants; and</p> <p>(2) (if independent officiants are enabled by Government to officiate at weddings) other members of the ship's crew who have been authorised as independent officiants. Do consultees agree?</p> <p>We provisionally propose that maritime officiants should be subject to the same rules as we have provisionally proposed should apply to independent officiants. Do consultees agree?</p> <p>We provisionally propose that weddings on ships in international waters should be void if they are not officiated by a maritime officiant or a member of crew who is an independent officiant. Do consultees agree?</p>	We take no view.
73	We invite consultees' views about whether there is any demand for religious or non-religious belief weddings in international waters.	We are not aware of any significant demand for weddings in international waters according to the rites and ceremonies of the Church in Wales.
74	We provisionally propose that any fixed time limit for couples to return the schedule after their wedding should not apply to weddings in international waters, but instead couples should be required to return the schedule as soon as is reasonably possible. Do consultees agree?	We take no view.
75	We provisionally propose that there should be an additional, standard fee charged in cases where the registration officer must travel to one of the persons giving notice because that person is housebound or detained. The fee should be set nationally on a cost-recovery basis. Do consultees agree?	We do not oppose this, though believe there should be remission of fees in case of hardship, particularly where a person is housebound due to a protected characteristic (e.g. disability or age).
76	We invite consultees' views as to whether the fee for both parties to give notice of a wedding involving a person who is terminally ill should be:	See question 75 above. We would not oppose cost-recovery basis were there to be a system of fee reduction/remission. Otherwise the fee should be set on compassionate grounds.
	(1) the same fee as other cases in which the registration officer must travel to the person giving notice, set nationally on a cost-recovery basis; or	
	(2) a separate fee from other forms of giving notice, set nationally on compassionate grounds at below cost level.	

77	We provisionally propose that it should continue to be possible for couples to have a civil wedding in a register office, for a fee prescribed by regulation. Do consultees agree?	We take no view.
78	We provisionally propose that if any fee is charged for registration officers to ensure that a location is safe and dignified, that fee should be set by the local authority on a cost-recovery basis. Do consultees agree?	We take no view.
79	We provisionally propose that if there is an optional pre-approval process for wedding locations that regularly host weddings, any fee for pre-approval should be set by the local authority or Government body responsible for it, on a cost-recovery basis. Do consultees agree?	We take no view.
80	We provisionally propose that there should be an additional fee for a registration officer to officiate at a civil wedding outside the register office, which should be a standardised hourly rate to reflect the cost of the registration officer's time in travelling to and from the wedding, prescribed by regulations to apply across England and Wales. Do consultees agree?	We take no view.
81	We provisionally propose that the principle that fees for discretionary services should be determined on a cost-recovery basis should continue to apply to additional services that local authorities provide, including for services registration officers provide beyond officiating at a civil ceremony. Do consultees agree?	We take no view.
82	We provisionally propose that the fees for a registration officer to officiate at a wedding at the place where a person is housebound or detained should be the same fees as prescribed for the registration officer to officiate at any other wedding outside the register office. Do consultees agree?	We take no view.
83	We invite consultees' views as to whether, for a registration officer to officiate at a wedding involving a party who is terminally ill (1) the fee should be set by regulation at a level below cost-recovery; or (2) there should be no fee.	We would support fee remission on compassionate grounds, but take no particular view as to its form.
84	We provisionally propose that the Registrar General should be able to prescribe a fee for an application to authorise an officiant, set at a level to recover any costs incurred in assessing the application. Do consultees agree?	We take no view at this stage, but wish to be reconsulted if proposals change so that clerics of the Church in Wales are required to be authorised on an individual basis.
85	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 are not aware of any particular discouragement to getting married that would be addressed by the Commission's proposals. We think it more likely that financial matters dissuade many from getting married – not only the cost of weddings (and associated parties), but also matters such as married couples being permitted a single primary residence between them for tax purposes (and some welfare benefits being lower for couples than two single persons),

		<p>and the crippling costs associated with divorce.</p> <p>In the vast majority of weddings, the costs of the preliminaries and the ceremony itself are a tiny proportion of the overall costs of the day. These proposed reforms are unlikely to have any significant effect on the overall costs of the day.</p> <p>Whilst an increase in the variety of wedding venues (and weddings) offered may mean that marriage appeals to new couples, we do not consider that the reforms will make a huge difference.</p>
86	<p>We invite consultees' views on the impact of the current law on couples including in relation to:</p> <ol style="list-style-type: none"> <li>(1) the availability and costs of register office weddings;</li> <li>(2) the costs of marrying on approved premises;</li> <li>(3) the costs of marrying in registered places of worship;</li> <li>(4) the costs of marrying in locations that are not authorised for weddings under the current law; and</li> <li>(5) the necessity and costs of a having a separate, legally recognised wedding.</li> </ol> <p>We invite consultees' views on the potential benefits to couples of our proposed scheme, including benefits relating to:</p> <ol style="list-style-type: none"> <li>(1) the availability of register office weddings and any savings in relation to them;</li> <li>(2) savings from being able to marry in locations without the need for a preapproval process, including places of worship, locations that could currently be approved premises, and locations that could not be approved under the current law, such as outdoors or in private homes; and</li> <li>(3) the necessity of a separate, legally recognised wedding and any consequent savings. If you have any evidence to support your answers, or which might help us assess the extent of possible benefits, please provide it.</li> </ol>	<p>A Church in Wales wedding is one of the most cost-effective ways to get married, and we believe that it will likely remain so even if these reforms are introduced. The existing system of 'blanket authorisation' for parish churches is efficient and unbureaucratic. We therefore have no comment to make as to the benefits of the proposed scheme, as they do not appear to apply to Church in Wales weddings.</p>
87	<p>We invite consultees' views on the impact of the current law on venues, including in relation to:</p> <ol style="list-style-type: none"> <li>(1) the costs resulting from the Marriages and Civil Partnerships (Approved Premises) Regulations 2005,<sup>4</sup> including the costs of complying with them and</li> </ol>	<p>Again, we do not consider it likely that any of these benefits would apply to the Church in Wales. A possible consequence of increased choice would be that the overall 'market share' of Church in Wales weddings would reduce, which would mean a reduction in income for the local churches (which are charities) and might therefore lead to a reduction in the services which they</p>

	<p>any lost opportunities arising from being unable to fulfil the requirements; and (2) the availability of registration officers to attend weddings on approved premises and the costs of their attendance.</p> <p>We invite consultees' views on the potential benefits to venues of our proposed scheme, including benefits relating to:</p> <ul style="list-style-type: none"> <li>(1) hosting weddings without requiring Government pre-approval;</li> <li>(2) the availability of registration officers for civil weddings;</li> <li>(3) the ability of venues to host weddings officiated by religious officiants, and (if enabled by Government to officiate at weddings) non-religious belief organisations and independent officiants; and</li> <li>(4) the business opportunities arising from an increase in the number of weddings in England and Wales. If you have any evidence to support your answers, or which might help us assess the extent of possible benefits, please provide it. We would also welcome any data on the size of businesses that are affected by the law or will be impacted under our proposed reforms.</li> </ul>	<p>are able to offer their communities. We therefore think any changes are likely to be detrimental to the Church in Wales.</p> <p>That said, if the law gave the opportunity for Church in Wales weddings to take place in places other than licensed places of worship, we would likely consult with the Governing Body of the Church in Wales and relevant stakeholders as to whether this was something which we might wish to permit in future. Such a change might increase the number of Church in Wales weddings.</p>
88	<p>We invite consultees' views on the impact of the current law on local authorities.</p> <p>We invite consultees' views on the potential benefits to local authorities of our proposed scheme. If you have any evidence to support your answers, or which might help us assess the extent of possible benefits, please provide it.</p>	<p>A move to universal civil preliminaries would reroute monies from charities (Parochial Church Councils) to local authorities.</p>
89	<p>We invite consultees' views on the impact of the current law on:</p> <ul style="list-style-type: none"> <li>(1) residents of England and Wales travelling to other jurisdictions to get married; and</li> <li>(2) residents of overseas jurisdictions travelling to England and Wales to get married.</li> </ul> <p>We invite consultees' views on the potential benefits of our proposed scheme relating to:</p> <ul style="list-style-type: none"> <li>(1) residents of England and Wales travelling to other jurisdictions to get married; and</li> <li>(2) residents of overseas jurisdictions travelling to England and Wales to get married. If you have any evidence to support your answers, or which might help us assess the extent of possible benefits, please provide it.</li> </ul>	<p>We have no particular research or views to offer on this, and are unaware of large numbers of people travelling abroad for weddings who would be otherwise likely to marry in a Church in Wales ceremony.</p>
90	<p>We invite consultees' views on the impact of the current law on the United</p>	<p>We take no view</p>

	Kingdom ship register and the maritime industry. We invite consultees' views on the potential benefits to the United Kingdom ship register and the maritime industry of our proposed scheme. If you have any evidence to support your answers, or which might help us assess the extent of possible benefits, please provide it.	
91	We invite consultees to tell us their views on the potential costs of our provisional proposals, including costs to: (1) Government and local authorities; (2) businesses; (3) religious (and non-religious belief) organisations; (4) independent officiants; and / or (5) couples	<p>In respect of the Church in Wales, we have identified significant institutional costs relating to the implementation of any changes (including legal work in changing our constitutional rules c.£50,000-80,000 and training and publicising the new requirements (as yet unquantified). If individual clergy are required to register or be authorised, this would incur significant further institutional cost (as yet unquantified).</p> <p>We take no view on the potential costs to other bodies.</p>

Answers compiled and finalised on behalf of the Bench of Bishops by the Head of Legal Services of the Representative Body of the Church in Wales

Matthew J Chinery  
Cardiff  
4 January 2021