Beyond beliefs: a proposal to give couples in England and Wales a real choice of marriage officiants

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Beyond beliefs: a proposal to give couples in England and Wales a real choice of marriage officiants

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Abstract
Should the law permit independent ‘wedding celebrants’ and/or celebrants accredited by belief organisations to solemnise marriages? While neither option is available to couples in England and Wales at present, their counterparts in Scotland, Ireland and Northern Ireland can be married by humanist officiants, and marriages in Jersey can be solemnised by authorised civil celebrants.¹ Recent attempts to redress this situation have focused on celebrants accredited by one group – Humanists UK (HUK; formerly the British Humanist Association). No attention has been paid to the growing number of independent celebrants who offer a similar service; my large-scale survey in January and February this year provided the first academic insight into their work. In this article I analyse celebrants’ responses to some key questions against publicly available information about celebrants accredited by HUK, and existing officiants in neighbouring jurisdictions, concluding that there are no legally significant differences between the two categories of celebrant and the officiants who are currently entitled to solemnise marriages. I therefore argue that the law of England and Wales should incorporate elements from all four neighbouring jurisdictions into a revised legal framework that would give couples the widest possible choice of how, and by whom, they are married.

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¹ The term ‘officiant’ will generally be used in this article to denote anyone who may currently conduct a legally binding marriage ceremony. When referring to England and Wales, or generally, ‘celebrant’ denotes anyone who, at present, can conduct only non-legally-binding wedding-style ceremonies. When referring to other jurisdictions, ‘celebrant’ will be used in the same way as in the law of that jurisdiction. In the Conclusion, I recommend different terminology that could be used if the law of England and Wales were changed.
**Keywords**
Celebrants, weddings, officiants, belief organisations, humanists.

**Introduction**
Would it be appropriate to change the law of England and Wales so as to enable independent wedding celebrants and/or celebrants accredited by belief organisations to solemnise marriages? Both groups currently conduct non-legally-binding wedding-style ceremonies that are outside the legal framework, and many members of both groups would like to be able to solemnise marriages. There have been a number of policy reviews during the twenty-first century, all of which have focused on Humanists UK (HUK; formerly the British Humanist Association). HUK is the largest and best-organised group: its accredited celebrants conducted more than 1,050 ceremonies in 2019. However, independent celebrants, despite having conducted an estimated 9,000–10,000 ceremonies in 2019, have been consistently ignored. This may be because their lack of a declared belief system is perceived as somehow diminishing the service that they offer, or because – despite the fact that they cannot actually solemnise marriages – they are viewed by some as cynically cashing in on the vast sums of money that couples are prepared to spend on personalised, Instagram-friendly, ceremonies.

As I will show, this image of independent celebrants is undeserved, and the trend towards personalised weddings is about much more than the photo opportunities. Since 1995, couples in England and Wales have been able to personalised their civil wedding ceremonies by including non-religious personalised vows, readings and music, and the notion that weddings should reflect couples’ beliefs and lifestyles has received academic support. Writing shortly after the introduction of humanist weddings in Scotland, Jane Mair argued that ‘values, other than traditional religious values, may provide an important belief structure for some people and that this should be reflected

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5 The Marriages (Approved Premises) Regulations 1995, SI 1995/510, Sch 2 (in force from 1 April 1995) refers to ‘any reading, music, words or performance which forms part of a ceremony of marriage’. Until that date, civil weddings in England and Wales had included no material selected by the couple.

6 The introduction of humanist weddings in Scotland is discussed in more detail below: see M McLean n 37.

7 In some sources, ‘humanist’ takes an upper-case initial letter; in this article, this occurs only when the word forms part of the title of an organisation, or within verbatim quotations.
in the key moments in their lives’. She later observed that ‘[p]ersonal preference and diversity are prioritized, particularly in the context of the marriage ceremony’, and referred to the unprecedented expense and choice that are now attached to weddings. Noting the replacement of religion by the wider ‘religion or belief’ as a discrete category of marriage in Scotland, and recognising that religion and belief are an important part of personal identity, she pondered whether couples should be able to choose to be married by members of a football club, or Jedi knights, or anyone else who represents their community. She concluded that couples ‘should be encouraged to make the commitment of marriage in a setting that reflects their personal beliefs’.

Before considering whether the law should be changed, I set the scene by summarising recent policy considerations regarding widening the pool of wedding officiants in England and Wales, and reviewing the legal context in and around the United Kingdom. This is followed by a description of the empirical work I conducted in January and February 2020 exploring the work of independent wedding celebrants in England and Wales. My findings indicate that, far from being exploitative, many celebrants are highly organised, well-trained professionals whose principal aim is to provide couples with wedding-style ceremonies that conform to their exact requirements. A comparison of various aspects of independent celebrancy with publicly available information about other categories of actual and potential officiant suggests that there are few material differences, so I conclude that both independent celebrants and those accredited by HUK should be able, if they wish, to be licensed to solemnise marriages.

The policy and legal context
In England and Wales, the law places significant restrictions on the location of marriage ceremonies. It does not specify who must conduct a marriage, although it sets out in detail who must register it. There is therefore nothing to prevent a celebrant from conducting a ceremony in conjunction with those persons whose presence is required by law, although the limitations placed

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10 The Marriage and Civil Partnership (Scotland) Act 2014 (2014 asp 5) ss 12–15 introduced the words ‘or belief’ to the Marriage (Scotland) Act 1977.
11 J Mair, above n 9, 85–86.
12 See also S Pywell and R Probert, ‘Neither sacred nor profane: the permitted content of civil marriage ceremonies’ [2018] CFLQ 415.
13 Marriage Act 1949, various sections, notably 12(1) and 26(1).
14 Ibid, s 53.
on religious content in civil ceremonies would act as a constraint on what they could say and do. However, it is rare for such collaboration to take place: most couples will be limited to marrying either in a civil wedding in the presence of a Superintendent Registrar and a registrar,\textsuperscript{15} or in a religious wedding, in the presence of either a registrar or a religious official.\textsuperscript{16}

This stark choice underlies many couples’ decisions to take part in the non-legally-binding ceremonies described in the Introduction, and it has, unsurprisingly, been criticised. Rebecca Probert suggests that the law could be simplified and made fairer by enabling authorised people to conduct marriages anywhere, and advocates extending the system of nominating approved persons to non-religious organisations, such as humanists.\textsuperscript{17} These views are similar to those of John Eekelaar, who proposes a system where the couple’s first choice is of the person who will conduct the ceremony, rather than the venue. Eekelaar advocates authorising clerics from all religions to conduct weddings, and – subject to the completion of some preliminary formalities, and each ceremony’s being witnessed and subsequently registered – letting couples choose the person whom they wish to conduct their ceremony.\textsuperscript{18} Systems similar to those proposed by Probert and Eekelaar already exist in neighbouring jurisdictions, where the couple choose the officiant first, and then agree the venue with that person. In Scotland, Ireland and Northern Ireland, officiants must be nominated by a religious or belief organisation, while individuals in Jersey can apply to become authorised civil celebrants.

The proximity of these more liberal regimes highlights the limited choice available in England and Wales, so it is unsurprising that governments of various political persuasions have explored widening the pool of officiants there. In 2002, the Labour Government stated that it intended ‘to introduce a system based on the appointment of celebrants who would be responsible for the solemnisation of either religious or civil marriages.’\textsuperscript{19} It outlined a system in which religious celebrants would be appointed by ‘the religious groups to which they belong and notified to the Registrar General’, and

\textsuperscript{15}Ibid, s 45. The law provides for only one Superintendent Registrar for each registration district, but the popularity of civil weddings means that many registration officers have more than one title, including Deputy Superintendent Registrar and Additional Superintendent Registrar, so that they can conduct or register ceremonies as required.

\textsuperscript{16} For an overview of the complex rules on who needs to be present at different types of religious weddings and where they can be solemnised, see R Probert, ‘A uniform marriage law for England and Wales?’ \textit{[2018] CFLQ} 259.

\textsuperscript{17} Ibid.


civil celebrants would be appointed by the ‘local registration service provider’. 20 Although other significant proposals in this White Paper – such as the provision by local registration services of ceremonies for baby-naming and renewal of marriage vows, and civil funerals – became law, the proposal to authorise new categories of officiant eventually withered on the political vine. 21

‘Belief organisations’ – but not independent celebrants – were initially identified as worthy of special treatment when, under the Conservative–Liberal Democrat coalition government, same-sex marriage was introduced in England and Wales: the Secretary of State for Justice was required to organise a public consultation on whether such organisations should be permitted to solemnise marriages. 22 In its response to the consultation, however, the Government expressed reservations about the disadvantage at which such a restricted change in the law could potentially place couples with no religion or belief: ‘there is no option which we think can be implemented immediately which would provide for complete equality of treatment between those who have religious beliefs, those with humanist or other non-religious beliefs, and couples more generally.’ 23 The Government considered that the potentially wider range of locations – particularly outdoors – for marriage ceremonies conducted by belief organisations could discriminate against couples who opted for religious wedding services, as well as couples who ‘are neither religious nor humanist but who also may want a greater choice of marriage venues’. 24 The Government’s conclusion was that a wider review of weddings law was necessary ‘in order to avoid any negative consequences that may result from undertaking further piecemeal legislation’. 25 It is clear that, while recognising that the existing law discriminated against humanists, the Government had no enthusiasm for effecting a change that would discriminate against all couples who had non-humanist belief systems – or no belief at all.

In 2014, the Law Commission undertook a year-long series of meetings with bodies including religious groups, the General Register Office, the Scottish Government and the Humanist Society Scotland, and attended a number of weddings of different types. The resulting scoping paper expressed the view that any reform of the law to permit marriages in England and Wales to be conducted by non-religious belief organisations should ‘take place alongside a broader updating of

20 Ibid.
21 For a succinct outline of the political process, see Law Commission, Getting Married: A Scoping Paper (2015), para 1.17.
22 Marriage (Same Sex Couples) Act 2013, s 14.
24 Ibid, para 63.
25 Ibid, para 70.
the law of marriage that seeks to address a number of long-standing problems’,²⁶ so it rejected the idea of a single-issue reform. Instead, the Commission recommended a project that should consider legal preliminaries; the locations where marriages can take place; any prescribed content for a marriage ceremony; the registration of marriages; and the consequences of non-compliance with a reformed law.²⁷ It also considered expanding the categories of officiant to include non-religious belief organisations, other organisations that do not have humanist-type belief systems, and – subject to appropriate regulation – independent celebrants.²⁸

The All-Party Parliamentary Humanist Group (APPHG) nonetheless recommended in 2018 that an Order to permit HUK to conduct legally binding marriages in England and Wales should be laid before Parliament ‘even if wholesale reform was being considered’.²⁹ This was backed by a claim that:

Many registrars are increasingly restricting the number of ‘no-frills’ registration-only ceremonies available, both to early hours of certain weekday mornings and in some cases making them prohibitively expensive. They are also sometimes restricting the register offices in the local authority at which such ceremonies can occur, how soon they are available, and who can attend, in some cases to just one office and to the couple and two witnesses.³⁰

These criticisms are valid, but they are not unique to couples who opt for humanist-led ceremonies; they apply to all couples who want to marry simply, cheaply and quickly, and the restriction to just the couple and two witnesses is an almost universal feature of a ‘no-frills’ ceremony.³¹ The APPHG’s claim that the inability of humanists to marry according to their beliefs in England and Wales is discriminatory is also valid, but a similar claim could be made by pagans and other couples with firm spiritual or inter-faith beliefs, and by couples in which the partners’ religious or belief systems do not coincide. Because they confirm that couples who wish for a humanist-led marriage ceremony are in precisely the same frustrating legal position as numerous other couples, the APPHG’s arguments strengthen the case for the pool to be widened to include both humanist and other categories of officiant.

²⁶ Law Commission, above n 21, para 1.50.
²⁷ Ibid, para 1.52.
²⁸ Ibid, para 4.70.
²⁹ Such an order would have been made under the Marriage (Same Sex Couples) Act 2013, s 14.
The APPHG’s campaign did not achieve the desired result, and Theresa May’s Conservative government (2016–2019) instructed the Law Commission to undertake the wider review that had been recommended in the scoping paper. The Commission’s Weddings project, which began in July 2019, is considering, *inter alia*:

> Who should be able to solemnize a marriage, including considering how a scheme could include weddings conducted by non-religious belief organisations and independent celebrants. The Law Commission will not, however, be making recommendations on whether as a matter of policy new groups should be allowed to conduct legally binding weddings, which is a decision for Government.32

The scoping paper considered the law in Scotland, and it seems inevitable that the Commission’s review will extend to other neighbouring jurisdictions, so it is appropriate now to consider the legal frameworks that currently operate there.

In Scotland, marriages may be solemnised by ministers and deacons of the Church of Scotland, and officiants from any prescribed ‘religious or belief body’.33 Despite the inclusion of the words ‘or belief’,34 official statistics still classify marriages ‘by denomination’.35 They currently distinguish between ‘civil’ and ‘all religious forms and other beliefs’, with the latter including the Salvation Army, the Pagan Federation (Scotland), the Royal National Mission to Deep Sea Fishermen, numerous organisations associated with the major world religions, and two broad categories: ‘Temp Authorised non-Christian’ and ‘Other Religious Forms and Other Beliefs’.36 The list also includes six identifiable humanist organisations – Humanist Society of Scotland, the Caledonian Humanist Association, the Humanist Fellowship of Scotland, Humanism in Scotland, the Scottish Humanists, and the Fuze Foundation – and ‘Independent Humanist Ceremonies’. Humanist Society Scotland (HSS) was permitted to conduct weddings from 2005,37 and the organisation was permanently added

33 Marriage (Scotland) Act 1977, s 8(1)(a).
34 The Marriage and Civil Partnership (Scotland) Act 2014 (2014 asp 5) ss 12–15 introduced the words ‘or belief’ to the Marriage (Scotland) Act 1977.
36 Ibid.
37 McLean notes that, in 2005, ‘the Humanist Society Scotland... was recognised as a religious organisation, a move that perhaps pushed the statutory discretion of the Registrar General to its limit’. (M McLean, ‘Beyond
to the schedule of organisations that can conduct legally binding marriages on Valentine’s Day in 2017.\textsuperscript{38}

Ireland has adopted a similar system to Scotland, though it did not do so until 2013, when the Civil Registration (Amendment) Act 2012 amended the Civil Registration Act 2004 to provide that marriages could be conducted by officiants who are members of ‘secular bodies’.\textsuperscript{39} The country has introduced different, but helpful, nomenclature: a ‘registered solemniser’,\textsuperscript{40} who is defined as ‘a person standing registered in the Register’, is fully authorised to conduct wedding ceremonies,\textsuperscript{41} and ‘celebrant’ is used to identify an individual who may be trained by an organisation such as the Institute of Irish Celebrants to conduct ceremonies, but is not authorised to solemnise marriages.\textsuperscript{42}

Northern Ireland arrived at a similar position to Scotland and Ireland, albeit by a more circuitous route, in 2018. The Marriage (Northern Ireland) Order 2003 provides that marriages must be solemnised by a religious officiant or – for civil marriages – a registrar, deputy registrar or ‘additional person’.\textsuperscript{43} The Court of Appeal in Northern Ireland granted an interim Order in June 2017 to permit a celebrant accredited by the British Humanist Association (BHA) to conduct a legally binding marriage ceremony. In 2018, the Court held a full hearing, and the Attorney General argued that the BHA’s licensing of officiants ‘merely provides a commercial platform for certain individuals to earn money’ and thus fails ‘to protect the dignity of marriage’.\textsuperscript{44} The Court ruled that being married by a humanist celebrant was a manifestation of the applicant’s religion or belief, and therefore fell within the ambit of Article 9 of the European Convention on Human Rights.\textsuperscript{45} It held that, because the couple’s chosen celebrant had been appointed as an ‘additional person’, no discrimination on the grounds of religion or belief had occurred, and the legislation did not need to be changed. Sharon Thompson and Frank

\textsuperscript{38} The Civil Partnership, Marriage Between Persons of Different Sexes and Same Sex Marriage (Prescribed Bodies) (Scotland) Amendment Regulations 2016 (SSI 2016/247), reg 3.
\textsuperscript{39} Civil Registration Act 2004, s 54(1).
\textsuperscript{40} Ibid, s 51(1).
\textsuperscript{41} Ibid, s 45.
\textsuperscript{43} The Marriage (Northern Ireland) Order 2003 (SI 2003/413 (N.I. 3)), Arts 2, 9–11, 19 and 31(3).
\textsuperscript{44} Smyth, Re Application for Judicial Review [2018] NICA 25, [26].
\textsuperscript{45} Ibid.
Cranmer argue that the Court ‘missed an opportunity to make a declaration of incompatibility and trigger comprehensive reform of the legal status of humanist (or belief) weddings’, because such ceremonies ‘are only deemed legal... by what might be described as a loophole in the 2003 Order’.46

The Court displayed pragmatism in interpreting the law to include a category of officiant unforeseen by statutory draftspersons. This reflects judicial awareness of couples’ changing wishes regarding their weddings, as well as the need to protect their human rights. Nevertheless, the Court declined to grasp the nettle of declaring the existing law to be incompatible with Articles 9 and 14 of the European Convention on Human Rights – this would have necessitated amending the domestic legislation to permit humanist weddings to become non-exceptional. In 2018, significant numbers of couples opted for marriages solemnised by humanists in Scotland and Ireland, as Table 1 shows. The figure for Northern Ireland covers only four months, because humanist weddings were not available until 25 August.47 Given that the average time spent planning a wedding is 13 months,48 it is likely that the percentages for later years will be significantly higher than this.

<table>
<thead>
<tr>
<th>Jurisdiction</th>
<th>Humanist marriages first permitted</th>
<th>Total marriages in 2018</th>
<th>Number of humanist marriage ceremonies</th>
<th>Percentage of humanist marriage ceremonies</th>
</tr>
</thead>
<tbody>
<tr>
<td>Scotland 49</td>
<td>2005</td>
<td>27,525</td>
<td>6,117</td>
<td>22.2</td>
</tr>
<tr>
<td>Ireland 50</td>
<td>2013</td>
<td>21,053</td>
<td>1,766 51</td>
<td>8.4</td>
</tr>
<tr>
<td>Northern Ireland 52</td>
<td>2018</td>
<td>7,966</td>
<td>15</td>
<td>0.2</td>
</tr>
</tbody>
</table>

Table 1: Humanist marriage ceremonies in Scotland, Ireland and Northern Ireland in 2018

49 National Records of Scotland, above n 35.
51 statbank.cso.ie/px/pxeirestat/DATABASE/Eirestat/Marriages%20and%20Civil%20Partnerships/Marriages%20and%20Civil%20Partnerships_statbank.asp?P=Marriages%20and%20Civil%20Partnerships&Planguage=0 Table VSA 51 (accessed 18 May 2020). An infographic on Marriages 2018 cso.ie/en/releasesandpublications/er/mar/marriages2018/ states that 9 per cent of marriages were conducted by the Humanist Association, but the number of ceremonies conducted represents the lower percentage shown in Table 1.
These jurisdictions offer couples a significantly wider choice of officiant than their counterparts in England and Wales, and comply with the suggestions made by Probert and Eekelaar, but they exclude independent officiants who have no declared affiliation to any belief system.

Jersey, however, has adopted a different approach. Its law permits weddings to be conducted by officiants who are not affiliated to any organisation: authorised civil celebrants have been able to conduct legally binding marriage ceremonies at non-religious licensed venues since July 2018, and the first such celebrants were sworn in on 20 December 2018. The arrangements for authorisation were approved by the Registrar General, who must retain a register of authorised civil celebrants. Every authorised civil celebrant must ‘take an oath before the Royal Court to well and faithfully perform the duties imposed on him or her by or under this Law and to carry out such duties relating to the solemnization and registration of marriages as the Superintendent Registrar directs’. The same law provides for ‘authorized religious officials’: they must be nominated by religious organisations, may be exempt from solemnising same-sex marriages, and are not required to swear the oath. This system incorporates some features of the nomination system of Scotland, Ireland and Northern Ireland, but limits this to religious organisations; it caters separately for personalised secular weddings without involving any non-religious belief organisations.

The pre-existing laws in Scotland and Ireland have been used to support the case for permitting celebrants accredited by HUK to solemnise marriages in England and Wales. Equally, the law of Jersey can serve as evidence that it is possible to devise a legislative regime that authorises independent celebrants to do likewise. In order to determine whether this would be desirable, I examine in detail various aspects of the services currently offered by these celebrants. This analysis will determine whether it is appropriate to differentiate between the ceremonies that they lead and those conducted by celebrants accredited by HUK, and hence whether recommendations for legal

53 The Marriage and Civil Status (Amendment No. 4) Jersey Law 2018 (L 19/2018) was adopted by the States on 1 February, sanctioned by Order of Her Majesty in Council on 23 May, registered by the Royal Court on 1 June, and came into force on 1 July 2018. It amended the Marriage and Civil Status (Jersey) Law 2001 by introducing same-sex marriages, permitting the conversion of civil partnerships to marriages, and amending the formalities for marriages.


55 Marriage and Civil Status (Jersey) Law 2001, Art 6; the scheme is set out in the Marriage and Civil Status (Jersey) Order 2018, which came into force on 1 July 2018.


57 Ibid, Art 6(5).

58 The Marriage and Civil Status (Amendment No. 4) Jersey Law 2018 (L 19/2018), Art 6(4) refers only to ‘an authorized civil celebrant’; most of the Article also refers to ‘an authorized religious official’. 
reform should encompass both categories of celebrant. Before that, however, it is necessary briefly to describe my empirical project.

**Empirical study of independent celebrants in England and Wales**

The empirical research in this article was conducted with practical support from the Wedding Celebrancy Commission (WCC). The WCC is an umbrella organisation for six celebrants’ membership organisations and training providers, and includes one member who represents celebrants who are not associated with any organisation. It was formed, in October 2018, to represent the interests of the celebrancy profession, and has established two impressive sets of professional standards: one for ‘couples ceremonies’, and one for ‘naming and family ceremonies’. 59

My findings come from two online surveys. 60 The WCC survey garnered responses from the seven members identified above, which was a response rate of 100 per cent. The celebrants’ survey was designed to be completed only by wedding celebrants who had conducted at least one wedding celebration ceremony in England or Wales in 2019. It received 287 usable responses, 61 which was a response rate of 29.5 per cent.

HUK declined my invitation to participate in either survey, for reasons expressed in this statement:

> Humanists UK cannot take part in this research as our celebrants come from a different category of ceremony providers. Our celebrants conduct ceremonies from a belief based, humanist, life-stance and are therefore not equivalent to the commercial celebrants this survey is addressing. Our comparators are those who conduct belief-based or religious weddings, legally recognised or not. 62

As I had no funding to undertake separate empirical work with HUK, my information about HUK is derived from publicly available sources.

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60 Full details of the methods employed in this project, together with information about response rates, and the limitations of my findings are given in my earlier article: S Pywell, above n 3.

61 A ‘usable’ response was one from a celebrant who had conducted at least one wedding celebration ceremony in England or Wales in 2019. A further 230 celebrants submitted responses, but exited the survey immediately because they did not meet this criterion.

62 Email from Humanists UK to Stephanie Pywell, 10 December 2019.
The responses to the celebrants’ survey cannot offer any insight into ceremonies conducted by celebrants accredited by HUK, except to the extent that 10 respondents mentioned the organisation. Two respondents identified their humanist beliefs as their main reason for becoming celebrants, and their other reasons for becoming celebrants did not include any other belief systems, although they had both received training from organisations other than HUK. A further eight respondents – including one who was a member of, and had received no training from any organisation other than, HUK – included humanist beliefs among their other reasons for becoming celebrants. Four of these included no other belief systems in their other reasons for becoming celebrants; two also included pagan beliefs, and religious or sacred beliefs, and spiritual beliefs; one also included pagan and spiritual beliefs; and one also included spiritual beliefs. These answers indicate that this small sample of respondents placed various interpretations upon the word ‘humanist’, with half of them not regarding it as an exclusive belief system.

**Respondents and other actual and potential officiants**

My project explored a wide range of aspects of celebrancy, because nothing was previously known about it. One of my aims was to assess whether celebrants are practising principally for commercial motives; another was to determine the degree of professionalism with which they practise, since this would enable an objective assessment of whether they could and should be brought within the legal framework. The analytical themes in this section give insights into the membership and training organisations to which individual celebrants can choose to belong, the business models within which they operate, their experience and training, how they present and deliver their services, the fees that they charge, and their views on professional representation and regulation. Their responses under each heading are analysed against publicly available information for officiants in neighbouring jurisdictions and, where relevant, information published by HUK. My findings show that most respondents are motivated principally by non-commercial considerations, and are charging broadly similar fees for services that are hard to differentiate from those offered by comparators.

**Professional organisations**

Responses to the WCC survey revealed that the organisations that comprise the WCC were all formed during this century: the first, in 2002, was Civil Ceremonies Ltd (CCL), a training provider that reports ‘a big increase in the demand for training on our courses that offer a national qualification diploma’. The Fellowship of Professional Celebrants (FPC) and Association of Independent Celebrants (AOIC) became the first membership organisations in 2007, followed in 2011 by the UK Society of
Celebrants (UKSOC), in 2013 by the Fellowship of Independent Celebrants (FOIC), and in 2018 by the Institute of Professional Celebrants (IPC).

The five membership organisations on the WCC were asked about the cost of joining, and retaining, membership, with all answers being to the nearest £100. FOIC has no joining fee, but an annual membership fee of around £100; membership and associated benefits are withdrawn from celebrants against whom complaints of failure to abide by its code of ethics are upheld after investigation. The other four membership organisations have joining fees of around £100. The annual cost for renewing membership is around £100 for UKSOC and IPC. It costs around £300 annually to remain a member of AOIC, while FPC has no annual membership fee.

All respondents to the WCC survey reported that they share information about changes in the law regarding marriage, and all five of the membership organisations share good practice. This indicates that all independent celebrants – even those who choose not to join any organisation – can remain aware of the legal environment in which they operate, which is an important factor in providing a professional service. Other services offered by the training provider and membership organisations are, in decreasing order of frequency: campaigning, continuing professional development/training, and networking (five each); accreditation, initial training, insurance, and a sense of community (four each); marketing opportunities, and members’ benefits and discounts (three each). It does not appear, therefore, that celebrants’ organisations are unduly ‘commercial’: members receive a range of services in return for their fees, most of which are broadly in line with the annual membership fee of £75–£150 + VAT of the Federation of Licensed Victuallers Association, a comparable voluntary organisation which ‘gives assistance to licensees in running their business without falling foul of legislation’.  

Forty respondents stated that they did not belong to any professional membership organisation but, because the WCC includes a representative for such celebrants, they can still remain in touch with an extensive professional network. The other 247 respondents selected as many as applied to them from a list of nine organisations. As anticipated, the most frequently selected organisations were represented on the WCC. One respondent belonged to the UK Association of Wedding Planners, and another to the UK College of Celebrancy. Of the 12 respondents who identified non-listed organisations, two identified other celebrants’ membership organisations (Celebrant Directory and

63 FLVA (nd) Join the FLVA today flva.co.uk/join-the-flva-today/ (accessed 27 May 2020).
64 FPC (80), FOIC (58), UKSOC (50), AOIC (33), IPC (23) .
Celebrants Collective), and two identified HUK. Every other professional organisation in this response was identified by only one respondent.

Over 91% of respondents (262) are self-employed, and operate as sole traders. In this respect, they are like authorised civil celebrants in Jersey, who operate as independent businesses. Humanist officiants in Scotland are also self-employed, and it appears that those in Ireland and Northern Ireland operate similarly, albeit with an affiliation to their nominating organisations. Celebrants accredited by HUK are part of the Humanist Ceremonies™ network, which suggests that they, too, are self-employed.

A further 14 respondents operate as limited companies, eight as partnerships, and one as a ‘Community Interest Company’. One is ‘employed as a sessional through a County Council’, and one respondent was unable to specify the type of business, which was run by the respondent’s mother.

The 247 respondents who were members of one or more professional organisations were asked to identify which of 10 options was the closest to the main reason for their membership. The six most popular options were continuing professional development/training (68), accreditation (52), initial training (48), insurance (31), sharing good practice (30), and sense of community (12). Three members selected networking, and one opted for each of campaigning, marketing opportunities, and members’ benefits and discounts. Five respondents stated that they had no other reasons for membership, and the 242 remaining respondents collectively chose 994 other reasons. Respondents were asked not to reselect their main reason, but the most popular main reasons also attracted considerable support as secondary reasons: continuing professional development/training (125), accreditation (106), initial training (80), insurance (120), sharing good practice (167) and sense of community (136). The only other subsidiary reason identified by over 100 respondents was networking, which was a reason for 129 respondents’ membership of an organisation. The three least popular options were all commercial: marketing opportunities (48), campaigning (47), and members’ benefits and discounts (36). These data suggest that respondents are keen to be highly professional in their work, with commercial considerations being a much less significant motivator for almost all of them.

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65 Fourteen new celebrants sworn in to conduct weddings, above n 54.
67 humanist.org.uk/laraharris/weddings/ (accessed 22 May 2020).
Membership of, or affiliation to, an organisation is a prerequisite in three of the neighbouring jurisdictions for officiants who are neither registration officers nor religious. Scottish officiants must be nominated by a religious or belief organisation. Similarly, Irish registered solemnisers must be nominated by organisations that have at least 50 members, have existed for at least five years, and hold regular meeting related to their ‘secular, ethical and humanist objects’. Although the law of Northern Ireland includes no express criteria for the ‘additional person’ who may solemnise a marriage, there is evidence in official literature that such people must be humanists. The 15 non-register-office and non-religious weddings that took place in Northern Ireland in 2018 are described as having been ‘conducted by humanist celebrants’, and the Marriage Notice Application Form requires couples to complete either Part E ‘About the officiant (complete this part if you intend to have a religious marriage)’ or Part F ‘About the celebrant (complete this part if you intend to have a humanist celebrant conduct the ceremony)’. Even more conclusively, the NI Government’s information for potential temporary officiants states that applicants must belong to ‘an acceptable humanist organisation’, which must be a registered charity, have more than 10 members, and ‘have a public statement describing the meaning of humanism and the organisation’s goal’, and the title of the application form is ‘Application for temporary appointment of a humanist celebrant for civil marriages in Northern Ireland – interim procedure’.  

Since Jersey has developed a system for authorising celebrants individually, however, membership of an organisation is clearly not necessary in order for a legal framework to be workable. It is clear that properly regulated organisations can, potentially, provide a means through which government officials can delegate some of the work involved in assessing the suitability of potential officiants for their role. However, the fact that an organisation is not newly formed, has a certain number of members, and publishes a belief system does not automatically mean that its members are suitable to become officiants, or that it has any appropriate means of assessing that suitability, so there is no logical reason for requiring nominating organisations to have a declared belief system. If a scheme that involves delegating suitability-related tasks is to work successfully, the organisations themselves

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68 Civil Registration Act 2004, s 45A(1), inserted by the Civil Registration (Amendment) Act 2012 s 3.
69 The Marriage (Northern Ireland) Order 2003 (SI 2003/413 (N.I. 3)), Arts 2, 9–11, 19 and 31(3).
should fulfil relevant criteria that are clear, measurable and verified, and these should include the provision of centrally approved training in the laws and formalities of marriage.

**Experience and training**

This section explores the experience and training reported by respondents and their comparators. The latter gives rise to my concern that there is no centralised body that accredits the training provided to any comparators except registration officers. Given the legal and social significance of marriage, it is appropriate to begin with a brief consideration of the duties currently undertaken by, and training requirements for, registration officers, who – as noted in the Introduction – are currently the only people who can solemnise civil marriages in England and Wales.

Potential registration officers must be aged between 21 and 65 years of age, and ‘produce satisfactory evidence as to character’.\(^\text{74}\) People are excluded from appointment for a range of reasons, including their working in the insurance industry, or being ministers of religion, doctors, midwives or undertakers.\(^\text{75}\) Registration officers must have ‘a good general standard of education (GCSE A* to C) and excellent customer service, public speaking and IT skills’, and six attributes: ‘the ability to relate to people from all backgrounds and cultures; tact, patience and empathy, for dealing with people who may be distressed; the ability to understand and apply rules and laws; clear and accurate handwriting; the ability to work under pressure; and administrative skills’.\(^\text{76}\)

Respondents to the celebrants’ survey were asked to identify all the current or former professional experience they had had that was relevant to their role as celebrants. Thirty-nine selected ‘no relevant professional experience’. The remaining 248 respondents selected a total of 419 responses from the nine options available. One hundred and forty-four were teachers, trainers or educators; 116 were celebrants for other types of occasion; 53 had experience in other area(s) of the wedding industry; 44 were counsellors; 33 had current or former roles in the Registration Service; 12 were sacred celebrants not attached to any specific religion; seven were current or former ministers of religion; five were humanist celebrants for other types of occasion; and five were inter-faith or

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\(^{74}\) The Registration of Births, Marriages and Deaths Regulations 1968 (SI 1968/2049), reg 4. These Regulations were made under powers conferred by the Registration Service Act 1953, s 20.

\(^{75}\) Ibid, reg 5(vi).

multi-faith ministers. The survey did not ask whether celebrants were in any occupations that would exclude them from being employed as registration officers.

The question about online or face-to-face training providers – in response to which respondents could choose as many options as were applicable, and suggest further providers – elicited a wide range of answers. Only six respondents stated that they had received no relevant training; the other 281 respondents made a total of 314 selections from the 16 listed providers. Five of the six training providers represented on the WCC were – again, as anticipated – the most often identified. The most commonly selected training organisation not represented on the WCC was the Celebrants Collective (15). No more than four respondents identified any of the other listed providers, and 28 respondents selected ‘other – please identify providers’, and identified around 18 providers including the General Register Office/local authority training/Registration Service (four), and HUK and the Church of England (two each), indicating that there is a considerable choice of training for potential celebrants.

The members of the WCC, including five training organisations, collectively devised the umbrella organisation’s Professional Standards for Celebrants – Couples Ceremonies. These are discussed more fully in the sub-section titled ‘Presentation and delivery of services’, and include being aware of ‘the legal issues surrounding couples ceremonies’, knowing and understanding ‘the legal requirements for a couples ceremony’, and offering advice only ‘where you are totally assured of the facts, the legality and professional expectations’. Some of the training offered to independent celebrants is accredited by multiple organisations including Ofsted, but there is no guarantee that any of these organisations checks the accuracy of the content of the training. It would clearly be preferable if a central authority could verify these aspects, as well as the more easily measurable quality indicators.

Nationally accredited training for registration officers in England and Wales was launched in September 2014. It consists of four NVQ-style, self-directed, core modules: ‘Customer Service within a registration environment, The relationship between Local Government and the Registration Service, Using IT in the Registration Service, and Delivering Registration services’. It costs £400 per

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77 The suggested wording for celebrants’ prior experience was developed after consultation with the advisory group, and amended in response to suggestions from pilot-testers.
78 FPC (78), FOIC (68), CCL (62), UKSOC (54), and IPC (17).
79 This number is approximate because of the free-text nature of the responses. It seems likely that some non-identical responses actually refer to the same provider, but this cannot be proved.
80 Wedding Celebrancy Commission, above n 59.
candidate, and usually takes between six months and two years to complete, depending on the learner’s experience in the registration service.  

In Scotland, there are no statutory criteria or qualifications for wedding celebrants, although the governing legislation potentially provides for Regulations to specify ‘qualifying requirements’ for organisations that wish to nominate celebrants. A Policy Note within the Regulations notes that the provision about qualifying requirements is not yet in force, and states that:

> No qualifying requirements are yet in place: the Scottish ministers will need to consult with religious and belief bodies and other interested parties before laying any down. As a result, the decision on whether to prescribe a religious or belief body which has made a request is entirely at the discretion of the Scottish Ministers.

It then details the factors that Scottish Ministers took into account when making their decision about Humanist Society Scotland (HSS) – the headings used are:

- The track record of HSS in fulfilling the requirements in relation to marriage or civil partnership ceremonies in Scotland
- Whether in relation to same sex marriage and civil partnership all celebrants are prepared to take part
- Whether a body is able to self-policing
- Celebrants must not for the purpose of profit or gain carry on a business of solemnising marriage or registering civil partnership
- Celebrants of a prescribed body must be properly trained to solemnise marriage and register civil partnership
- No other barriers to being prescribed.

The reference to ‘self-policing’ and celebrants’ being ‘properly trained’ indicate that there are no central checks or regulatory processes in Scotland; these matters are implicitly delegated. There is

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82 Marriage (Scotland) Act 1977 s 8(1E).

83 The Civil Partnership, Marriage Between Persons of Different Sexes and Same Sex Marriage (Prescribed Bodies) (Scotland) Amendment Regulations 2016 (SSI 2016/247), Policy Note.

84 Ibid.
no necessary training for Irish registered solemnisers; Leahy and O’Sullivan observe that:
‘Necessarily, these individuals will have varying levels of training and experience of marriage solemnisation. Consequently, it is possible that some solemnisers, although registered, may not be fully versed in all of the requirements for a legally valid marriage.’

Applicants for temporary registration as humanist marriage celebrants in Northern Ireland must be over 21 and ‘accredited by a qualified Humanist organisation’. The application form requires inclusion of ‘Credentials or references to demonstrate competence to solemnise a legal marriage’, and explains that these ‘may include accreditation or registration as a marriage celebrant with an acceptable humanist organisation’. The variable capitalisation of the word ‘Humanist’ is probably attributable to a clerical or editorial oversight. The description of organisations in related documents as ‘qualified’ and ‘acceptable’—with neither term being defined—is potentially more serious, since it suggests a lack of clarity and consistency in a hastily updated national policy.

In Jersey, by contrast, authorised civil celebrants are appointed on the basis of their having an understanding of the solemnity and dignity of marriage diversity, so that couples can choose a celebrant ‘to suit their wedding style and preferences’; relevant experience, such as public speaking; and commitment to their role. Authorised civil celebrants and authorised religious officials may be required to attend interviews, and are invited to undertake training and assessment to ensure that they have the skills required to solemnise marriages. Both categories of officiants can be required by the Superintendent Registrar to undertake approved training, in order to ‘ensure that marriages are solemnized in compliance with the Law’.

HUK’s website states that its accredited celebrants ‘are all trained to a high standard and our training has received the OCN Quality Mark for excellence’. The website of OCN (Open College Network) states that OCN ensures that accredited units specify ‘the length of your course (in hours), the lesson content, the delivery method(s) used, the learning outcome for each session/topic’, and

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85 Leahy and O’Sullivan, above n 42, 293. This echoes the Law Commission’s finding that ‘... the law is not understood by members of the public or even by all those who have to administer it.’ (The Law Commission, Family Law: Report on solemnisation of marriage in England and Wales, Law Com No. 53 (1973)).
88 Fourteen new celebrants sworn in to conduct weddings, above n 54.
89 Become a marriage celebrant (n d) www.gov.je/Government/Departments/CustomerLocalServices/OfficeSuperintendentRegistrar/MarriageCivilPartnerships/MarriageCelebrants/Pages/BecomeAMarriageCelebrant.aspx (accessed 14 May 2020).
90 Marriage and Civil Status (Jersey) Order 2018, Art 7(2)(e).
have a ‘title, credit value, learning outcomes, assessment criteria, modes of assessment’. In common with the training for all the categories identified in this section, except Jersey’s authorised civil celebrants, however, there is no central quality control over the content of this training. This is an important potential concern, to which I will return.

**Presentation and delivery of services**

This section begins by examining the potentially misleading way in which many independent celebrants, and HUK, present their ceremony-conducting services. In some respects, this is mitigated by other aspects of their practice, such as asking whether the couple also intend to enter into a legally binding marriage. However, if these categories of celebrant are to have the option of being brought within the legal framework, they must establish and adhere to terminology that clearly distinguishes between when a marriage is being solemnised, and when a couple are publicly celebrating their relationship in a non-legally-binding way.

The first key theme of this section arose from some questions to assess the anecdotal evidence that some celebrants think that ‘the marriage is the legal bit; the wedding is the pretty bit’. The survey asked independent celebrants to identify all of the eight suggested terms that they would use to describe the ceremonies that they conduct. This led to a total of 1,048 selections: ‘wedding celebrations’ or ‘wedding ceremonies’ (264), ‘renewals of promises’ or ‘renewals of vows’ (184), ‘handfastings’ or ‘handfasting ceremonies’ (151), ‘weddings’ (140), ‘commitment celebrations’ or ‘commitment ceremonies’ (138), ‘blessings’ or ‘wedding blessings’ or ‘marriage blessings’ (79), ‘marriage celebrations’ or ‘marriage ceremonies’ (72), and ‘marriages’ (20). Nine respondents identified other terms that they use: ‘joining ceremonies’ (two); ‘commitment of love’, ‘celebrant led ceremonies’, ‘marriage celebration ceremony’, ‘community celebrations’, ‘wedding celebration ceremony’, ‘elopements’, and ‘micro weddings’ (one each). One respondent wrote: ‘I follow the customers lead, yet ensure they understand the law’.

The almost ubiquitous use of ‘wedding celebrations’ or ‘wedding ceremonies’, and the use by almost half the respondents of the unqualified word ‘weddings’, is problematic. ‘Wed’ is synonymous with ‘marry’, and thus means ‘to take in marriage; to become the spouse of (a person) by participating in a prescribed ceremony or formal act’. ‘Wedding’ – a verb or gerund – thus means taking in

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93 Personal conversations at National Celebrants Convention, 15 August 2019.

marriage. The use of ‘marriage celebrations’ or ‘marriage ceremonies’ by a quarter of respondents, and of the unqualified word ‘marriage’ by a small number, is equally misleading. This is a concern because of the potentially catastrophic consequences for couples who erroneously believe themselves to be married.

Respondents’ use of technically inaccurate words is however, almost universally mitigated by their disclosure to couples about the status of ceremonies that they conduct. Only five respondents did not indicate that they always explain that the ceremonies that they conduct do not constitute legally binding marriage ceremonies; of that minority, two never explain, one infrequently explains and two usually explain. Similar transparency is obvious from respondents’ selection of statements about couples’ intentions. Two hundred and fifty-nine would always ask whether the couple have entered, or are planning to enter, into a legally binding marriage; a further 20 usually do so, four sometimes do so, and four never do so. Asking this question inevitably serves as a reminder to couples of the non-legal status of the ceremony that the celebrant will conduct, which reinforces the sense of transparency in the way that almost all respondents operate.

Most of the 283 respondents who would ever ask about a couple’s intentions, however, would not decline to conduct a ceremony for couples who had no intention of marrying. Well over half (174) stated that they would conduct a ceremony for any couple who asked them to do so, but would make sure that the couple understood that the celebration would not be a legally binding marriage ceremony, and were fully aware of the implications of this. A further 44 would additionally make the status of the ceremony clear to all the guests. Fifty respondents took a firmer line: 23 would conduct a celebration only for a couple who were already married, or who assured the respondent that they were intending to marry in the future, and a further 27 would conduct a celebration only for couples who were already married to each other. Only 15 respondents stated that they would conduct a ceremony for any couple who asked them to do so.

In return for the WCC’s assistance with my surveys, I undertook to provide the organisation with a written summary of my survey findings before I published them. A summary that I provided on 19 March observed that Professional Standards for Celebrants – Couples Ceremonies did not require celebrants to ensure that couples were aware of the lack of legal status of a ceremony. A new competency – ‘Inform all couples clearly that the ceremony conducted does not create a legally binding marriage’ – was swiftly inserted under the heading ‘Advising on, and Managing Ceremony
choices – Couples Ceremonies’. The WCC’s responsiveness to my criticism reinforces the sense that it is keen to ensure that the members of its affiliated organisations conduct themselves professionally.

HUK’s website states in several places that its ceremonies are not legally binding, but this information is not always obvious: for example, the ‘wedding’-related FAQs have 1,597 words – about eight screen’s worth – before the heading ‘Legalities’, and the lack of legal consequences of a humanist ceremony are relatively difficult to discern. The celebrants’ survey indicated that the two celebrants who had received training only from HUK would always explain that the ceremonies that they conduct do not constitute legally binding marriage ceremonies, and would always ask whether the couple have entered, or are planning to enter, into a legally binding marriage. These mitigating aspects of their practice may reflect the content of their training, but I have no evidence on this point.

A 2018 ‘News’ item on HUK’s website has a large, bold headline: ‘Revealed: How many marriages each religious group and Humanists UK do’. It includes a striking line graph showing the change in the percentage of ‘weddings’ that were Church of England, Roman Catholic, Church in Wales, Methodist, Baptist, HUK and United Reform Church between 2004 and 2015. The caption, in bold italic font, is: ‘Change in the number of marriages performed across different denominations and Humanists UK…’. Underneath this, in normal font, is an explanatory paragraph about the lack of legal status of ‘humanist weddings’, but it is likely that many people would not read beyond the caption, and would assume that the graph is comparing like with like.97

95 Wedding Celebrancy Commission, above n 59.
96 Will we be legally married after a humanist wedding? If you’re getting married in Scotland, Northern Ireland, or Jersey, the answer is yes! Humanist weddings in England, Wales, Guernsey, and the Isle of Man do not currently have legal status but we continue to campaign for this. However, many couples take care of the legalities at a local register office and consider their humanist wedding their real wedding. And there really are some advantages to our weddings not having legal status. For example, there is no restriction about what can or cannot be included and where you can or cannot marry. It makes the whole occasion much more flexible and so much more personal.’ The answer to the next FAQ, When do couples get married legally if they are having a humanist wedding?, is followed by references to ‘having taken care of the paperwork’ and ‘legalities’, and the text following ‘I love the idea of a humanist wedding but don’t want the hassle of getting married twice’ begins ‘This is a common concern, and we look forward to a time when humanist weddings are legally binding.’, but there is no clear statement about the consequences of not being legally married. All the quotations in this note are from humanism.org.uk/ceremonies/non-religious-weddings/faqs/ (accessed 22 May 2020).
A second key theme in the presentation and delivery of services is the focus on ‘personalisation’. This term is used repeatedly by both categories of celebrant, and officiants in neighbouring jurisdictions, and it appears that the style and content of ceremonies conducted by the two categories of celebrant are indistinguishable. Their descriptions are also remarkably similar to the marriage-solemnising ceremonies offered by officiants.

In all the publicity for marriages solemnised by humanist or independent officiants in Scotland, Ireland and Jersey, the emphasis is on personalisation and uniqueness, as it is for the ceremonies conducted by independent celebrants and those accredited by HUK. A Scottish ‘belief body’ must have as one of its principal objects ‘to uphold or promote philosophical beliefs’ – as opposed to ‘meeting regularly for religious worship’⁹⁸ – and nominating organisations in Ireland must have ‘secular, ethical and humanist objects’.⁹⁹ In Northern Ireland a ‘qualified Humanist organisation’ must have a public statement describing the meaning of humanism and the organisation’s goal.¹⁰⁰ These criteria suggest that marriage ceremonies solemnised by providers from these organisations will be devoid of religious content.

A marriage ceremony in Jersey may be solemnised ‘according to such form and ceremony as [the couple and the authorised civil celebrant] see fit to adopt.’¹⁰¹ Civil marriage celebrants must not permit ‘any religious ritual or symbol or permit prayers or any religious worship or service to be conducted during the ceremony’, but must permit religious hymns, songs, chants, readings, candles, incense, lights and ribbons. The couple’s vows may ‘make any references of a religious nature’, but must not ‘replicate any made in any religious marriage ceremony.’¹⁰² These detailed provisions, which have the appearance of an uneasy compromise, seem bound to result in the kind of confusion identified in my research with Probert.¹⁰³

HUK’s website explains that:

> Each humanist, non-religious wedding ceremony is unique and created especially for a particular couple and their circumstances. This means there is no set script and no fixed

⁹⁸ Marriage (Scotland) Act 1977 ss 26(2)(b) and 26(2)(a).
⁹⁹ Civil Registration Act 2004, s 45A(1), inserted by the Civil Registration (Amendment) Act 2012 s 3.
¹⁰¹ Marriage and Civil Status (Jersey) Law 2001, Art 17(2).
¹⁰² Ibid, Arts 17(8)–(10).
¹⁰³ Pywell and Probert, above n 12.
structure. Instead, your celebrant will guide you through various options and together you can create an occasion that’s fitting for your specific circumstances.

There is an example outline of a ceremony that includes ‘words about love and commitment from a non-religious perspective’, but couples are told that ‘you do not have to include any of these, and you may also want to include other components’. Similar descriptions apply, so far as it is possible to tell, to marriages solemnised by humanist officiants in Scotland, Ireland and Northern Ireland, so it is anomalous that couples in England and Wales cannot marry in such a ceremony.

Each independent celebrant could conduct a purely secular ceremony, but many respondents to the celebrants’ survey offer ceremonies that blend religious and secular content, or combine content from different religious or cultural traditions. Almost all respondents to the celebrants’ survey regard their own religion or beliefs as irrelevant to the ceremonies that they conduct. Their own beliefs – pagan (five) humanist (two) or spiritual (two) – were the main reason why only 3.1 per cent of respondents chose to practise as independent celebrants, and only four respondents would decline to conduct ceremonies whose proposed content clashed with their personal religion, beliefs or values. It is unclear from HUK’s website whether its accredited celebrants would feel able to subjugate their belief system in order to include any religious material in ceremonies, but this seems unlikely, given that most of the definitions of humanism quoted on the website include an allusion to rejecting religion. However, one quoted testimony suggests that religious material might be included if the couple so wish: ‘it is so customisable that it can surmount any boundaries of religion, culture or language’.

Murray McLean’s research suggests that most couples married by humanist celebrants in Scotland do not actually have humanist beliefs. He contends that ‘individual preference may now be more salient than belief – religious or otherwise – in determining the kind of wedding ceremony chosen.’ Only three of 44 respondents to his survey who had humanist weddings at Gretna Green identified humanist beliefs as the reason for choosing that kind of ceremony; most ‘gave some

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105 Ibid., above n 3
106 Ibid.
109 McLean, above n 37, 238.
combination of a lack of religious belief and a desire for a personalised ceremony as their reason’. 110
He comments:

The appeal of Humanism in this case seems to have little to do with Humanist belief, and more to do with the space the Humanist ethos allows for personal expression of a non-religious nature... it is not clear what role the new Humanist providers fulfil, unless it is to provide market-style competition within the context of the wedding industry... Humanism is now a ubiquitous wedding provider. Its particular appeal seems to derive from offering not just a personalised service, but also a sense of deeper meaning, without, however, enquiring too closely into the beliefs of couples themselves. 111

It seems certain that, for couples who write their own vows, or who share a religious or belief system other than humanism, an appropriate ceremony would already have ‘a sense of deeper meaning’, so many ceremonies conducted by independent celebrants also incorporate this rather nebulous but important characteristic.

Fees
The comments of the Attorney General for Northern Ireland and HUK indicate a distaste for the commercialisation of marriage and non-legally binding wedding-style celebrations, 112 and – as noted above – Scottish ‘celebrants must not for the purpose of profit or gain carry on a business of solemnising marriage or registering civil partnership’. 113 This makes it appropriate to compare the fees charged by my respondents with those of their comparators.

All except six of the 245 respondents to the celebrants’ survey who had a standard fee for their services in July 2019 charged £251–£1,000, with just over half (142) charging the lowest of the three spans in this range: £251–£500. 114 Both the respondents whose main reason for becoming celebrants was their humanist beliefs charged a standard fee of £501–£750 in that month. Both also cited this as the highest fee they had charged during 2019; one cited £251–£500, and the other

110 Ibid, 247.
112 Smyth, Re Application for Judicial Review, above n 44, and email from Humanists UK to Stephanie Pywell, 10 December 2019, above, n 62.
113 The Civil Partnership, Marriage Between Persons of Different Sexes and Same Sex Marriage (Prescribed Bodies) (Scotland) Amendment Regulations 2016 (SSI 2016/247), Policy Note.
114 More detail about independent celebrants fees is available in Pywell, above n 3.
£501–£750, as their lowest fee. This is consistent with the statement on Humanist UK’s website that fees ‘often fall between’ £450–£1,200.¹¹⁵

A fee of £450 is quoted as a guide to the cost of Scottish humanist officiants’ services; this includes two years’ membership of HSS.¹¹⁶ Fees in Ireland are typically slightly lower, at €470–€500, of which €70 is a contribution to the Humanist Association of Ireland.¹¹⁷ There is no readily available information about the cost of a humanist wedding in Northern Ireland, presumably because each celebrant is registered only temporarily.

Authorised civil celebrants in Jersey set, and must publish, their own fees.¹¹⁸ They ‘charge different rates and offer a range of services’,¹¹⁹ and must ‘provide a clear and unequivocal fee structure to the parties’.¹²⁰ An exploration of the services offered by the 15 authorised civil celebrants revealed that the four male celebrants did not publish website addresses.¹²¹ The 11 female celebrants’ websites included one that gave no information about fees. The other 10 varied in how they presented information, with prices ranging from £200 for a simple ceremony in a register office to ‘from £475’ for bespoke ceremonies.

Broadly speaking, therefore, the fees currently charged by independent celebrants and those accredited by HUK are similar to one another, and comparable with those for bespoke marriage ceremonies in Scotland, Ireland, and Jersey. Both categories of celebrant are working ‘for profit or gain’ – this is probably inevitable, given the time that it takes to prepare for, draft and deliver a bespoke ceremony – but there is nothing to suggest that either group is significantly more ‘commercial’ than the other, nor are they charging significantly more than officiants in neighbouring jurisdictions.

Professional representation and regulation

¹¹⁸ Marriage and Civil Status (Jersey) Order 2018, Art 7(2)(c).
¹²¹ Superintendent Registrar Jersey, above n 119.
The WCC, and the celebrants’ organisations that constitute it, are not statutory bodies, so they have no legal powers or responsibilities. They offer services to their members, and can informally represent them, but they can impose no sanction more severe than barring a person from membership: they cannot prohibit anyone from practising. Many professionals, including doctors and lawyers, pay initial and annual fees to separate statutory bodies that represent and regulate them, and I was interested to know whether this level of formal organisation – and the associated cost – would be acceptable to, or desired by, independent celebrants.

The final questions in the celebrants’ survey therefore sought opinions on professional representation and regulation, whether celebrants would like to be able to solemnise marriages, and how much they would be prepared to pay for accreditation or authorisation to do this. A large majority of 217 respondents wished for the WCC, changed by law into a statutory body, to represent them, and 182 would like this reformed body to be the profession’s regulator. A new statutory body for representation was favoured by 48 respondents, with 80 preferring such a body for regulation. Under 10 per cent of respondents wished to maintain the status quo of no statutory body for representation (22) or regulation (25).

Almost all respondents (281) would like the law to be changed so that they could conduct legally binding marriage ceremonies. Only 29, however, gave an unequivocal ‘yes’; 164 chose ‘yes, provided there was still a great deal of freedom of expression regarding the personalised elements of ceremonies’, and 88 opted for ‘yes, provided there were no legal constraints affecting the personalised elements of ceremonies’. The six respondents who answered ‘no’ were asked the reason for their view. Five chose the offered statement ‘because I would not want the legal responsibility that this would involve’, and the other wrote: ‘I could not afford to deliver ceremonies at a price that would reflect the extra responsibilities; plus I believe that the church and Registrars do their job, and we do ours’. These six respondents were not offered the remaining questions on the survey.

The 281 respondents who would like the law to be changed were asked to consider four possible ways of accrediting or authorising celebrants to conduct legally binding marriage ceremonies. They were invited to choose all that they thought appropriate, and collectively made 402 choices. Two-thirds of respondents (190) favoured accreditation by any organisation that is a member of the WCC, 71 chose accreditation by any organisation that provides training to celebrants, 77 opted for accreditation by the WCC itself, and 64 were in favour of celebrants, even those with no
accreditation, being individually authorised by a statutory body. A detailed breakdown of respondents’ 12 combinations of preferences is given in Table 2.

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<th>Number of respondents</th>
<th>Any celebrant accredited by an organisation that is a member of the WCC</th>
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Table 2: Respondents’ preferences for combinations of ways in which celebrants could be authorised to conduct legally binding marriage ceremonies

The same 281 respondents were asked the maximum amount of money that they would be prepared to pay for initial accreditation or authorisation, if the law were changed to allow some celebrants to conduct legally binding marriage ceremonies. Seven respondents stated that they would not be willing to pay anything, as they would continue to conduct only ceremonies that had no legally binding content. The maximum fees that the remaining 274 respondents would be prepared to pay for initial and continuing accreditation or authorisation are shown in Figure 1. Most
would be prepared to fees that are broadly comparable to the £150 initial registration fee, and annual registration fee of £200, that are payable in Jersey.122

Figure 1: Maximum amounts that respondents would pay for initial and continuing accreditation or authorisation to conduct legally binding marriage ceremonies

There are currently varying arrangements for the regulation and representation of officiants within the UK and neighbouring jurisdictions. The criteria for the appointment, supervision, conduct and removal of registration officers in England and Wales are statutory, and enforced by Proper Officers, local authorities, and the Registrar General.123 Registration officers are represented by the Local Registration Services Association. Officiants in Scotland and Ireland are not subject to formal regulation, but the respective Registrars General can remove celebrants’ names from the register.124 Regulation is not an issue in Northern Ireland, since each ‘additional person’ is authorised to solemnise only one specific marriage. Humanist officiants are, presumably, supported by the humanist organisations to which they belong, and the Humanist Ceremonies™ network provides

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123 Home Office Identity & Passport Service, The role and responsibilities of the Proper Officer, May 2009, paras 1.4, 4.12 and Appendices A and D. This document also explains that the Proper Officer has overall responsibility for the delivery of the registration service, and the post must be held by a senior officer in the local authority. The post cannot be held by the Superintendent Registrar, although some of the statutory functions of the Proper Officer’s role may be delegated to that person (paras 1.2 and 1.3).
124 Marriage (Scotland) Act 1977 s 10; Civil Registration Act 2004, s 55.
support to HUK’s accredited celebrants.\textsuperscript{125} In Jersey, authorised civil celebrants are regulated by the Superintendent Registrar,\textsuperscript{126} but there is nothing to suggest that they are represented by any organisation.

\textbf{Conclusion}

The data presented in this article demonstrate striking similarities in the way that respondents to the celebrants’ survey and celebrants accredited by HUK present and deliver their services. The main difference appears to be that many respondents offer couples a bespoke blend of secular and/or religious elements within one ceremony, while it seems unlikely that celebrants accredited by an avowedly non-religious organisation would feel able to do this. Both categories of celebrant already offer personalised wedding-style ceremonies for fees comparable with those charged by the humanist and civil officiants who solemnise marriages in Scotland, Ireland, Northern Ireland and Jersey. It is clear from the APPHG’s report, and from responses to the celebrants’ survey, that a large number of celebrants in both categories wish to be able to solemnise marriages, and both categories appear to be well-organised and professional. All these strands of argument lead inexorably to the conclusion that it would be appropriate to change the law of England and Wales to enable independent celebrants and celebrants accredited by HUK – and, potentially, other belief organisations – to solemnise marriages.

The far-reaching legal and social consequences of marriage – and hence the importance of knowing with absolute certainty whether one is legally married – mean that some formalities are inevitable.\textsuperscript{127} Some couples, for a range of reasons, do not wish to be married, and they should continue to have the option of a wedding-style ceremony that celebrates their relationship without any legal consequences. It is obviously of fundamental importance that couples know which type of ceremony suits their circumstances, and what they have opted for. Every officiant and celebrant should be fully aware of any barriers to a couple’s being married to one another, and of the differences between the two types of ceremony. Their training should also include general matters such as health and safety, equality and diversity, and safeguarding. If celebrants are to be brought within the legal framework, and potentially allowed to solemnise marriages, their training must be checked by a central authority for the accuracy and currency of its content, as well as its form. It should not be regarded as successfully completed until they have undertaken a formal assessment.

\textsuperscript{125} humanist.org.uk/laraharris/weddings/ (accessed 22 May 2020).
\textsuperscript{126} Superintendent Registrar Jersey, above n 119.
\textsuperscript{127} Suggestions include an indication of consent to marrying and signing a register (Probert, above n 16) and a formal declaration by the officiant at the moment when the couple become married (Pywell, above n 3).
again administered centrally. It is likely that much of the training currently on offer meets all these requirements – except the central checking and accreditation – but the issue is too important to be left to chance.

The checking and accreditation could be achieved in a number of ways, and the possibilities are beyond the scope of this article, but celebrants who had completed it could acquire a protected title, such as ‘Accredited Celebrant’. This would give them a level of credibility that would instil confidence in the couples that chose to engage their services, but it would remain legal for couples to opt for non-legally-binding ceremonies conducted by non-accredited celebrants. A preliminary requirement could be to obtain the couple’s signatures on a prescribed document confirming that they understood the implications of their not becoming a married couple as a result of the ceremony. This would enable Accredited Celebrants subsequently to refer to such ceremonies as ‘weddings’, ‘wedding ceremonies’ and ‘marriage ceremonies’ without any risk of leading one or both parties to misunderstand their marital status.

Accredited Celebrants could undertake further specific training in the legal preliminaries to, and formalities involved in ceremonies of, marriage. After successful assessment in these additional areas, they could acquire a legally protected title such as ‘Registered Celebrant’, which would identify them as authorised to solemnise marriages. As in neighbouring jurisdictions, a couple would choose their Registered Celebrant first, and then agree on the form of their marriage ceremony.

This two-tier scheme, which has some parallels with Ireland’s solemnisers and celebrants, would require the creation of an overarching regulatory body, because Registered Celebrants’ work would change individuals’ legal rights and responsibilities. It would be for that overarching body to determine what, if any, responsibilities should be delegated to pre-existing or newly created organisations or bodies, but the WCC and HUK appear already to have infrastructures that could be developed appropriately.

This proposed system would offer couples in England and Wales the best features of all the choices of marriage ceremony that are currently available in England and Wales and neighbouring jurisdictions – including, of course, religious and register office weddings – as Table 3 shows.

<table>
<thead>
<tr>
<th>Feature</th>
<th>Proposed system for</th>
<th>Existing systems</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>England and Wales</td>
<td>England and Wales</td>
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<tr>
<td>--------------------------------</td>
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</tr>
<tr>
<td>Religious-only content in marriage ceremonies</td>
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<td>✓</td>
</tr>
<tr>
<td>Secular-only content in marriage ceremonies</td>
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<td>✓</td>
</tr>
<tr>
<td>Blended religious and secular content in marriage ceremonies</td>
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<td>✓</td>
</tr>
<tr>
<td>Couples choose a named officiant and agree on ceremony content</td>
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<td>✓</td>
</tr>
<tr>
<td>Humanist officiants</td>
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<tr>
<td>Officiants from non-humanist, non-religious belief organisations</td>
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<td>✓</td>
</tr>
<tr>
<td>Independent officiants</td>
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<tr>
<td>Two-tier accreditation system to differentiate officiants and celebrants</td>
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</tr>
<tr>
<td>Centrally accredited training</td>
<td>✓</td>
<td>ROs only</td>
</tr>
</tbody>
</table>

Table 3: Comparison of proposed system for England and Wales with existing systems in neighbouring jurisdictions

Ultimately, however it is achieved, the reformed law should give couples the widest possible choice of how and by whom they are married, and ensure that there is absolute clarity about the consequences of every ceremony that is, or could appear to be, a wedding. These objectives are consistent with the Law Commission’s five principles for reform: ‘certainty and simplicity, fairness and equality, protecting the state’s interest, respecting individuals’ wishes and beliefs, [and] removing any unnecessary regulation, so as to increase the choice and lower the cost of wedding venues for couples.’\textsuperscript{128} Couples, and society as a whole, deserve no less.

Postscript
On 7 and 8 July 2020, the High Court conducted a virtual hearing of \textit{R (Harrison and others) v Secretary of State for Justice},\textsuperscript{129} in which six humanist couples, backed by HUK, sought a declaration\textsuperscript{130} that the lack of provision in the Marriage Act 1949 for humanist marriage in England

\textsuperscript{128} Law Commission, above n 32.
\textsuperscript{129} Listing number CO/4609/2019; no citation available at the time of going to press.
\textsuperscript{130} Under the Human Rights Act 1998, s 4.
and Wales constitutes a violation of their human rights. They claimed that being obliged to pay for the presence of ‘unwanted guests’ at their weddings – this was an allusion to the ‘officials of the state’ who must be present in order to render their ceremonies legally binding – constituted a detriment not suffered by couples who marry in religious ceremonies. This point does not acknowledge that couples who marry in religious buildings registered under s 41 of the 1949 Act must pay for the attendance of registrars if no one is authorised to register marriages in that building. It also omits the fact that comparable discrimination is suffered by couples who have no religion or belief; the defendant briefly mentioned that introducing an exception for humanist celebrants would introduce discrimination against such couples. The claimants contested the defendant’s assertion that the matter could potentially be resolved as a consequence of the Law Commission’s Weddings project, as the fundamental principle at stake was beyond the scope of the project. Mrs Justice Eady reserved judgment, promising to publish it as soon as possible.

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131 European Convention on Human Rights, Art 14 (discrimination) read with Art 8 (respect for private and family life) and/or 9 (freedom of thought, conscience and religion).