NSS response:

Marriage and Civil Partnership Bill: Written evidence request

June 2026

Submitted by email: mandcpbill@niassembly.gov.uk

Introduction

This response is made on behalf of the National Secular Society (NSS).

The NSS is a not-for-profit, non-governmental civil society organisation founded in 1866, funded by its members and by donations. We advocate for separation of religion and state and promote secularism as the best means of creating a society in which people of all religions and none can live together fairly and cohesively. We seek a diverse society where all are free to practise their faith, change it, or to have no faith at all. We uphold the universality of individual human rights, which should never be overridden on the grounds of religion, tradition or culture.

As one of the leading organisations advocating marriage equality across the UK, we campaign for legally-binding weddings to be equally open to all, regardless of religion, belief or sexual orientation.

We have made recommendations to the Law Commission on reforming wedding laws for greater simplicity, equality and fairness for all in England and Wales. Many of the commission's subsequent proposals are in line with our recommendations. They include removing restrictions on where civil weddings and religious weddings can take place, and removing restrictions on religious content in civil weddings.

We also regularly engage with the UN Committee on the Rights of the Child regarding the UK's compliance with the Convention on the Rights of the Child. We broadly support the convention and have long campaigned for greater protection of the rights of children, including their right to personal autonomy and their right to freedom of religion or belief.

While we agree with the reforms to enable nonreligious belief marriage and to raise the minimum age for marriage, we think this bill is a missed opportunity to address other inequities in marriage law, including:

- Removing unnecessary restrictions on civil marriages.
- Not enabling independent celebrants to conduct legally-recognised marriages.

Belief bodies and belief marriage (Clauses 1-4)

We agree with these reforms. In the interest of equality, Northern Ireland must formally amend the marriage law to give belief marriage its place within it. We also believe that 'belief' in this context should extend to any qualifying nonreligious belief system, rather than exclusively humanism.

Raising of minimum age for marriage (Clauses 5-9)

We agree – the minimum age for marriage and civil partnership should be raised to 18..

The National Secular Society supports the UNCRC and has long campaigned for all jurisdictions in the UK to ensure their laws uphold the principles of the UNCRC. Raising the minimum age for marriage/civil partnership is one way in which Northern Ireland can improve its compliance with the UNCRC.

We believe the law needs an update to reflect changes in attitudes towards children and marriage. Permitting the marriage of children aged 16 and 17 with parental 'consent' is inappropriate in a society where children are not considered parental property, and where marriage is considered a matter, first and foremost, for the two people getting married. Religious objections to changing the law in this matter should be resisted – priority must be given to the rights of the individuals who will be directly affected by the law regarding marriage, not to religious tradition.

The Department of Finance should also be aware there is a growing problem in the UK of children under 18 entering unregistered religion-only 'marriages'. Campaigners have said hundreds of girls every year are entering such 'marriages'[1]. Northern Ireland must tackle this issue if is to adequately protect children from abuse.

Civil marriages

The Marriage and Civil Partnership Bill has missed the opportunity to address the inequalities resulting from restrictions applying to civil marriages and civil partnerships that do not apply to religious marriages (or belief marriages under these reforms). These issues are central to the Law Commission's proposed reforms for marriage law in England and Wales[2]; it is therefore remiss of Northern Ireland not to consider them also.

At present, Northern Ireland's laws mean that while religious marriages can take place anywhere, civil marriages and partnerships can only take place in registrars' offices or approved venues. There are fewer than 250 such venues in Northern Ireland[3], which places a considerable limitation on couples wishing to have a civil marriage or partnership.

Even with the introduction of belief marriages, there will still be many couples who would prefer to have a civil marriage or partnership. For example, many nonreligious people would not feel comfortable identifying as 'humanist' (or any other specific nonreligious identity) or having a 'humanist' wedding. Others, for example some secularists, would prefer a civil marriage because they believe the institution of marriage to be strictly a matter of state, not religion or belief. Those people should not be penalised for opting for a civil marriage by having limits placed on where they can marry – limits that do not apply to other types of marriage.

The situation is particularly unfair to same-sex couples. Because the vast majority of religious denominations in Northern Ireland will not conduct same-sex marriages, same-sex couples can generally only have a civil marriage or civil partnership, and so face restrictions on where they can marry by default. By failing to address this issue, Northern Ireland may leave itself vulnerable to further legal challenges on the basis that applying restrictions to civil marriages and civil partnerships that are not applied to religion or belief marriages disadvantages LGBT people.

Enabling belief marriages will only go part of the way to alleviating the issue, because like religious groups, belief groups will presumably still need to 'opt in' to perform same-sex marriages – opposite-sex marriages only will remain the default. Additionally, LGBT people will still be forced to compete with opposite-sex couples for the same service, even though opposite-sex couples have more options because they can also opt for a religious marriage. Furthermore, same-sex couples should not feel forced to identify as 'humanist' or adopt or feign any other nonreligious identity simply to access greater freedom of where to marry. Allowing civil marriages the same freedom as religion and belief marriages to take place anywhere would resolve this issue.

Restricting locations for civil marriages and partnerships also disadvantages those who are less wealthy. Those who have a religious marriage could in theory marry in a venue that charges nothing, such as their own home; but a

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[1] https://www.independent.co.uk/news/uk/home-news/child-marriage-british-girls-b1812608.html

[2] https://www.lawcom.gov.uk/project/weddings/

[3] https://www.nidirect.gov.uk/articles/registration-office-venues-civil-marriage-and-civil-partnerships

couple having a civil marriage must pay a fee for use of the registrar's office or an approved venue (often very expensive).

We therefore urge the Department of Finance to consider removing restrictions on venues for civil marriages and civil partnerships, to put them in line with religion and belief marriages. The Law Commission has made the same recommendation for civil marriages in England and Wales.

Furthermore, we also believe that restrictions prohibiting all religious content in civil ceremonies should be removed, provided that the ceremony remains identifiable as a civil ceremony rather than a religious service. This has also been recommended by the Law Commission for civil weddings in England and Wales.

We do not view the permitting of religious content in civil weddings as incompatible with a secular state, because the content in question (e.g. prayers and hymns) has no legal significance, and therefore no significance to the state.

We are aware that many nonreligious people, or people who do not want a religious wedding, find special meaning in songs, poems, prayers and other expressions that happen to be religious in origin and theme. We consider civil ceremonies that prohibit such content to be too restrictive.

Furthermore, in many cases one member of the couple may be religious and the other not religious, or they may be of different religions. In such cases, they may consider a civil ceremony to be the most suited to them, but inclusion of some religious content can help to personalise the ceremony and express their religious and cultural background.

We therefore urge the Department of Finance to consider removing restrictions prohibiting all religious content in civil ceremonies, provided that the ceremony remains identifiable as a civil ceremony rather than a religious service.

Independent celebrants

We think there is a strong case for enabling independent celebrants to conduct legally-binding marriage ceremonies.

Many people who do not belong to a specific religious or nonreligious belief institution nevertheless have spiritual, religious or philosophical beliefs that are important to them. Currently, some independent celebrants do hold religious wedding ceremonies on request of the couple. Some religious traditions not have a formalised institution that determines how their weddings should be conducted, or who should conduct them, and so independent celebrants may be a suitable option for them.

Many people who identify with particular religions and beliefs do not need an official institution to recognise the authority of a celebrant to conduct a wedding. Marrying couples who want their wedding to reflect their religious or philosophical beliefs but who do not recognise the authority of a particular religious institution will not be well-served if their only option for a religious or non-religious belief wedding is to have it held by an institution recognised by the state.

Couples belonging to different religious traditions, and who want to combine aspects of these traditions into an 'interfaith' ceremony, may also be best served by an independent celebrant.

As Eóin Tennyson MLA said during the Second Stage Assembly debate on the principles of the Bill that took place on 20 April :

> "From the contact that I have had with independent celebrants, I am conscious of the fact that some couples do not fit neatly into the belief marriage or the religious marriage space. Couples can come at life with different religious views or perspectives. Some wish to have ceremonies that incorporate non-religious and religious elements, and they find that independent celebrants are often the only route that they can

take to allow them to get married in accordance with their own values, including a ceremony in which the views of both partners in the relationship will be respected.

If, in the next mandate, the Minister therefore has any plans to make independent celebrants more accessible to people so that they do not have to visit the registry office before having a ceremony that reflects their values, that would be a really welcome development."

If the goals of reforming Northern Ireland's marriage laws include giving couples greater equality, freedom and flexibility in having a wedding that's right for them, permitting independent celebrants to offer legally binding marriage ceremonies would go a long way to achieving this.