



Department of

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An Roinn

Airgeadais

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Marriage Law Consultation

Results and Analysis

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Public Consultation on Belief Marriage and Minimum Age for Marriage or Civil Partnership—Results and Analysis

Introduction

1. In 2021-2022, the Department of Finance (DOF) undertook a public consultation on two aspects of the current law on marriage and civil partnership:
 - The proposed inclusion in the marriage law of belief marriage—a marriage ceremony for people who subscribe to a non-religious belief system such as humanism and conducted by an officiant who also subscribes to that system.
 - The minimum age at which a person can enter a marriage or form a civil partnership. This is currently 16 although persons aged 16 and 17 must have parental consent or equivalent before they can proceed.

Belief Marriage

2. With regard to belief marriage, the 2017 High Court and Court of Appeal judgments in the case of *Smyth* (2017 NIQB 55 and 2018 NIQB 25) oblige Government, on grounds of equality of treatment, to legislate to place belief marriage on the same legislative footing as religious marriage. In practice, this will mean that the current marriage law needs to be amended so that it treats belief groups in exactly the same way as it currently treats religious groups.
3. The present marriage law, the Marriage (NI) Order 2003, enables two types of marriage—religious and civil. Couples wishing to marry go through the same preliminary stages which include the notice to marry and the marriage schedule. It is only when these common, preliminary stages have been completed that different procedures and rules begin to apply depending on whether a religious or a civil marriage is intended. One difference between religious and civil marriage is that religious marriage offers a potentially wider choice of venue. A

religious marriage need not take place in a place of worship but in any venue the couple chooses provided the religious body considers it appropriate. In contrast, a civil marriage can take place only in a register office or approved venue. There is also potentially greater choice with regard to the content (music, readings) of a religious marriage ceremony.

4. Following the *Smyth* case, a number of temporary arrangements were adopted to enable belief celebrants to act as registrars and solemnise belief marriages. However, these expedients fall short of the full equality required by the Courts. Full equality between religious and belief marriage will require legislative change that formally amends the Marriage Order to include belief marriage on the same basis as religious marriage.
5. The consultation focused, not on whether this change should happen, but on how it should happen and on the main issues it has raised. Topics covered included: how, in the future, the genuineness and seriousness of faith and belief groups alike should be assessed; if and how groups that provide marriage ceremonies might charge fees to cover their costs; how the solemnity of the marriage ceremony might be preserved; and if there is a place for profit-making in the provision of marriage ceremonies.

Minimum Age for Marriage and Civil Partnership

6. There is no similar obligation to legislate with regard to the minimum age at which a person can marry or form a civil partnership. Consultation was undertaken primarily in order to assess stakeholder opinion on the subject and, in particular, to assess if there is support for increasing the current minimum age to 18.
7. Consultees were advised that the United Nations Committee responsible for the United Nations Convention on the Rights of the Child (UNCRC) advocates 18 as the minimum age for marriage/civil partnership in all states that have signed the Convention ('State Parties'). This is a proposal supported locally by the Commissioner for Children and Young People (NICCY) and the Human

Rights Commission (NIHRC). In addition, while only a small number of European governments have prohibited marriage or civil partnership involving under-18s, the Dublin Government is among them, having raised the minimum age in its jurisdiction from 16 to 18 in 2019. Also, at the time of the consultation, the Marriage and Civil Partnership (Minimum Age) Bill, a private members bill sponsored by Pauline Latham MP, had been introduced in the House of Commons with the support of the Westminster Government. There was some expectation at the time that this Bill would become law (which, in the event, it did, in April 2022, after consultation had closed). The effect of the Westminster legislation is to increase the minimum age for marriage or civil partnership to 18 in England and Wales and to criminalise adults who facilitate marriage or civil partnership by people under the new minimum age. This will include those who take a person abroad to be married. The Bill received Royal Assent on 28 April 2022 and will be brought into effect through regulations which are pending.

8. Consultees were also advised that only a relatively small number of marriages in this jurisdiction (a few dozen in any year) involve people who are under the age of 18, and to date no 16 or 17 year olds have entered into a civil partnership. More girls than boys marry and a significant proportion of marriages where one or both is under the age of 18 involve people from outside the jurisdiction as the table below indicates¹.

¹ This table updates the table that appeared in the consultation document. Figures for 2021 are provisional and subject to change. Figures for 2020 and, to some extent, 2021, reflect restrictions arising from measures introduced to counter the Covid-19 pandemic.

Registration year	Total Marriages (where one or both <18)	Total Marriages where one or both <18 and from outside jurisdiction
2012	59	39
2013	40	28
2014	47	32
2015	57	38
2016	33	22
2017	43	25
2018	38	26
2019	58	44
2020	25	20
2021	47	38

Source: NISRA

Consultation

9. The law on marriage and civil partnership is the policy responsibility of DOF. Day to day responsibility resides with Civil Law Reform Division (CLRD), a division of the Departmental Solicitor's Office (DSO). The consultation was designed and managed by CLRD with input from colleagues in the General Register Office (GRO), who have operational responsibility for marriage law. Work included the production of a consultation document² that set out the background to the aspects of the law under consideration and featured a series of questions intended to help participants structure their responses.

10. Consultation was publicised using the DOF website and via a press release. In addition, key stakeholders, including faith groups, elected representatives, local authorities, the Assembly Finance Committee, the North South Ministerial

² <https://www.finance-ni.gov.uk/consultations/public-consultation-marriage-law>

Council (NSMC), and the Northern Ireland Human Rights Commission (NIHRC) were advised of the consultation and invited to participate.

11. Consultation ran from 15 November 2021 to 18 February 2022. Participants had the option of responding online using Citizen Space, or via a written submission.
12. The deadline for responses was extended to facilitate a discussion with the Rights and Equality Committee of the Youth Assembly on 8 March 2022 and to allow stakeholder groups that had yet to respond to consider submitting their opinions.
13. Sixty-one online responses were received. The majority (54) were from individuals. The seven organisations that responded online were: the Church and Society Commission of the Church of Ireland; NI Humanists; four independent wedding celebrants who commercially provide marriage ceremonies that are not legally binding (the Circle Celebrancy, Pure Silk Ceremonies, Vows that Wow and a sole trader celebrant who operates under their given name); and a body representing independent wedding celebrants (the Celebrant Directory and Academy of Modern Celebrancy). Online responses are summarised at Annex 1.
14. Seventeen written responses were received, all from organisations. These included the Presbyterian and Catholic churches, NI Humanists, the National Secular Society, NICCY, NIHRC and the Family Education Trust. All seventeen responses are summarised in Annex 2. Of the 17 who submitted a written response, only the NI Humanists had also responded online.
15. In addition to the 17 conventional written submissions received, Frank Cranmer and Sharon Thompson of the School of Law and Politics, University of Cardiff, submitted an academic paper, *Marriage and Civil Partnership in Northern Ireland: a changing legal landscape*, published in 2018. This was essentially an historical account of marriage law in this jurisdiction which took account of the

Smyth case and the temporary expedients subsequently introduced but which predated the advent of same sex marriage and opposite sex civil partnership.

16. Three stakeholder groups—NICCY, Human Rights Commission and NI Humanists—met with CLRD to discuss the issues raised in the consultation. All three subsequently submitted written responses to the consultation and, as noted, NI Humanists also responded online. These meetings are summarised at Annex 3.

17. Finally, as noted, a CLRD official met with the Rights and Equality Committee of the Youth Assembly on 15 March 2022. The Youth Assembly subsequently provided a transcript of the discussion (summarised at Annex 3).

18. The present report is therefore based on three main sources:

- Responses to online questions (summarised at Annex 1)
- Submitted written comments (Annex 2)
- Meetings (Annex 3)

Main Findings

19. The two questions at the centre of this consultation exercise were:

- Should Government legislate to put belief marriage on an equal footing with religious marriage in line with the decisions of the Courts in the *Smyth* case?
- Should Government legislate to increase the minimum age for marriage and civil partnership from the present 16 to 18, as recommended by the UN and several prominent local stakeholders?

Belief Marriage—should Government legislate?

20. With regard to belief marriage, a majority of online respondents—70%—thought that the law should be changed to put belief marriage on the same footing as religious marriage. However, slightly more than a quarter were not in favour of this change. Online commentary and written submissions were also generally supportive with only a small number critical. None of the seventeen written submissions received opposed belief marriage being placed on an equal footing with religious marriage (although some concerns and reservations were expressed). There was some opposition on religious grounds from individual online respondents but none from any of the religious organisations (Church of Ireland, Catholic Bishops, Presbyterian Church in Ireland) that responded. These agreed with the change on equality grounds while emphasising their particular view that marriage is a religious commitment. In contrast, the small number of individual respondents who raised religious concerns regarding the proposal thought that it diminished the idea of marriage as a religious matter and, thereby, risked the very institution of marriage. The Family Education Trust, while not opposing the proposal, stated that, as marriage was associated, in the Trust's assessment, with a range of social benefits, any changes to the existing marriage law should be undertaken with caution.

21. The principal criticism of the proposed legislation on belief marriage was that, in the opinion of some respondents, it did not go far enough. They wanted to see legislative change that would enable independent celebrants to provide legally binding marriage ceremonies.

22. Independent celebrants and the issues raised by them generated considerable interest during consultation even though they were not its primary focus. Independent celebrants can currently provide a marriage ceremony that is quite literally ceremonial. It is a marriage ceremony currently without legal status. Independent celebrants are sometimes engaged by couples who marry abroad and wish to hold a ceremony for, e.g., friends and family who were not able to join them. Also, some couples arrange an independent ceremony after they have married in a civil ceremony because the independent ceremony offers

greater flexibility in terms of venue and content (music, readings). Independent celebrants typically operate as small, sole trader businesses. In policy terms, they would like to be enabled to provide legally binding marriage ceremonies while retaining their profit-making status, something the law does not currently permit. They would like to be able to provide a full marriage service to their clients rather than the current arrangement whereby the legally binding marriage happens elsewhere and the independent celebrant provides only a ceremony. The question of independent celebrants was addressed in a number of specific consultation questions and generated considerable online comment. Independent celebrants and their concerns were also raised separately in response to other online questions such as those addressing verification of legitimate religious and belief groups. When consultation opened, the Association of Independent Celebrants (AOIC) encouraged its members to take part. Similar encouragement came from Professor Russell Sandberg from the School of Law and Politics at the University of Cardiff who promoted the consultation via social media. This may account for some of the engagement by independent celebrants. (As noted above, independent celebrants represented a majority of the groups responding online although, in contrast, no written submissions were received from independent celebrants or from their representative bodies). None of this in any way invalidates the input received by or on behalf of independent celebrants which the Department has reviewed carefully and which will be considered further as we progress towards legislation.

23. The National Secular Society (NSS), while supportive of the proposals regarding belief marriage, thought that further change was required. This included: permitting independent celebrants to offer legally binding ceremonies; offering a greater choice of venue for civil marriage; and enabling greater flexibility regarding the content of civil ceremonies. The NSS noted, for example, that same sex couples, since few religious groups accept same sex relationships, rely more heavily on civil ceremonies than do heterosexual couples. One consequence of this is that same-sex couples have a smaller choice of venue and possibly less choice over the content of their ceremony.

Minimum age for marriage and civil partnership—should it be increased to 18?

24. With regard to the minimum age for marriage and civil partnership, most online respondents—some 95%—were supportive and this was reflected in the online and written comments which were also largely supportive. The Church of Ireland, which responded online to this question, stated that marriage by a person under-18 was child marriage and that it was inappropriate that a commitment like marriage should be undertaken by children. The Church also suggested that enabling a parent to give consent for an under-18 to marry might be a violation of that child's human rights. The Catholic Bishops/Catholic Commission on Social Affairs took a similar view. Alternative views were offered by the Presbyterian Church in Ireland and the Family Education Trust, both of which were concerned that any increase in the minimum age for marriage or civil partnership would mean that the age of consent for sexual intercourse would be lower than the minimum age for marriage/civil partnership. The Presbyterian Church thought that, in view of this, and given that there are only a few dozen marriages involving people under the age of 18 in any given year, the minimum age should remain at the present 16 'provided certain safeguards are in place'. The Family Education Trust proposed that any increase in the minimum age be matched by an increase in the age of consent. The NSPCC advised that, in view of the age of consent being sixteen, consideration should be given to those communities that have ethical objections to sexual relations outside marriage. It also suggested that any decision on changing the minimum age should be informed by analysis of the effectiveness of current legislation in preventing forced marriage and by a detailed consideration of the relevant equality issues.

25. The Rights and Equality Committee of the Youth Assembly was unanimous in its support for increasing the minimum age to 18. Committee members noted in particular the perceived risk of forced marriage and thought it irrelevant that other important decisions such as employment were open to sixteen and seventeen year olds. Committee members suggested that different types of decision require different levels of maturity and have different long-term implications. It is easier, for example to leave a job than to leave a marriage.

26. Several online respondents and several of those who responded conventionally noted that marriage at 16 and 17 was common in the Traveller community and that some consideration therefore needed to be given to that Community's traditions when considering increasing the minimum age. In this respect, it is worth noting that the written submission from the Craigavon Travellers' Support Committee—the only input received from a body representative of the Traveller Community—was supportive of increasing the minimum age to 18. Some respondents also advised that an equality impact assessment would need to be undertaken with regard to an increase in the minimum age for marriage or civil partnership. An assessment of the equality implications of increasing the minimum age to 18 is now underway in the Department and will inform final decisions with regard to legislation.

Belief Marriage—other consultation questions and issues

Administrative arrangements

27. The consultation asked participants their opinion on the administrative arrangements for belief marriage, including procedures for the formal recognition of groups seeking to solemnise marriages. The present arrangement for religious organisations is that the organisation itself and any of its members it nominates as officiants must be approved for that purpose by the Registrar General. Provided that the Registrar General is satisfied that the group is genuine and that the proposed officiant or officiants are appropriate people to conduct marriage ceremonies, the group will be authorised to carry out marriage ceremonies. A majority of online respondents (71%) thought that this arrangement should now be extended to belief groups.

28. The consultation also sought views on whether qualifying criteria should be used to establish the suitability of groups wishing to perform marriage ceremonies. The Consultation Document noted that qualifying criteria could be

based on the definition of belief group used in Scotland or on the definition adopted by the Dublin Government.

29. Scottish marriage law defines a belief body as:

- An organised group of people that is not a religious body;
- Whose principal object (or one of whose principal objects) is to uphold or promote philosophical or humanitarian beliefs;
and
- That meets regularly for that purpose.

30. The Dublin Government's Civil Registration (Amendment) Act 2012, which refers to 'secular' rather than 'belief' bodies, defines secular bodies as groups that:

- Number at least fifty members;
- Have had a continuous existence of at least five years;
- Are secular, ethical and humanist in their aims; and
- Meet regularly in respect of their beliefs.

31. Important contrasts between these two definitions include Dublin's requirement that secular groups have achieved at least 50 members and been in existence at least five years. The Dublin criteria also exclude certain types of group, such as political parties, from being considered secular bodies for the purpose of conducting marriage ceremonies. The effect of this is to establish quite specific qualifying criteria for secular bodies.

32. A small majority (53%) of online consultation respondents were in favour of qualifying criteria of some kind and a similar proportion (52%) thought that any such criteria should be specific, on the Dublin model. Around two fifths preferred the somewhat looser definition adopted by the Scottish Government. A

majority—72%—thought that any qualifying criteria should apply to religious and belief groups alike.

33. In their written submission, NI Humanists stated that they favoured relatively challenging qualifying criteria on the Dublin model. They thought, for example, that requiring groups to have a membership of at least fifty was a reasonable test and that groups should also be required to demonstrate that they meet regularly for reasons directly connected with their particular worldview (e.g. discussion, dissemination or worship). In addition, any group seeking accreditation should be required to show that its core activity—its principal reason for existing—was its religious or non-religious belief.

34. All three Churches that responded favoured qualifying criteria, including for religious groups. However, both the Presbyterian and Catholic churches suggested that any criteria be applied to newly established religious groups, not well-established religious organisations that have long been solemnising marriage in partnership with the state.

Sham Marriage

35. Respondents were asked their views on the risk of sham marriage—marriage entered into solely in order to obtain various rights and benefits such as the right to remain resident in the jurisdiction. Most online respondents (68%) thought belief marriage carried no greater risk of sham marriage than religious marriage. (Some went on to suggest that there was a similar risk that some civil marriages or civil partnerships might also be sham). Several commented that the personal connection between a bride or groom and the church in which they were planning to marry—a connection which would clearly work against sham marriage—was no longer as strong or as commonplace as in the past. Several commentators, both online and written, thought that training was the best way to guard against sham marriage. Some suggested that the preliminary stages of marriage, which are common to religious, belief and civil marriage, were the stages at which a sham marriage might be best identified.

Eccentric and frivolous marriage

36. Consultees were also asked their view on the risk of marriages that were eccentric or frivolous in nature—whether they thought that the risk would be greater with the advent of belief marriage. Most respondents (64%) did not think that the risk of this type of marriage was increased on account of belief marriage being formally recognised.
37. There was, however, some concern regarding the terms ‘eccentric’ and ‘frivolous’ which several respondents considered value-laden and judgemental. Several commented, for example, that it was not for Government to prescribe the style people chose for their wedding ceremony. Similarly, some consultees commented that it was for the people getting married to decide on such aspects of the ceremony as the venue, the music or the readings, conditional on what the officiant or the group to which they belonged might consider acceptable.
38. On reflection, this was a part of the consultation where we might have expressed ourselves better. Our concern was not so much with the style or form people choose for their ceremony or for themselves. There is already some freedom in that respect and we have certainly no intention of limiting it. Our principle concern was the risk that people might, for publicity or notoriety, set up a bogus religious or belief group to see if they could secure official recognition. In addition, we wished to preserve the solemnity of the marriage ceremony. It is possible that this could be addressed via the process by which groups are assessed to perform marriage ceremonies.

Independent celebrants

39. With regard to the question of allowing independent celebrants to provide legally binding marriage ceremonies for a profit, a majority of online respondents (60%) were in favour. At the same time, a majority (54%) thought that we should continue to prohibit marriage ceremonies being provided for profit and a similar majority (55%) saw risks in allowing marriage to be provided for profit. Such risks included marriage coming to be seen as less solemn and

serious an institution or the development, over time, of a literal marriage market in which providers competed for custom. It was also a majority view (nearly half of all online respondents) that religious and belief groups should not be permitted to offer marriage ceremonies for profit. However, more than two fifths of online respondents (43%) thought that marriage for profit should be an option for religious and belief groups. Only two written submissions (from the NSS and the Alliance Party) favoured independent celebrants being enabled to offer legally binding marriage ceremonies for profit, principally on the grounds that this would meet the needs of couples whose beliefs were idiosyncratic and not easily categorised. The NSS suggested that the profits made by independent celebrants were likely to be small while the Alliance Party proposed that, if independent celebrants were enabled to provide legally binding marriage ceremonies there should be corollary limitations on the fees they could charge.

40. Some online respondents who supported independent celebrants being permitted to provide marriage ceremonies for profit alleged that there was already a commercial and profit-making side to religious, belief and civil marriage with one respondent claiming personal experience of both a local authority and a church profiting significantly from providing marriage ceremonies.

41. There seems to be some confusion here regarding how local authorities and religious and belief groups currently operate. A public body, like a local authority, may charge a fee for certain services including civil marriage and civil partnership, and an organisation with charitable status such as a church may charge a fee and/or accept a donation for the marriages it solemnises, but this is not the same as a business setting a price with a view to making a profit. The fees charged by public bodies offset their costs while a charity that accepts donations or charges fees will, as a condition of retaining its charitable status, need to demonstrate through its published and audited accounts that it has not made a profit. Both charity and local authority will need to show that any money received has been used to cover reasonable costs or to build up a legitimate surplus—one that will be used to support future activities. In contrast, independent celebrants are businesses, usually sole-trader businesses, and

they price themselves on a commercial basis. A number of respondents correctly noted that there is nothing morally wrong with this—it is what all businesses do—and the profits involved might not be significant. Indeed, it might be that the celebrants price their services more to make a living than to make any great profit. Nonetheless, the issue here is not that independent celebrants are commercial businesses but whether the provision of legally binding marriage ceremonies should be the work of commercial businesses, and whether profit-making has any place in the provision of marriage ceremonies.

42. Some respondents (e.g. the NSS in its written submission) noted that independent celebrants, because they are of no particular faith or belief, can provide a service that meets the needs of people who are similarly of no particular faith or belief, but who would like to incorporate elements of various faiths and belief systems in their wedding ceremony, or for people whose belief system has no orthodox form or established ritual (e.g. paganism). This is something that civil registrars, or religious or belief groups cannot offer.
43. NI Humanists were critical of independent celebrants being enabled to provide legally binding marriage ceremonies. They suggested that this created a risk that some celebrants might offer a ceremony with some religious or belief content but without the celebrant having any particular commitment to any religious or non-religious beliefs, or any particular knowledge of same. Were this to happen, NI Humanists alleged, there would be a risk that some couples might choose an independent celebrant on the (incorrect) assumption that that celebrant was a knowledgeable and experienced member of a faith or a belief group.
44. This concludes the discussion of belief marriage and the principal issues of policy that it raises. The remaining paragraphs in this section will focus on the minimum age for marriage and civil partnership.

Minimum age for marriage and civil partnership—other consultation questions and issues

Alternative or additional consents

45. In addition to being asked whether the minimum age for marriage or civil partnership should be increased to 18, consultees were asked their opinion on the introduction of alternative or additional consent requirements. The specific suggestion was that, where people aged 16 and 17 were seeking to marry or form a civil partnership, the approval of an authoritative body such as a court should be required either in addition to parental consent or as a replacement for parental consent. While there was some support for alternative or additional consent, several online respondents and most of those who sent in written responses noted that they were opposed to marriage and civil partnership by anyone under the age of 18 and did not therefore favour any compromise measure based on alternative/additional forms of consent. The Presbyterian Church in Ireland favoured retaining the current minimum age and parental consent but was not opposed to additional or alternative forms of consent.
46. Some respondents, including the Rights and Equality Committee of the Youth Assembly, suggested that parental consent might facilitate forced marriage—that a parent could consent to a marriage regardless of the wishes of the person under-18 on whose behalf they were consenting. The Family Education Trust stated that, if the minimum age remained 16, parental consent should remain the sole condition. This was also the view of the Catholic Bishops and Catholic Commission on Social Affairs who, while preferring that we increase the minimum age to 18, did not think we should change the parental consent requirement if there was no change. They suggested that, since marriages by under-18s were few in number and there was no evidence that these were forced, parental consent should be sufficient.

Recognition of marriages and civil partnerships from other jurisdictions and criminalisation of marriage involving under-18s

47. A majority of online respondents (nearly 70%) thought that this jurisdiction should refuse to recognise marriages or civil partnerships involving people under the age of 18 that had taken place in other jurisdictions. Some three quarters (76%) thought that marriage involving under-18s should be criminalised. Online comments and written submissions were also largely supportive of non-recognition and criminalisation although several emphasised that criminalisation should be of the adults involved, not the children. An exception was the NSPCC which, in its written submission, stated that it did not support criminalisation and thought that any policy of non-recognition should be informed by prior consultation with the Traveller community. The CTSC, while supporting non-recognition and criminalisation, thought that criminalisation should be accompanied by an educational and public awareness initiative on child marriage and its risks. Finally, the Catholic Bishops thought that recognition should proceed case by case.

Forced marriage and loss of opportunities

48. A clear majority of online respondents (91%) thought that permitting marriage by 16 and 17 year olds created a risk of forced marriage while 89% thought that marriage or civil partnership at 16 or 17 potentially deprived young people of educational and other opportunities. Respondents associated forced marriage with a range of negative consequences including physical and sexual abuse, sexual exploitation, poverty and poor physical and mental health. Conventional written responses (e.g. NIHRC) also thought that marriage by people under the age of 18 carried a risk of being forced. However, the NSPCC thought that this was an area where more research (on the efficacy of current legislation) would be beneficial while the CSTC noted that marriages by people over the age of 18 could also be forced. Written respondents generally agreed that, while marriage/civil partnership before the age of 18 could mean lost opportunities for the 16 and 17 year olds involved, girls were especially at risk.

49. A majority of online respondents (87%) said that they would be concerned if this were to become the only jurisdiction on these islands that permitted marriage or civil partnership by people under the age of 18. Most written submissions were also concerned that this jurisdiction might become the exception that still permitted under-18s to marry.

Conclusions and Recommendations

Belief Marriage

50. The Consultation asked respondents if they agreed that Government should, in line with the judgments of the High Court and the Court of Appeal, amend the marriage law to include belief marriage on an equal footing with religious marriage. A majority of online respondents—some 70%—and all who mentioned the subject in their written response were supportive. There was little opposition to the proposal. Where it was most frequently challenged was on the grounds that it did not go far enough, that further legislative change was needed to enable independent celebrants to provide legally binding marriage ceremonies. This will be discussed below. With regard to the principal question—whether Government should legislate to place belief marriage on an equal footing with religious marriage—the evidence of the consultation is that respondents generally think it should.

51. A majority of online respondents (71%) thought that it should be for the Registrar General to determine the suitability of particular belief groups and their proposed officiants to solemnise marriages. In other words, they thought that the Registrar General should perform the same role with regard to belief groups as she currently performs regarding religious groups. A small majority—just over half—thought that she should use assessment criteria to determine the suitability of a group and a similar majority thought that any such criteria should be relatively demanding, along the lines of the definition adopted by the Dublin Government. A substantial majority—72%—thought that any qualifying criteria should apply to belief and religious groups alike. It is interesting, in this

regard, that the three Churches that responded—Church of Ireland, Catholic, Presbyterian—also supported qualifying criteria that applied to new belief and religious groups alike. NI Humanists advocated qualifying criteria on the Dublin model, including a membership threshold (50 or more).

52. Having the Registrar General assess belief groups in the same way that she currently assesses religious groups seems the obvious way forward. Qualifying criteria would require careful consideration. For example, it would be inappropriate to require existing religious organisations—many of which have existed, not for centuries, but millennia—to reapply and be assessed. Also, some existing but well-established religious groups might fail any membership test along the lines of the Dublin Government’s definition for belief groups. Nonetheless, qualifying criteria would have clear value in guarding against frivolous or eccentric groups, whether religious or belief, attempting to gain accreditation, and against the prospective organisers of sham marriage.

53. With regard to sham marriage, the majority view was that belief marriage created no greater risk of it than religious marriage. The preliminary administrative stage of marriage through which all couples must progress is, as was noted during consultation, an important guard against sham marriage. It was also suggested that the training provided to registrars to enable them to detect sham marriage might be extended to other officiants and celebrants.

54. The question of whether the law should be changed to enable independent celebrants to provide marriage ceremonies commercially generated some interest among respondents.

55. While a majority of on-line respondents (60%) favoured enabling independent celebrants to provide a full marriage ceremony, a majority was also opposed to the law being changed to allow marriage to be provided for profit (54%) and a similar majority could see risks if it were made possible to provide marriage for a profit. A small majority (48%) also thought that religious and belief groups should not be allowed to profit from the marriage ceremonies they provide. These results suggest a lack of clarity among respondents. A majority want

independent celebrants, who operate commercially, to provide marriage ceremonies, but a majority would not extend that privilege to religious or belief groups; a majority sees risks in marriage being provided for a profit; and a majority would like to see the current ban on marriage for profit retained.

56. It would not be possible to allow independent celebrants to provide marriage ceremonies commercially without changing the current law that prevents marriage for profit, and without, on grounds of equality, extending the same opportunity to profit from marriage to religious and belief groups. If Government were to enable independent celebrant businesses to provide legally binding marriages, it would have to extend the same opportunity to all current providers of legally binding marriage ceremonies. The effect could be to create a substantial marriage market. It is unlikely, judging by consultation responses, that there is significant public or political support for such a change. There is sympathy for independent celebrants but no corresponding sympathy for marriage for profit or to its becoming widespread.

57. Four main arguments in favour of independent celebrants being permitted to offer legally binding ceremonies were put forward.

- i. That it was discriminatory to prevent independent celebrants from offering a full marriage service.
- ii. That religious groups, belief groups and even the General Register Office make a profit from marriage ceremonies.
- iii. That independent celebrants can provide a marriage ceremony tailored to the needs of people who are religious and/or humanistic in outlook but who belong to no particular, organised group, or to the needs of people who belong to a group that has not set ritual or scripture such as pagans or wiccans.
- iv. Independent celebrants could offer increased consumer choice. They could provide a similar service to the General Register Office but with a greater range of venues and with a much greater range of content.

These are discussed in the paragraphs that follow.

58. Independent celebrants are not a group defined by religious belief or background, ethnicity, sexuality, or political alignment. There is therefore no case for enabling them to provide marriage ceremonies on grounds of equality. They are prohibited from providing a full, legally binding marriage ceremony solely because they are profit-making businesses and our current marriage law prohibits marriage being offered for a profit.
59. It is not the case, as alleged, that religious, civil and, now, belief marriages are being legally provided at a profit. Whether religious or belief groups accept donations or charge fees, these receipts are designed to offset the costs of organisations that operate on a charitable, not for profit basis. If it were found that a profit was being made, the organisation making it would be in breach of the law.
60. It is acknowledged that independent celebrants could offer a marriage ceremony that is tailored to the needs of the couple including in terms of, for example, its content and its location. They could offer more choice to couples than is at present available via a civil ceremony. In this respect, they would have a competitive advantage over the current arrangements for civil marriage. This might particularly benefit groups (e.g. same sex couples) that are disproportionately reliant on civil ceremonies and that are therefore particularly limited by the current restrictions on civil ceremonies in terms of venue and content. However, legislating to enable marriage ceremonies to be provided for a profit is not the only way in which this outcome might be achieved. A similar outcome is possible without fundamentally changing the marriage law or removing the current prohibition on marriage ceremonies being provided for a profit. A similar outcome could be achieved by revising the current arrangements for civil marriage ceremonies by, for example, allowing greater flexibility regarding venue and the content of the ceremony.
61. Based on these responses, consultees seem receptive that Government proceeds to legislate to put belief marriage on an equal footing with religious marriage with the practical arrangements for assessing the suitability of groups

and officiants, whether belief or religious, to solemnise marriages considered and finalised.

62. There seems less clarity or agreement that we change the present law which prohibits the solemnisation of marriage for profit.

Minimum Age

63. Consultee support for increasing the minimum age for marriage and civil partnership to 18 was unmistakable. Few favoured keeping things as they are and there was only modest enthusiasm for compromise measures such as alternative or additional forms of consent. A clear majority thought that we should refuse to recognise marriages and civil partnerships involving under-18s made in other jurisdictions and that we should criminalise marriage and civil partnership involving people aged 16 and 17, prosecuting the relevant adults involved. There was recognition that marriage at 16 and 17 can deprive the young people involved, especially girls, of important opportunities and life chances and that, in permitting marriage by under-18s, we were creating some risk of forced marriage and, thereby, its many negative consequences.

64. The Dublin Government has increased the minimum age for marriage to 18 as has the Westminster Government with regard to England and Wales. While there is no suggestion of any immediate policy change in Scotland, it is now conceivable that this jurisdiction might, in time, be the only one on these islands that permits marriage or civil partnership by 16 and 17 year olds—a development that concerned a majority of respondents.

65. A very small number of respondents expressed concern at any proposed change to the minimum age, notably on the grounds that the minimum age for marriage and civil partnership would now be higher than the age of consent. Some suggested that the equality impacts of increasing the minimum age should be properly analysed.

66. Based on consultation findings, Government should consider legislation to increase the current minimum age for marriage or civil partnership from the present 16 to 18. The wider effect of any such change, including any equality impacts, is being assessed as part of the policy process.

Annex 1

Online Responses

Consultees who responded online via Citizen Space could respond to 22 online questions, 14 of which related to belief marriage and eight to minimum age. These were presented as closed questions (with 'yes/no' answers or similar) but respondents could supplement these with comments. Background information was provided for most questions. There were 61 online respondents although not all responded to every question.

Belief Marriage

By way of background, respondents were advised that, in order to address the equality issues identified by the High Court and the Court of Appeal in 2017, the Minister of Finance is proposing to amend the Marriage Order 2003 so that belief marriage is placed on an equal footing with religious marriage. Belief groups could then conduct marriages on the same basis as religious groups. This would mean that adherents of particular belief groups would be able to apply to become officiants and thereafter perform marriage ceremonies on the same basis as religious officiants. Belief organisations would also have the same freedoms as religious bodies with regard to marriage venue and accept donations or charge a fee. However, as with religious organisations, they would be not be permitted to solemnise marriages for profit or gain.

Support for belief marriage

The first question was straightforward. It asked respondents whether they agreed with the inclusion of belief marriage in the marriage law.

Question 1

Are you content that the current marriage law is being amended to include belief marriage, and with the rationale provided for this proposed change?

Of the 54 who responded to this question, 38 (70.4%) stated that they were content and 14 (25.9%) that they were not. The remaining four responded that they did not know or could not say.

A majority of comments posted online were supportive of the proposed change. A common view was that times had changed and that non-religious belief systems were nowadays more prevalent than in the past. In that context, many considered it entirely appropriate, on grounds of equality, to amend the law to include belief marriage. Typical comments included:

'In an increasingly secular society, it is right that non-religious couples should have the equal right to marry'

'We no longer live in a Christian patriarchal society. Views have changed.'

The Church of Ireland, the only faith group to respond online, commented:

'While the Church of Ireland obviously would wish to promote the sanctity of religious marriage above all other types of such ceremonies, we feel we have to be realistic and support this proposed change which has already, in effect, been accepted by the High Court and Court of Appeal.'

However, not all who responded from a religious perspective were in favour of the proposal. One respondent, for example, stated that marriage is a religious institution and a religious practice that secularists had no business adopting. This respondent held that for government to change the nature of marriage further would be to undermine it further. Another respondent took a similar view and suggested that the same rights being sought by humanists were already available through civil partnership.

A number of respondents were broadly content that belief marriage was to be included in the marriage law but felt that this did not go far enough. In their opinion, further change was needed to enable independent celebrants, who operate on a for-profit, business basis, to conduct legally binding marriage ceremonies. It was suggested that this was a right and that to withhold it was as discriminatory as not allowing belief marriage:

‘Please also include Independent Celebrants as the basic human right should rest with the couple to “choose”’

Some suggested that independent celebrants provided a valued service, not just for ‘non-belief’ couples, but also for mixed faith couples and for those who had some religious or humanistic sentiment but were not part of any organised group. For example:

‘Yes to include belief systems, but this should also include provision for people who want interfaith marriages and for people who wish to add religious content in their ceremony. This is provided by an independent celebrant.’

‘Limiting definition to a “Belief” group ie Humanists unfairly excludes a whole range of “independent” celebrants who operate across the spectrum of belief systems reflecting the community at large.’

Assessing belief organisations that wish to conduct marriage ceremonies

The next four questions (Questions 2-5) considered how belief organisations that wish to conduct legally binding marriage ceremonies should be assessed as suitable for that role. In the *Smyth* case, the High Court had noted that the British Humanist Association (BHA), of which the applicant, Laura Smyth, was a member, was an organised belief group of some standing—it had, for example, been in existence for more than a century, had a substantial membership, and was engaged in regular events and in the dissemination of its particular views. In addition, the Court considered that the BHA demonstrated clear cogency, seriousness, coherence and importance. Belief and religious organisations that are cogent, serious, coherent and important (to their membership) can be reasonably expected to respect the solemnity of the marriage ceremony.

Question 2

Should the Registrar General in this jurisdiction determine the genuineness and appropriateness of any applicant belief group as she currently does for religious groups?

Of the 56 who responded, 40 (71.4%) said that the Registrar General should have this role and 13 (23.2%) that she should not.

To the extent that online comments focused on the question, they were supportive. NI Humanists commented, for example, that the proposal:

‘allows government a single point of accountability, and is uniquely placed to fairly adjudicate’.

However, many comments returned to the subject of independent celebrants and the suggestion that the present marriage law discriminates against them. For example:

‘The GRO have an overall and regulated capacity to evaluate a persons or groups ability to maintain and carry out solemn and dignified marriages, this should however not be restricted to having a belief.’

‘The law being amended does not satisfactorily include beliefs that do not pertain to Humanist or Other Religions that can be administered by an Independent Celebrant. Non-Religious Citizens who do not wish to identify as Humanist will be let down if the law is amended in this way.’

The three remaining questions in this part of the consultation looked at whether qualifying criteria should be used to assess belief groups that apply to conduct marriage ceremonies.

Respondents were advised of the two definitions in use on these islands—that of the Scottish Government and that of the Dublin Government.

Scottish marriage law defines a belief body as:

- An organised group of people that is not a religious body;

- Whose principal object (or one of whose principal objects) is to uphold or promote philosophical or humanitarian beliefs;
and
- That meets regularly for that purpose.

The Dublin Government's Civil Registration (Amendment) Act 2012, which refers to secular rather than belief bodies, defines secular bodies as groups that:

- Number at least fifty members;
- Have had a continuous existence of at least five years;
- Are secular, ethical and humanist in their aims; and
- Meet regularly in respect of their beliefs.

These Dublin criteria are somewhat more challenging given that groups must have achieved a certain longevity and membership. Moreover, Scottish law does not list any particular types of group as being *excluded* from consideration as a belief group whereas the Dublin Government's Civil Registration (Amendment) Act 2012 explicitly excludes particular types of group, such as political parties, from being considered secular bodies for the purpose of the legislation.

Question 3

Do we need qualifying criteria for belief groups or should it be for the Registrar General to determine whether a belief group is or is not genuine?

Of the 53 who responded, 28 (52.8%) favoured the use of criteria, 16 (30.2%) did not, and 9 (17%) replied that they did not know or could not say.

Question 4

If we adopt qualifying criteria, should we adopt relatively loose qualifying criteria for belief bodies, on the Scottish model, or more specific criteria (and exclusions) on the Dublin model?

There were 54 responses to this question of whom 28 (51.9%) favoured specific criteria on the Dublin model and 21 (38.9%) preferred something more flexible on the Scottish model. Five respondents (9.3%) replied that they had no opinion or could not say.

Comments included:

'Vague laws will be exploited by secular groups since their agenda is to undermine religions.'

'Marriage is not a frivolous act because of its legal ramifications, and should not become one. Therefore, more specific qualifying criteria on who can carry it out seem to be more sensible.'

The Church of Ireland was among those favouring criteria on the Dublin model. It commented:

'there is considerable merit in the criteria laid down in the Republic of Ireland in that it means only well-established ethical groups can be considered. Otherwise, there is the risk of virtually any group or organisation being involved. Furthermore such a set of criteria would assist the Registrar General in dealing with applications and appeals.'

Some online respondents did not favour qualifying criteria on the grounds that criteria might become too complicated or that some leeway might be needed, particularly with regard to belief groups, some of which might be quite small and quite recent.

Several online respondents returned to the issue of independent celebrants:

'Yes we need qualifying criteria, including criteria for organisations that train and accredit independent celebrants to be qualified to conduct ceremonies for all persons regardless of belief or faith alignment'

'Both Humanist and Independent Celebrants should have qualifying criteria. As an Independent celebrant I am fully qualified with my Level 3 Diploma in Family celebrancy. This is an accredited qualification. I cannot confirm what qualification a Humanist celebrant may hold.'

In some cases there was again a suggestion that independent celebrants were being discriminated against.

'The law being amended does not satisfactorily include beliefs that do not pertain to Humanist or Other Religions that can be administered by an Independent Celebrant. Non-Religious Citizens who do not wish to identify as Humanist will be let down if the law is amended in this way.'

Question 5

If we adopt qualifying criteria for belief groups, should we adopt them for religious groups as well?

There were 53 responses to this question, of whom 38 (71.7%) believed any criteria should be applied to both belief and religious groups. Twelve respondents (22.6%) thought that qualifying criteria should not apply to religious groups.

The majority of online comments supported applying qualifying criteria to religious and belief groups alike. Most who commented thought that it would be discriminatory to do otherwise.

'Secular organisations should not be held to a higher regulatory standard than religious ones. If we are finally recognising that the rights of non-religious people are equal to those of faith (as we should be!) then both types of system should be held to the same standards.'

'Religious groups should not get special treatment, no matter what religion it is.'

'If there's going to be criteria then it should be right across the board. Why should a religious group be able to opt out of criteria?'

The Church of Ireland commented that the existing assessment process for religious bodies and officiants wishing to provide marriage ceremonies was thorough, both from the perspective of Registrar General and the religious organisations themselves.

However, it expressed an openness to the Dublin Government's criteria being adopted in this jurisdiction for religious and belief groups alike.

'Our understanding is that there is already a well-established process for assessing religious groups in that clergy/pastors have, for the most part, been selected, trained and licensed by their particular faith groups and are recommended by their hierarchy for conducting such ceremonies. This is particularly important as marriage is seen by them as something with a spiritual dimension. The process in most religious groups also allows for "screening" by the cleric/pastor of those seeking marriage. However, the application of the Republic of Ireland criteria (except the non-religious point) could also be applied to religious groups thereby ensuring a common approach.'

Sham Marriages

The next two questions (Questions 6 and 7) considered sham marriages—marriages entered into, not in order to make a couple's relationship official and legally binding, but to secure some benefit associated with marriage such as the right to reside in this jurisdiction, be employed here, or to avail of services such as healthcare or education.

Question 6

Do you consider that belief marriage offers a greater opportunity to the organisers of illegal sham marriages as religious or civil marriage?

A majority of the 57 respondents—39 (68.4%)—thought that belief marriage created no greater opportunity for sham marriages than did religious marriage. Just over a quarter of respondents—15 (26.3%)—thought belief marriages did create a greater opportunity.

Question 7

Are there adequate controls in place to prevent sham marriages?

Respondents were advised in the consultation document that sham marriages were rare in this jurisdiction and that measures to prevent them included legislation and the best practice approach of the General Register Office, whose registrars have been trained to be alert to possible sham marriages. A small majority of the 58 who responded said that these present controls were adequate—24 (41.4%). However, a

only a slightly smaller proportion responded that they could not say or had no opinion— 21 (36.2%). Thirteen respondents (22.4%) thought that current controls to prevent sham marriage were inadequate.

The Consultation Document had noted that it was sometimes presumed that belief marriages offer greater opportunity for sham marriages than religious marriages. This was because, with a religious marriage, one or both of the parties was more likely to be known to the religious body in question. They might, for example, have had a lifelong association with it. The same type of association was arguably less common with a belief group. The Document also noted that, at present, all people intending to marry, whether via a civil ceremony, a religious ceremony, or, under the current, temporary arrangements, a belief ceremony, must complete the same initial administrative process.

A majority of online comments to Questions 6 and 7 disputed that couples who chose a religious marriage were, nowadays, as well known to the religious body as would have been the case in the past.

'This is a ridiculous statement. Most people who partake in religious ceremonies haven't been in a church since they were children and aren't remotely known to the celebrant or religion either.'

'It is naive to think that all of those who are married from a religious group are necessarily "well known" to the religious body. A chapel/church marriage is oftentimes the first time in a long time that couples have even stepped foot inside the building. I believe that a large amount of people only get married in a chapel/church for traditions sake, not due to strong belief.'

Some online comments suggested that the risk of sham marriages was similar regardless of the type of marriage. Moreover, if there is a greater risk of sham marriage with belief marriages (because the couple is less likely to be personally known to the officiant), then there is a similar or indeed greater risk with civil marriage and civil partnership.

Most respondents thought that the way to counter the risk of sham marriage was through training and screening.

Fewer respondents commented on whether existing controls were adequate and only one, a former registrar, said that they thought they were adequate. Others said openly that they did not know enough about the current controls in order to assess them.

Eccentric or frivolous marriage ceremonies

Questions 8 and 9 focused on the solemnity of the institution of marriage and of the marriage ceremony and how this might be protected. While humanism is a longstanding and respected non-religious belief, some have been concerned that, in time, belief (and religious) groups might be recognised and permitted to offer eccentric or frivolous marriage ceremonies that diminish the solemnity and standing of marriage as an institution.

At present, a religious body that wishes to conduct religious marriages must, as noted above, apply to the Registrar General to request officiant status for one or more of its members. The Registrar General can refuse authorisation if, for example, she believes that the applicant body is not a genuine religious body, or if she does not deem a particular applicant to be a fit and proper person to perform the officiant role, or if she has concerns regarding the content of the marriage ceremony. Similar controls will apply with regard to belief groups.

Question 8

Do you consider that eccentric or frivolous marriage ceremonies are more likely to take place under belief marriage than under religious or civil marriage?

Of the 59 who responded, 38 (64.4%) said that there was no difference between belief and religious marriage in terms of which was the more likely to allow a frivolous or eccentric ceremony. Eleven respondents (18.6%) thought frivolous or eccentric ceremonies were more likely under belief marriage while five (8.5%) thought they were more likely under religious marriage.

Question 9

Are there adequate controls in place to guard against eccentric or frivolous forms of marriage?

A majority of the 57 who responded to Question 9 (24 respondents, 42.1%) replied that they could not say or had no opinion. A third of those who responded (19) thought current controls were sufficient while a quarter (14) thought they were insufficient.

A relatively common online comment was that it was presumptuous or offensive to say that certain beliefs or certain preferences for a wedding ceremony might be considered eccentric or frivolous.

'To describe ceremonies that accurately represent the culture and beliefs of the couple being married as "eccentric" or "frivolous" is inherently disrespectful to the citizen. Couples should be free to choose the content of their marriage to represent them.'

'What / who defines "Eccentric or frivolous"??'

'I personally find the terms frivolous and eccentric offensive. Who is to say what one person deems meaningful or relevant is to another eccentric?'

'Why does it even matter if someone gets married in a frivolous or eccentric way??'

'Good grief, if people want to be married by an Elvis impersonator while the Best Man is dressed in an alien costume and the Maid of Honour is dressed as Wonder Woman, let them. It's nobody else's business, and does not detract from the validity of anyone's religious marriage ceremony. I'm a practicing Christian, but there is no way that I am willing to dictate my beliefs on to anyone else.'

'This is worded in a very concerning way. What determines an eccentric and frivolous marriage and why is this being portrayed in a negative way. Surely everyone should have the chance to marry in a way that is meaningful and respects them as individuals.'

'This is a difficult question as what is "eccentric" to one person may not be to another. For example the traditional Celtic tradition of handfasting may be really appealing to some couples but seem "eccentric" to others. The idea of getting married on a beach may seem "frivolous" to some but to another couple may be representative of who they are and what makes their ceremony so meaningful to them.'

Comments of this kind generally focus on two separate things. A majority focus on how couples want their wedding ceremony to be—the music they want played, how they want to dress, how they want the other main participants to dress, the readings they want, and where they want the ceremony to take place. All of these are dependent on the rules established by the body they want to conduct the ceremony. This is not something with which government would seek to interfere and on reflection it is an aspect of the consultation that might have been better expressed. What we were most interested in was the possibility that frivolous groups might gain accreditation to perform marriage ceremonies, perhaps as a stunt or practical joke. We were concerned that to accredit a frivolous grouping would detract from the solemnity of marriage and offensive to genuine belief and faith groups alike. We were interested, primarily, in whether such groups were more likely to present themselves as belief groups or that frivolous faith and belief groups were equally likely. And we were also interested in whether existing controls to filter out frivolous groups were adequate. Only a handful of online respondents addressed either of these issues. For example:

‘The belief that non-religious belief ceremonies would lead to more “eccentric and frivolous” weddings that “diminish the standing of marriage as an institution” is erroneous and misleading. The vast majority of celebrant and humanist weddings are what most people would consider meaningful and dignified and fully respect the significance of what is taking place. Eccentric and frivolous is in the eye of the beholder, and whilst it may appear so to some, to the couples who have chosen to have their ceremony a certain way it is full of meaning and importance. Enjoying a ceremony, laughter in a ceremony and including original elements in a ceremony do not diminish the standing of marriage or constitute eccentricity or frivolity.’

‘Legally binding marriages regardless of organisation officiating already have strict controls to prevent such forms happening’

Marriage and profit or gain—-independent celebrants

The remaining questions on belief marriage (Questions 10-14) related to marriage ceremonies being provided for profit or gain. It generated a significant response.

The current marriage law prohibits officiants from making a profit from providing a marriage ceremony. However, organisations that provide marriage ceremonies,

including churches, can charge a fee to cover their legitimate costs. Legitimate costs associated with solemnising a marriage might include: the cost of a building—i.e. some legitimate apportionment of its running costs, its upkeep, or its maintenance; the cost of training; the fees charged by people who might reasonably be engaged by the organisation or venue to contribute directly to a marriage ceremony such as choristers, musicians or readers. On the other hand, commercial services associated with a marriage ceremony such as catering or car hire would not be considered legitimate costs that might be recouped via a fee.

Most religious groups do not charge a fee for providing a marriage ceremony but instead rely on the customary donations that couples make to their officiant. Belief groups could charge appropriate fees or they could encourage donations.

At present, Government operates on an honour system with regard to religious bodies that solemnise marriages. It is assumed that any fees or donations are legitimate and therefore no monitoring takes place. Donations are a matter for the person making them. Fees are investigated only if a complaint is received that raises concerns that an officiant or religious body might be operating in a manner likely to contravene the specific legislative provision set out in the marriage law. One option might be to adopt this same honour system in respect of belief groups. Alternatively, a more formal system for fees could be introduced and applied to faith and belief groups alike.

Independent celebrants provide wedding ceremonies that are not legally valid, i.e. that are literally ceremonial. Such ceremonies are offered on a commercial basis and are sometimes organised by couples who have had a civil wedding and would like a further event that is larger, more elaborate and more public. Independent celebrants are neither charitable bodies nor public service providers. They are businesses, whether sole trader businesses, partnerships or companies, that price their service in order to generate profit—a surplus of income over expenditure for their own benefit. This is not the same as non-commercial organisation such as a charity or a public service charging a fee or receiving a donation, although several respondents argued that the distinction is, at times, difficult to ascertain.

Some independent wedding celebrants have, as noted, advocated legislative change to enable them to offer legally binding wedding ceremonies. If government were to permit independent wedding celebrants to provide legally binding marriages, it would be obliged in the interest of equality to extend the same commercial opportunity to religious and belief groups.

Question 10

Should the law be changed to allow independent wedding celebrants, who operate on a for-profit business basis, to offer legally binding marriage ceremonies?

There were 60 online responses to this question of whom 36 (60%) thought that the law should be changed to enable independent celebrants to provide legally binding marriage ceremonies. The remaining 24 (40%) disagreed that the law should be changed.

A majority of online comments were supportive of this proposal. What criticism there was was generally religious. The Church of Ireland, for example, noted that marriage is a spiritual rather than a commercial matter and that the adoption of qualifying criteria for religious and belief groups alike, which the church favours, would rule out purely commercial organisations from conducting marriage ceremonies. It commented:

'We would not support this. Entering into marriage should not be confused with business contracts and no one should be permitted to gain from conducting them. Religious groups are not profit making and see marriage as one dimension of their spiritual work. While a fee/ gratuity may be in place, religious marriage is not a commercial operation and this must not change.

Our view is that both religious and belief groups should meet a set of criteria, such as listed above for the Republic of Ireland. We cannot see how independent, individual celebrants could be approved and permitted if such criteria were in place.'

Other respondents commented along similar lines:

'This would completely enter the category of the aforementioned gimmick, and turn spiritual commitment into a party spectacle. Profit has absolutely no place in any of this and should not be introduced. Most people already pay the priest or reverend.'

'This would be open to abuse, exploitation and lack of standards, control and accountability.'

Supportive respondents commented that marriage ceremonies, whether civil or religious or belief, generally involve some form of payment. There are the formal charges payable for civil marriage and the donations made to religious groups.

One respondent commented:

'Celebrants can't be expected to conduct ceremonies free of charge, unless they are subsidised by members of their organisation.'

Another responded:

'Of course, there needs to be income involved so that the celebrant can support themselves and continue to work in this field.'

Several respondents were comfortable with the idea that marriage ceremonies might be conducted for profit.

'Yes, bring it on. Plenty of other places in the world have this, why not make Northern Ireland a "wedding destination," and marketed as such? God knows the economy and tourism sector needs a lift.'

Some respondents thought that we already, in effect, permitted marriage ceremonies to be conducted for profit. They alleged that, because civil and religious marriage involves a financial transaction, a profit is being made. Therefore, in denying the right to conduct legally binding marriage ceremonies to independent celebrants, government is acting in a discriminatory way.

'Independent celebrant fees are no different to the fees charged for a registrar to perform a marriage at a licensed premises'.

'All churches receive "donations" for weddings, funerals, baptisms. It's an unspoken expected payment. Let them officially charge. At least it would be upfront and it can be honestly declared for revenue purposes'.

One commentator was aware that a financial transaction need not be a profitable financial transaction but questioned that civil and religious marriage ceremonies were either as uncommercial or not-for-profit as officially presented, alleging personal experience of both:

'As a previous local authority registrar I can assure you that local authorities make a huge profit from performing legal wedding ceremonies each year, they are largely unregulated in terms of fees charged and can in no way offer any kind of accountability for costs incurred given what they charge. And as a person who's own marriage was in a Church of England establishment paid extortionate costs to be able to have a ceremony in a place of worship, beyond any accountable costs incurred by the religious body.'

Other respondents commented similarly:

'Humanists, the church & civil registrars ALL operate on a for profit / business basis! Local authorities & churches across the UK make £millions from holding ceremonies or licensing venues etc. Humanists UK also make commercial gain from a percentage contribution from every registered member of Humanists UK! Do not see difference in concept!'

'Humanist marriages are also conducted for business gain, so what is the difference?'

The claim that humanists charge for the marriage ceremonies they provide and that this has not prevented government from enabling humanists to perform legally binding marriage ceremonies was noted by several commentators. It was suggested that it was inherently unfair to have enabled humanists to perform legally binding marriages without also enabling independent celebrants.

'Like humanists, independent celebrants charge for their work. The fact that they are professionals ensures that they will take their task seriously. Many belong to organisations with strict guidelines.'

'To say that Independent Wedding Celebrants operate on a 'for-profit basis' as though it is somehow distasteful is disingenuous. Humanists and members of other belief groups also operate on a for-profit basis. Neither they nor Independent celebrants receive a salary or stipend from their organising body,

so therefore they charge a fee, and the fees they charge for writing and conducting wedding ceremonies is their income.'

Some respondents suggested that independent celebrants fulfilled a particular need, including the needs of couples from particular cultures and backgrounds, or couples who are not secular in outlook but whose religiosity is not clear cut or easily categorised in familiar terms. Some celebrants work with such couples to devise a ceremony that meets their needs.

'Independent celebrants do not just conduct ceremonies purely for money. We do so that couples can have the wedding they choose, and respect their backgrounds, cultures and choices.'

'The issue is to give couples choice in how they want to get married and where. If an Independent Celebrant can help them have the day they want they a couple would book them as they would with any other supplier or venue.'

'I believe it is a matter of freedom of choice, equality and civil rights for every couple regardless of their religious beliefs or none, race or sexual orientation. Changing the law to permit only humanist celebrants to conduct legal marriage ceremonies does nothing to address this last point. Independent Celebrants are currently the only body that does. For as long as Independent celebrant ceremonies remain 'purely ceremonial' and are not legally binding ceremonies, despite containing all the elements of a civil marriage bar the legal declaration, the law goes against the civil rights and equality of couples of mixed faiths and the full freedom of choice that every couple deserves.'

An independent celebrant commented at some length on the type of service she provides and what she considered made it distinctive and valuable.

'As an Independent Celebrant I see what I do as a calling offering people dignified rights of passage reflecting who they are and reflecting their world view. The idea of religious or belief bodies as the only option for couples does not reflect many couples viewpoints. Many couples do not have an official religious connection but are not "humanist" in the sense of having no belief at all. Currently it appears that they have to fit into one of two boxes which in my view is not representative of modern society. What I offer is to spend a great deal of time getting to know and understand who the couple is and with them create a very dignified and personal ceremony that is a wonderful celebration. Often guests will say to me that I must have known the couple for so long and how meaningful and personal the ceremony was. This only happens after investing a great deal of time and whilst I would be classed as for "profit" I feel that does my service an injustice as my hourly rate is low and my sense of calling is not acknowledged.'

Question 11

Are there risks in permitting marriage ceremonies to be provided for profit/gain?

Of the 60 who responded, 33 (55%) thought that there were risks while 26 (43.3%) responded that there were no risks.

The Church of Ireland saw the principal risk as being to the wider cultural value and meaning of marriage:

'The true meaning of marriage, as a union of two persons, could be lost. In Christian marriage - and that in other world religions - the vows are taken before God and it is a solemn and sacred step in life. It is not about money. The sanctity of marriage would be lost if it was undertaken by a third person purely for profit.'

One respondent made much the same point though in a more secular way:

'What if it made Northern Ireland like the next Vegas?'

Several respondents suggested that this was about, in effect, consumer choice and that risks could be controlled as in any market.

'As long as an organisation or individual clearly states any charges for their services, couples should be free to choose whatever suits their wishes.'

'As long as the licenses to perform legal marriages can be checked by the couple hiring their desired officiant (so that someone cannot say that they are an officiant when they are not), then there are no risks. It is no different than making sure someone is a licensed/qualified electrician before you hire them.'

'Everything in life has a price. The price should be fair and transparent and give the couple choice. This is not the current situation. This is no different from you choosing to pay for a 5 star hotel and not a 2 star hotel. The customer should always have choice.'

As before, some respondents alleged that existing, legally binding, marriage ceremonies are already generating profits so why the concern?

'The vast majority of civil celebrants (like humanists) are bona fide businesses. They provide a service in exchange for remuneration, and depend a lot on testimonials.'

'Surely, this is the same for any system you put in place. The council officiates marriages for gain, the church also as well as humanist celebrants. All need to make a profit in order to run a business.'

Question 12

Would you favour religious and belief groups being allowed to offer marriage ceremonies for a profit?

Of the 58 who responded, 28 (48.3%) disagreed and 25 (43.1%) agreed. Five respondents (8.6%) stated that they had no opinion or could not say.

Some of the comments prompted by this question were similar to those in response to Question 12 notably the suggestion that churches, registrars and humanists were already making a profit from solemnising marriages and that it was therefore unfair to prohibit independent celebrants from doing so.

'I am a self employed small business owner who offers a service at a price to make a profit and pay my bills and taxes. Are you suggesting that a Registrar or religious wedding does not involve profit?'

'They already do! Fees charged by churches, registrars and humanists are readily available. Likewise many independents openly state fees on social media etc.'

'To my knowledge the humanist organisations that offer legal weddings in NI charge more for weddings than any Independent Celebrant currently so they are already offering marriage ceremonies for profit. Also what churches charge is not in the public domain.'

'How can an independent celebrants not officiate legal marriages for profit, but allow a belief organisation to. How is that transparent and fair?'

One respondent opposed allowing religious groups to profit from marriage ceremonies, not because it was inappropriate, but because it might empower them.

'Absolutely not...Major religions are already very wealthy and influential, and a state that separates itself from...should not afford them the chance to increase state influence through inflated funds.'

Another respondent thought they should be allowed to profit as it would do no harm—they would be unwilling to reject a potential 'customer' on the grounds that they could not afford the fee.

'Sure, why not? I can't picture any genuine religious or belief groups refusing to marry someone who genuinely can't afford a "for profit" price. They'd be named and shamed in a heartbeat.'

Question 13

Are you content with the current regulations which prohibits the solemnisation of marriages for profit or gain?

More than half of the 56 who responded to this item—30 (53.6%)—said they were content and 17 (30.4%) that they were not. Nine respondents (16.1%) said that they had no opinion or could not say.

This question prompted further claims that profit-making from marriage ceremonies already takes place regardless of what the law says.

'I honestly do not believe that this is the case across the board. Many establishments and authorities make profit already. Hugely unregulated or made accountable.'

'To think that is true [i.e that making a profit from marriage ceremonies is illegal] is a farce'

'No such concept .. not for profit or gain!'

One response suggested some confusion over fees, cost recovery and profit-making.

'A church may have decided historically not to profit from weddings but I don't believe that is now the case with the variety of fees that they charge. I do not object to them making a profit to upkeep buildings etc, Churches are also a business.'

Question 14

Should religious and belief groups publish the fees they charge for solemnising marriages?

A clear majority of the 58 who responded—53 (91.4%)—thought they should. Three respondents (5.2%) thought they should not.

Most comments were supportive. It was thought that the publication of fees was desirable as it promoted openness and transparency.

‘Yes. Any organisation, whether religious or secular, that is in this arena for genuine belief or spiritual reasons, should be fully invested in transparency.’

Several respondents thought that this would enable couples to make an informed consumer choice.

‘Transparency is always beneficial. Engaged couples should have all of the necessary information to make an informed decision.’

The Church of Ireland, while welcoming transparency, was concerned that people might begin to think of marriage ceremonies in terms of price comparison and value for money. The Church also noted that fees reflect costs and costs can vary from place to place and depending on how elaborate a service is desired.

‘While this should not be about price comparison as marriage is not a commodity to be purchased, there should be transparency in this area. It must be remembered that costs will vary considerably from place to place, from officiant to officiant, and from ceremony to ceremony depending how much time and travel is involved, the music required and on the size of the premises to cover the cost of heat/light etc. Those seeking marriage should always be given precise details of all associated costs when meeting the officiant to plan the ceremony.’

Minimum Age for Marriage and Civil Partnership

Respondents were advised that international organisations such as the United Nations, with considerable NGO and stakeholder support, have advocated a global minimum age of 18 and have defined marriage by a person under the age of 18 as child marriage. Local support for an increase in the minimum marriage/civil partnership age from stakeholders including the NI Human Rights Commission (NIHRC) and the NI Commissioner for Children and Young People (NICCY) was also noted. Respondents were advised that, while a small number of European governments have increased their minimum age to 18, most continue to allow 16 and 17 year olds to marry subject to parental and/or judicial approval.

Question 1

Should Government introduce legislation to raise the minimum marriage/civil partnership age to eighteen in line with the recommendation of the United Nations Committee responsible for the UN Convention on the Rights of the Child?

There were 55 online responses to this question of which a clear majority, 52 (94.5%) agreed that the minimum age should increase to 18.

Online comments were unanimously supportive of an increase in the minimum age for marriage or civil partnership to 18.

Comments by individuals included:

‘Children should not be allowed to get married under any circumstances.’

‘Anyone under the age of 18 is a child. Marriage of an underage person would be child marriage. Children do not have the experience to understand the commitment, and can be pressured or misled into something they are not ready for, or which can be abused.’

‘Children should not be allowed to marry, regardless of parental consent; they should be protected by the law.’

'I find it ridiculous that you can legally marry before you can watch some movies, smoke or drink alcohol - this is a serious commitment and the age limit should reflect this.'

There was considerable support for the view that people under the age of 18 are children and that to permit them to marry is therefore to permit child marriage. Many respondents thought that to allow under-18s to marry was to put them at potential risk.

The Church of Ireland, the only organisation to comment on this particular question online, fully accepted the rationale for increasing the minimum age for marriage/civil partnership. It commented:

'While admittedly at present the number of marriages of those under 18 is low, we agree that marriage by a person under the age of 18 should be defined as child marriage. The ability to vote, hold various offices etc. is restricted in most jurisdictions to those over 18 as this is seen as the age one can take mature decisions and act in a responsible way. Marriage is a very serious step in life and must be taken only by those who are mature enough to understand what they are doing. It might even be defined as a breach of human rights for that life decision to be taken by a parent or guardian on behalf of anyone under 18.'

Question 2

Should government continue to permit 16 and 17 year olds to marry or enter a civil partnership but change the type of consent required?

Respondents were advised that most European governments allow 16 and 17 year olds to marry subject to parental and/or the consent of an authoritative body such as a court but that only a small number of jurisdictions allow 16 and 17 year olds to marry solely on the basis of parental consent. Most require parental and authoritative consent, or authoritative consent alone.

Of the 48 who responded online to this question, 33 (68.8%) favoured an additional consent to parental consent. Eight respondents (16.7%) favoured replacing parental consent with the consent of a court of similar. Seven (14.6%) stated that they had no opinion or could not say.

Most online respondents who added comments stated their opposition to marriage or civil partnership by people under the age of 18 under any circumstances. Thus:

'There is literally zero reason why a 16 or 17 year old should be allowed to get married. It doesn't matter if they are in love, if they are sick, if they are pregnant, or anything. It should never happen.'

'Raising the legal age for both participants should solve this problem.'

'Neither. Raise the age to 18, as per previous comments.'

'Nope, must be over 18, end of.'

'Child marriage (ie for under 18 year olds) should not be permitted in any circumstances' (Church of Ireland).

A number of respondents were critical of parental consent on the grounds that parents might be putting pressure on under-18s to marry.

'It shouldn't solely be parental consent because of the risk of forced or arranged marriage. We hear of such things happening all the time in the news.'

One, somewhat ambiguous response, appeared critical of consent by a court or similar body and appeared implicitly supportive of parental consent.

'The lawmakers have already demonstrated that they do not understand the basic concepts of marriage. They have also demonstrated a willingness to perpetually redefine marriage according to constant social changes or pressure from minorities against the democratic opinion. Courts will simply interpret "flavour-of-the-moment" laws. Courts and lawmakers have both demonstrated a willingness to undermine parents.'

Question 3

If this jurisdiction were to set its minimum marriage/civil partnership age at 18, should it refuse to recognise marriages/partnerships contracted outside the jurisdiction where one or both party is under eighteen?

Respondents were advised that, if this jurisdiction were to prohibit marriage/civil

partnership by under-18s, such marriages and partnerships could still be contracted elsewhere.

Of the 53 who responded online, 37 (69.8%) thought we should refuse to recognise such relationships while 11 (20.8%) thought we should recognise them. Five respondents (9.4%) replied that they could not say or had no opinion.

Online respondents were generally supportive of non-recognition.

'There is no point in raising the minimum age here, if under-age couples can go elsewhere where it is legal, then return here to be legally regarded as married, such as in the old days of eloping to Gretna Green.'

One respondent was supportive of non-recognition but thought that the issue was not clear-cut. Non-recognition was important in itself and as a statement of values, but wondered if non-recognition should be permanent given that the under-18 party or parties will turn 18 in 1-2 years.

'This is a challenging question, but on balance, I think NI should refuse to recognise such marriages. This demonstrates to the world that we live our societal values universally, not just apply them when suits. However, I think a caveat could be made recognising such a marriage when adulthood is reached. Of course, this would not guard against forced or child marriage. So maybe it would have to be for the Registrar General's office and/or the judiciary to make individual assessments? As I said, this is challenging.'

The Church of Ireland was, again, the only organisational online respondent to this question and was opposed to recognition:

'We believe such marriages should not be recognised here. (We would be interested to know what happens at present eg with regard to those under 18 marrying here whose origin is a country with an age 18 requirement?)'

Question 4

Should Government make marriage/civil partnership, where one or other party is under the age of eighteen, a criminal offence?

Respondents were advised that this could mean making people who organise or facilitate a marriage or civil partnership where one or both parties was under-18 liable to prosecution.

More than three quarters of the 55 who responded online—42 (76.4%)—thought that we should criminalise compared with 12 (21.8%) who thought we should not.

This question attracted only a few online comments. Two restated earlier opposition to marriage by people aged under-18 while the Church of Ireland firmly endorsed criminalisation.

‘...any new legislation should include provisions to criminalise child marriage so that those who conduct or facilitate such marriages would be liable to prosecution.’

Question 5

Do you believe that, by allowing marriage/civil partnership by people under the age of eighteen, there is a risk of forced marriage?

It was noted that the UN Committee responsible for UNCRC has identified a risk that marriages involving people under the age of 18 might be forced marriages.

A clear majority of the 55 online respondents—50 (90.9%)—responded that we were creating such a risk. Two respondents (3.6%) thought we were not and three (5.5%) had no opinion or could not say.

Again, only a few online respondents commented, all agreeing that there was a risk.

Question 6

What do you see as the principal risks of forced marriage?

Unlike the other online questions, Question 6 was open-ended. Respondents were invited to list what they thought were the risks. Some replied by noting factors they thought might *create* a risk of forced marriage; others replied by noting what they considered the harmful *effects* of forced marriage.

Factors seen by respondents as leading to forced marriage included the beliefs of adults who were influential in the lives of the young people in question or the beliefs current in the immediate adult society around them. For example:

'Religious beliefs, cultural backgrounds'

'Religious beliefs and family pressure'

'I see the main risks of forced marriage are family or communities that uphold outdated expectations regarding sexual relations of teenagers, outdated expectations of children out of wedlock, outdated expectations of female behaviour, or outdated expectations of familial financial gain tied to marriage. There are no morally acceptable reasons to marry off a child.'

'Honour, religion, teen pregnancy'. [Teenage pregnancy is sometimes anecdotally given as a reason why certain sixteen and seventeen year olds marry. In the event of teenage pregnancy, it is possible that in some situations cultural and family may create pressure to marry]

One respondent commented:

'Certain groups have traditions of this which is incompatible with civilized society in our country and it should not be condoned.'

The harmful consequences of forced marriage suggested by respondents included:

'Coercive, sexual, financial and other forms of control; assault; a lack of individual agency and choice; removal of the right to education and self-determinism; both personal and systemic misogyny; psychological and possibly physical trauma; enforced parenthood. To name only a few.'

'The risk of physical or sexual abuse of a party.'

'Slavery, see trafficking, human trafficking, forced labour and many kinds of abuse could follow a forced marriage'

'Younger people (particular girls) being pressured into marriage by an older person, or by their own parents based on religious or cultural pressure.'

'Misery. De facto rape and psychological abuse.'

The Church of Ireland commented:

'The safety of the child, child abuse, sexual exploitation, sex trafficking, rape - or even gang rape, unhappy marriages, poverty, mental and physical health issues, prevalence of sexually transmitted diseases, unwanted pregnancies , infant mortality, and many associated health risks.'

Question 7

Do you believe that marriage/civil partnership before the age of eighteen—before adulthood—can deprive young people, especially girls, of opportunities such as education?

Of the 55 who responded online, 49 (89.1%) agreed that marriage by people under the age of 18 could deprive them of opportunities. Four respondents (7.3%) said they had no opinion or could not say, and two (3.6%) disagreed that marriage by under-18s might deprive them of opportunities.

Only a few online respondents commented and were generally in agreement that marriage by people under the age of 18 could deprive them of opportunities. Several responses to previous questions (e.g. Question 6) also indicated that this was perceived as a risk.

Question 8

Would you be concerned if this jurisdiction were the only jurisdiction on these islands that permitted marriage for 16 and 17 year olds?

Respondents were advised that, in 2019, the Dublin Government prohibited under-18s from marrying and that it was possible similar restrictions would be introduced in England, Wales and Scotland in the near future—in the case of England and Wales via the Marriage and Civil Partnership (Minimum Age) Bill, a Private Members Bill sponsored by Pauline Latham MP. (The legislation has since completed its progress through Parliament). It was also noted that, already, a majority of marriages here that involve people under the age of 18 are marriages where one or both parties are from outside the jurisdiction. If we were to retain our current marriage age but others raised theirs, the numbers of under-18s coming here to marry might increase.

Of the 54 that responded online, 47 (87.0%) said that they would be concerned if we remained the only jurisdiction that permitted under-18s to marry and five (9.3%) responded that they would not be concerned.

With regard to comments, there was near unanimity that it would be undesirable for this to be the only jurisdiction on these islands that permitted marriage by 16 and 17 year olds.

One respondent thought that, if this jurisdiction did not increase the minimum age for marriage and civil partnership, it might:

'become a haven for those who seek to force or rush marriages.'

Some thought it would reflect negatively on the region's image if we did not raise the minimum age.

'It would be a damning indictment on NI, in terms of how we view the rights of our young people (especially girls).'

'Northern Ireland is already practically Neanderthal in terms of its reputation on religious and social issues and it shouldn't continue in that vein.'

'NI is already seen as a regressive backwater - take the opportunity to improve our international reputation.'

Some thought there should be a coordinated or joined up approach on these islands.

'I believe there should be agreement and alignment between all governments and the assembly to introduce legislation on banning arranged and child marriage.'

'There should be a common approach across the UK and, given the land border between Northern Ireland and the Republic of Ireland and the close proximity of the other nations, also between the UK and Ireland' (Church of Ireland).

Annex 2

Written Responses—Summarised

Alliance Party of Northern Ireland

The Alliance Party supports changing the law to place belief and religious marriage on the same, equal footing. It believes that the Registrar General should determine a group's eligibility to solemnise marriages and that qualifying criteria could assist in this process. It is the Party's view that such criteria should be developed through consultation with belief bodies and other, relevant stakeholders, and that the eventual criteria should apply to both belief and religious groups.

The Party does not consider belief marriage to present a greater risk of sham marriage than other types of marriage. It is content that existing measures to prevent sham marriage are effective. Nor does the Alliance Party believe that belief marriage creates a greater risk of frivolous or eccentric marriage.

The Alliance Party is in favour of independent celebrants being permitted to provide legally binding marriage ceremonies for profit but with some regulation to ensure against excessive cost. It comments:

'We must recognise that many people will not wish to partake in a religious or belief marriage ceremony and so the option of a legally valid marriage, provided by an independent wedding celebrant, should be legally recognised. The question of how much such ceremonies should cost must also be taken into consideration, with relevant protections put in place to ensure this legislative change would not be abused for financial gain.'

The Party believes that consideration should be given to allowing religious and belief organisations to provide marriage ceremonies for a profit although this would require consultation with relevant stakeholders. Any fees charged by religious or belief groups should be published.

With regard to the minimum age for marriage or civil partnership, the Alliance Party supports raising the minimum age to 18. It does not favour alternative or additional consents for marriage by 16 and 17 year olds. It sees the question of recognition/non-recognition in this jurisdiction of marriages contracted elsewhere and involving people under the age 18 as complex. However, it comments:

'We would be inclined to refuse to recognise this marriage/ partnership as at least one person in that partnership is still factually considered a child under UK law.'

On criminalisation of marriages involving under-18s, the party is supportive, noting the range of adults (parents, administrators, officials, medics) who can contribute to or facilitate such marriages. It also comments:

'We would support extending the criminal offence of child marriage to marriages performed abroad by treating them as having taken place in Northern Ireland.'

The Alliance Party believes that permitting marriage by people aged under 18 increases the risk of forced marriage. It states that girls marrying before the age of 18 risk lost opportunities in areas such as education:

'[They] are also more likely to have early pregnancies, experience dangerous complications in pregnancy and childbirth, acquire HIV, and experience domestic violence.'

The Party would be concerned if this were the only jurisdiction on these islands that did not increase its minimum age for marriage/civil partnership to 18.

'A failure to update and reflect our laws to match the recommendations and evidence that is given to us would be both shameful and incredibly dangerous, allowing for the possibility of Northern Ireland becoming a hotbed for forced marriages with children ages 16 and 17.'

Barnardo's NI

Barnardo's NI is the largest children's charity in this jurisdiction. In the past year it reports to have worked with more than 18,000 children, young people and families across more than 45 different services and programmes. It is a leading provider of schools-based

support, reaching more than 32,000 children in schools across the UK and Ireland through its social and emotional literacy programmes. It delivers a wide range of services, from providing family support and early intervention, to working directly with children and families who have experienced adversity and need support. Its goal is to achieve better outcomes for more children. To achieve this, it works with partners to build stronger families, safer childhoods and positive futures.

Barnardo's NI supports increasing the minimum age for marriage/civil partnership to 18. It does not support the introduction of an alternative or additional form of consent and believes that marriage by people under the age of 18 should be criminalised. Marriages and civil partnerships contracted outside the jurisdiction should not, in its view, be recognised.

Based on its own casework, Barnardo's NI considers that permitting marriage by under-18s increases the risk of forced marriage. It sees the potentially negative consequences of marriage by people under the age of 18, especially girls, as including domestic abuse and other harm, including FGM, and a loss of educational opportunities.

Barnardo's NI was concerned that we might be the only jurisdiction on these islands that permitted under-18s to marry:

'Northern Ireland risks being left behind the other nations with less protection for our children.'

Catholic Bishops in NI and the NI Catholic Commission on Social Affairs

The Catholic Bishops and Commission on Social Affairs opened their response with the following statement:

'The Catholic Church sees marriage as a loving, permanent and exclusive relationship between a man and a woman, each of whom is capable making the commitment to this relationship...We appreciate the diversity of views in our society about the nature of marriage, but we wish to place on record our hope that no policy decisions will be made which compromise the ideal of marriage as we see it. It is in this context that our views in this response should be understood.'

The response accepts that the statute law on marriage must reflect the Courts' decisions and that the Registrar General should decide on the appropriateness of belief groups just as she currently does with regard to religious groups. With regard to qualifying criteria, the response included the following:

'we see no reason why there should be any change to the present system for the authorisation of the Catholic Church and its priests and deacons insofar as marriage in the Catholic Church is concerned'.

The Catholic Bishops and Commission on Social Affairs offered no opinion on independent celebrants but proposed that the situation regarding fees be left as it is.

The response supports increasing the minimum age for marriage and civil partnership to 18. It notes that, following a decree of the Irish Episcopal Conference in 2013, the Catholic Church in Ireland has adopted 18 as the minimum age for marriage unless the local pastors agree to a dispensation and the necessary civil permissions are in place. However, the response also comments that a majority of those aged under 18 married by the Catholic Church are from the Traveller Community. In view of this, it is proposed that the opinion of that community should be sought on any change to the current minimum age.

The Catholic Bishops and Commission on Social Affairs did not see any rationale for an additional consent, should the current minimum age of 16 remain. They considered the principal rationale for a judicial consent (or similar) as being the prevalence of forced marriage with parental involvement. But there is no evidence of forced marriage in this jurisdiction or of parental involvement in same.

If we were to raise the minimum age to 18, it was the view of the Bishops and Commission that the recognition of marriages involving 16 and 17 year olds that were contracted elsewhere should take account of the circumstances of the marriage in question but that there should be provision to prevent couples trying to circumvent an increased minimum age by marrying elsewhere.

On criminalisation, the response had no issues with prosecuting those who might conduct or facilitate marriages by people under a new minimum age of 18 but had reservations regarding the prosecution of young people entering into such a marriage.

The Catholic Bishops and Commission on Social Affairs favoured consistency across these islands with regard to minimum age.

Children in Northern Ireland

Children in Northern Ireland (CiNI) is the regional umbrella organisation for the children's sector providing policy, information, training and participation services to its 150 members across Northern Ireland. Its vision is to create a society where all children are valued, treated fairly and are able to flourish. To achieve this, it campaigns for changes to legislation, policy and practice to promote and protect the rights and needs of children. It also provides advice and support directly to parents and carers through Parentline, a free, confidential and multi-channel regional parenting support helpline.

CiNI fully supports raising the minimum age for marriage and civil partnership to 18 and proposes that this should be done 'as soon as the legislative opportunity arises.' It does not support additional or alternative consents for marriage involving under-18s. It wishes to see an end to marriage by people under the age of 18 in this jurisdiction. Moreover, it advocates that marriages and civil partnerships involving people under the age of 18 but contracted in other jurisdictions should not be recognised here and that this jurisdiction should criminalise marriage involving under-18s.

CiNI believe that marriage by 16 and 17 year olds creates a risk of domestic violence, physical, emotional and sexual abuse, teenage pregnancy, lost educational opportunities, and missing out on conventional childhood and teenage experiences and opportunities. CiNI state that they are particularly concerned that more girls than boys marry and that the potential negative impacts of marriage at 16 and 17 such as harm and lost life chances therefore fall disproportionately on girls.

CiNI would be concerned if this were the only jurisdiction that permitted marriage by 16 and 17 year olds particularly since that might create a gateway or loophole for a type of marriage other jurisdictions had prohibited.

Children's Law Centre

The Children's Law Centre (CLC) is an independent charitable organisation which works towards a society where all children can participate, are valued, have their rights respected and guaranteed without discrimination and where every child can achieve their full potential.

The CLC supports increasing the minimum age for marriage/civil partnership to 18. It contests the claim in the Consultation Document that the Department of Finance is under no obligation to legislate on this matter. Its view is that there is an international obligation to legislate. The CLC does not support additional or alternative consents for marriage by 16 and 17 year olds. It is opposed to marriage by 16 and 17 year olds under any circumstances.

The CLC supports non-recognition by this jurisdiction of marriages and civil partnerships by under-18s contracted elsewhere. It believes that non-recognition would signal our objection to marriage or civil partnership by people under the age of 18 and prevent 16 and 17 year olds being taken out of this jurisdiction to be married elsewhere. The CLC states that it is particularly concerned with regard to girls from the Roma community, citing WHO evidence of prevalent arranged marriages of Roma girls to older husbands with associated loss of rights, opportunities and freedoms. The CLC also supports the criminalisation of marriage by people under the age of 18.

The CLC sees a risk of forced marriage where one or both marriage partners is aged 16 or 17. It believes that people aged 16-17 'cannot provide full, free and informed consent. This is on account of insufficient maturity, as well as a lack of agency to withstand adult social and family pressure.' It states that 16 and 17 year olds who marry are at risk of 'physical, sexual, emotional and financial harms'.

The CLC agrees that girls are more likely to marry than boys where marriage by under-18s is permitted and that girls thereby encounter a greater risk of missing out on educational and other opportunities.

'Girls who are subjected to child marriage are often not empowered to make decisions about, or lack accurate information about, their sexual and reproductive health. Early and frequent pregnancies and forced continuation of pregnancy are therefore common in child marriages...Age and power differentials between a bride and her spouse, which undermine the agency and autonomy of girls and young women, can create a context in which they often face physical, psychological, economic and sexual violence, and restrictions on their movement. Women and girls in situations of child and forced marriage may experience conditions inside a marriage which meet "*international legal definitions of slavery and slavery-like practices*" including servile marriage, sexual slavery, child servitude, child trafficking and forced labour.'

The CLC would be concerned if this jurisdiction were the only one on these islands where it remained possible to marry at 16 or 17. The CLC believes that this would leave young people here less protected than their counterparts elsewhere on these islands and would create a situation where, potentially, 16 and 17 year olds might be brought here solely for the purpose of marriage.

Craigavon Travellers' Support Committee

Craigavon Travellers Support Committee (CTSC) was established in 1989 to meet the growing needs of the Traveller population living in the Craigavon area and to improve their quality of life. Its vision is '*a society in which Travellers are an integral part of the community*'.

The CTSC notes that most marriages within the Traveller community in the CTSC's area (the Armagh Banbridge Craigavon local authority area) are by people aged 16-19. Marriages are traditionally arranged or matched by parents although CTSC, in discussions with young people from the Traveller community, has found evidence that young people have more say with regard to their marriage partner than in the past.

CTSC supports increasing the minimum age for marriage/civil partnership to 18. It does not support additional or alternative consents for marriages/partnerships

involving 16-17 year olds. It believes there should be no such marriages or partnerships in this jurisdiction. It believes that we should also refuse to recognise marriages or civil partnerships involving under-18s contracted outside this jurisdiction. It also favours criminalisation but notes the potential impact on the Traveller community.

‘...criminalizing child marriage could deliver unintended negative consequences for Traveller children and families in particular, as introducing marriage laws are more likely to result in simply penalising people rather than addressing the underlying social norms behind them. Therefore, a more appropriate question is *who* could and should be held criminally liable for the offence?’

The CTSC believes that no child should be punished but that consideration be given to punishing officiants and other adults who might have facilitated an underage marriage or partnership. The CTSC suggests that, in parallel to any legislation to raise the minimum age, there should be action to challenge and change current cultural norms supportive of marriage by people under the age of 18.

The CTSC believes that the risk of forced marriage is wider than the 16-17 age group. It notes that there are empirical studies regarding the risks of forced marriage and suggests that these offer a more authoritative and informed opinion than it could itself provide.

While agreeing that marriage before the age of 18 can deprive young people, and especially girls, of educational opportunities, the CTSC notes that many Traveller children already miss out on educational opportunities and that measures to address this have to date been unsuccessful. The CTSC suggests that it is unlikely that increasing the marriage age to 18 will affect this or improve Traveller outcomes. This will require a wider set of interventions.

The CTSC is concerned that this jurisdiction may become the only one that permits marriage or civil partnership by people under the age of 18. It notes the impact of the Dublin Government’s recent legislative change.

‘We are aware of numerous marriages taking place annually within the Traveller community where one or both parties are under 18 and have travelled from Dublin and the midlands in particular to legally marry in the north. This will continue in the absence of equivalent legislation in the north.’

Family Education Trust

The Family Education Trust (FET) conducts research into the causes and consequences of family breakdown. By means of its publications and conferences, and through its media profile, the Trust seeks to stimulate informed public debate on matters affecting the family, with a view to promoting family stability and the welfare of children and young people.

The Trust advises that any change in the marriage law 'needs to be approached with extreme caution'. It states that it is important that the purpose of marriage is emphasised, especially with regard to the raising of children, and the dignity and solemnity of the ceremony preserved.

The Trust believes that, because belief is broadly defined, belief marriage could create a greater risk of sham marriage and of marriage ceremonies that are eccentric and frivolous. It comments:

'To avoid eccentric and frivolous marriages it is necessary that the form and wording of the marriage ceremony and vows reflect that marriage is an exclusive union for life.'

With regard to the minimum age for marriage or civil partnership, the Trust does not support increasing the minimum age to 18 unless there is also an increase in the current minimum age of consent for sexual intercourse. It is the Trust's view that parental consent for marriage at 16 or 17 is sufficient.

The Law Society

The Law Society is a professional body established by Royal Charter and invested with statutory functions primarily under the Solicitors (Northern Ireland) Order 1976 as amended. The functions of the Society are to regulate responsibly and in the public interest the solicitor's profession in this jurisdiction and to represent solicitors' interests.

The Law Society supports the proposal to put belief marriage on an equal footing with religious marriage. It comments:

'Explicitly legislating for belief marriage will clarify the position and help safeguard individual rights in the interests of equality.'

With regard to the minimum age for marriage/civil partnership, the Society states that the current situation, under the existing marriage law, 'falls short of international standards and commitments and raises child protection issues'. It notes evidence that permitting marriage by 16 and 17 year olds risks negative impacts that fall disproportionately on girls and that minimum age in the developed world can be cited elsewhere as justification for child marriage. Also, as the jurisdictions have changed or are moving to change their minimum age regulations, there is a risk that 16 and 17 year olds could be trafficked here to be married. For these reasons, the Society supports increasing the minimum age for marriage/civil partnership to 18.

National Secular Society

The National Secular Society (NSS) is a not-for-profit, non-governmental organisation founded in 1866, funded by its members and by donations. It advocates 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. It seeks a diverse society where all are free to practise their faith, change it, or to have no faith at all. It upholds the universality of individual human rights, which should never be overridden on the grounds of religion, tradition or culture.

The NSS supports the proposed inclusion of belief marriage in the marriage law but does not feel the proposed changes go far enough. It states, for example, that an opportunity has been missed to permit couples who want a civil marriage the same choice of venues available to those who want a religious or belief marriage). It is suggested that this discriminates against those who want a purely civil ceremony notably same sex couples for whom only a small number of religious denominations will provide a marriage ceremony. The NSS also proposes that the Department considers removing the prohibition on any religious content in a civil ceremony.

The NSS is in favour of the Registrar General determining the eligibility of belief groups seeking to perform marriage ceremonies. Its preference is for looser qualifying criteria on the Scottish model.

The NSS is critical of what it perceives as an assumption that belief marriage is more likely to provide an opening for sham marriages or for eccentric or frivolous marriage. It is, moreover, concerned at the term 'eccentric', which it suggests is highly subjective. It also has reservations with regard to the term 'frivolous' as, while it agrees on the need to preserve the solemnity of the marriage ceremony, the Society cautions that what seems frivolous to others might, to the couple in question, be meaningful and important.

The NSS is supportive of independent celebrants being enabled to offer legally binding marriage ceremonies. Independent celebrants can, in the opinion of the NSS, provide ceremonies for religious and similar beliefs that are not formally institutionalised, such as paganism, or for the personal beliefs of the couple in question which might not be part of any organised religious or belief group.

The NSS does not see any argument against marriage ceremonies being provided for profit and suggests that the profits that independent celebrants make are likely to be modest. It is not solely or even mainly the profit that attracts them, but their aptitude for the work. The Society is in favour of independent celebrants being enabled to provide legally binding marriage ceremonies. The removal of the prohibition of providing marriage ceremonies for a profit is a corollary of this.

With regard to the minimum age for marriage/civil partnership, the NSS supports increasing the minimum age to 18. It does not support additional or alternative consents. It believes that engagement with appropriate experts should inform any decision on the recognition of marriages contracted outside this jurisdiction where one or both parties is under 18 and also any decision on criminalisation.

The NSS believes that permitting under-18s to marry creates a risk of forced marriage.

It is much more difficult for a young person still living at home, which is common for those under 18, to resist family and community pressure to get married than those over 18 who have moved away from their home and/or community.

The NSS proposes that the negative effects of early and forced marriage can deprive all young people, regardless of gender, of opportunities and that government should therefore take account of how it impacts on all young people.

The NSS states that it would be concerned if this were the only jurisdiction on these islands that continued to allow under-18s to marry.

NSPCC

The National Society for the Prevention of Cruelty to Children (NSPCC) works to prevent child abuse through service provision, campaigning on policy and other issues, providing advice, and awareness raising.

With regard to the minimum age for marriage or civil partnership, the NSPCC comments:

In considering whether to change the minimum age of marriage, we would first encourage a review of the efficacy of existing legislation to prevent forced marriage and the extent to which they are effective in safeguarding 16 and 17 year olds or whether further legislation is needed.

The NSPCC notes that the current minimum age for marriage is aligned with the current age of consent. It therefore advises that the implications of an increase in the marriage age for communities that do not condone sex outside of marriage should be considered.

If the minimum age for marriage or civil partnership were to be raised to 18, the NSPCC does not think it would be proportionate to refuse to recognise marriages or partnerships contracted outside this jurisdiction without engagement with those groups most likely to be affected (e.g. the Traveller Community). It does not support criminalisation of marriages or partnerships involving people under 18.

The NSPCC states that it is concerned that more girls than boys marry in this jurisdiction. It notes the need to keep in view changes in the minimum age across these islands and recognises the risk that, if we do not raise the minimum age here, the number of marriages by 16 and 17 year olds in this jurisdiction might increase.

Newry and Mourne District Council/Comhairle Ceantair, an Lúir, an Mhúrn, agus an Dúin

The Council favoured the legislative change to put belief marriage on an equal footing with religious marriage. It thought that any fees charged should be solely for cost recovery and that religious and belief bodies should publish their fees in the same way that local authority registrars publish their fees.

The Council was in favour of an increase in the minimum age for marriage and civil partnership to 18. It thought that this would protect against forced marriage and help prevent young people, especially girls, missing out on opportunities on account of early marriage.

NICCY

The Commissioner for Children and Young People (NICCY) was created in accordance with The Commissioner for Children and Young People (Northern Ireland) Order (2003) to safeguard and promote the rights and best interests of children and young people in Northern Ireland. Under Articles 7(2) and (3) of this legislation, NICCY has a mandate to keep under review the adequacy and effectiveness of law, practice and services relating to the rights and best interests of children and young people by relevant authorities. Under Article 7(4), NICCY has a statutory duty to advise any relevant authority on matters concerning the rights or best interests of children and young persons.

The Commissioner's remit includes children and young people from birth up to 18 years, or 21 years if the young person is disabled or is care experienced. In carrying out her functions, the Commissioner's paramount consideration is the rights of the child or young person, having particular regard to their wishes and feelings. In exercising her functions,

the Commissioner has regard to all relevant provisions of the United Nations Convention on the Rights of the Child (UNCRC).

NICCY is supportive of increasing the minimum age for marriage and civil partnership, a legislative change it has long advocated. The NICCY Youth Panel expressed concern that child marriage/civil partnership was permitted and thought that children should be properly protected by an increase in the minimum age to 18. The Panel did not consider it relevant that a different minimum age existed for other areas of life, such as the age of consent.

NICCY was concerned that the two jurisdictions on the island of Ireland had different minimum ages for marriage/civil partnership. The higher minimum age in the south could result in 'an increase in child marriages taking place in Northern Ireland'. NICCY also commented that, although there are relatively few marriages in this jurisdiction involving persons under the age of 18 in any given year, over time, the numbers are considerable. In the period 2012-2019, for which data were presented in the consultation document, NICCY note that there were several hundred marriages involving people under the age of 18 and several hundred marriage partners under that age.

NICCY did not favour the introduction of judicial or similar consent as a replacement for parental consent or as an additional consent. Its preference was that the minimum age be raised to 18. NICCY favoured non-recognition of child marriages and civil partnerships contracted in other jurisdictions and the criminalisation of child marriage and civil partnership.

NI Council for Racial Equality

The Northern Ireland Council for Racial Equality (NICRE) favoured an increase in the minimum age for marriage or civil partnership to 18. It was NICRE's view that this jurisdiction should, if it raised the minimum age, refuse to recognise marriages involving under-18s conducted elsewhere and that it should also criminalise marriage involving under-18s.

NICRE thought that there was a greater risk of forced marriage where the minimum age is under-18 and that girls were more likely than boys to miss out on opportunities by marrying at 16 or 17. NICRE stated that it would be concerned if this jurisdiction were the only one on these islands that permitted marriage or civil partnership by people under the 18.

NI Humanists

Northern Ireland Humanists is a section of Humanists UK, working with the Humanist Association of Ireland. It states that it aspires to:

A tolerant world where rational thinking and kindness prevail' and that it supports 'lasting change for a better society, championing ideas for the one life we have.

By bringing non-religious people together it aims to help them to develop their own views and an understanding of the world around them. Founded in 1896, it states that is

Trusted to promote humanism by 100,000 members and supporters, over 115 members of the All-Party Parliamentary Humanist Group, and over a dozen MLAs. Through our ceremonies, pastoral support in Maghaberry Prison and elsewhere, education services, and campaigning work, we advance free thinking and freedom of choice so everyone can live in a fair and equal society.

NI Humanists are naturally supportive of belief marriage and its inclusion in the marriage law on an equal basis with religious marriage. NI Humanists have long campaigned for such an outcome and have been providing humanist marriage ceremonies under the interim arrangements put in place following the Courts' judgments in 2017. NI Humanists consider the Registrar General to be 'best-placed to adjudicate which groups should be authorised to marry people'.

NI Humanists favoured qualifying criteria but were critical of the Scottish definition which they believed was sufficiently open to allow commercial celebrants to set themselves up as belief and/or religious practitioners without any evident commitment to a religious or non-religious belief system. An independent/commercial celebrant, offering belief and/or religious ceremonies could, they said, trade on the profile and

prestige of belief and religious organisations without having any particular commitment to them.

NI Humanists therefore favoured specific criteria based on the Dublin model and offered some suggestions as to what these might involve. Their preference was for criteria that are relatively demanding to meet. For instance, a religious or belief group seeking to perform marriage ceremonies should have a locally-based membership in excess of fifty and its core purpose should be the promotion of its world view, not the provision of marriage ceremonies. In addition, the applicant group should hold regular meetings (on at least a monthly basis), the purpose of which is worship or furtherance of their faith or belief.

Humanists NI were critical of some aspects of the Dublin Government's approach, notably the fact that the Dublin criteria excluded groups that promote political causes. Both religious and belief groups, they suggested, engage politically and voice opinions on matters of policy such as education. NI Humanists themselves have campaigned on educational policy and to repeal the blasphemy laws. They did not think it appropriate that they might be excluded on that account.

A smaller criticism of the Dublin approach was that it used the word 'secular' rather than 'belief'. NI Humanists were of the view that 'secular' suggests something neutral on matters of belief and religion (such as a museum) whereas 'belief' refers to a particular worldview.

NI Humanists thought that qualifying criteria should apply equally to religious and belief groups and be consistent. However, their principal concern was that any criteria applied to belief groups were reasonable.

NI Humanists did not think that the type of ceremony they provided created any significant risk of sham marriage. This was because Humanist celebrants take time to get to know the couple to be married. They stated that the availability of humanist marriage in Scotland had not seen any increase in the number of sham marriages. One possible guard against sham marriage, which NI Humanists suggested, was to allow belief groups to provide marriage ceremonies solely for their own members.

A further safeguard might be for the training currently provided to civil registrars, which includes training to identify sham marriages, to be extended to religious and belief celebrants.

NI Humanists also noted that the initial, administrative stage of any marriage ceremony is carried out by General Register Office staff. As GRO staff review all prospective married couples, all marriages—belief, religious and civil—are subject the same initial process, a process that is intended, inter alia, to identify signs of sham marriage.

With regard to eccentric or frivolous ceremonies, NI Humanists thought that it was for the administrative system governing marriage to safeguard against such ceremonies. They noted again their own preference for specific criteria similar to those adopted by the Dublin Government.

With regard to independent celebrants operating on a commercial basis, NI Humanists did not see what value would be added by enabling these to provide legally binding ceremonies. Indeed, they suggested that the result might be the creation of a literal marriage market and a possible trivialisation of the marriage ceremony, envisaging a Las Vegas style marriage market. They were concerned, too, that independent celebrants might claim to offer a humanist or, indeed, a religious ceremony without being formally attached to any organised humanist or religious group and therefore without meeting the standards a group might establish and maintain or having any particular knowledge of its beliefs and values.

NI Humanists did not favour an end to the current prohibition on offering marriage ceremonies for profit or gain.

Regarding the minimum age for marriage or civil partnership, NI Humanists considered the case for a higher minimum age to be convincing. The only exception they thought was in the case of a relationship where one party was terminally ill and aged 16 or 17.

NI Human Rights Commission

The NI Human Rights Commission (NIHRC), pursuant to section 69(1) of the Northern Ireland Act 1998, reviews the adequacy and effectiveness of law and practice relating to the protection of human rights. Further, the NIHRC, pursuant to section 78A(1), must monitor the implementation of Article 2(1) of the Protocol in the EU Withdrawal Agreement (rights of individuals).

The NIHRC is supportive of the law being changed to include belief marriage on an equal footing with religious marriage. It favours the use of specific qualifying criteria for belief and religious groups seeking approval to solemnise marriages and recommends that any such criteria be put to stakeholder consultation. It also recommends that any change in marriage law or policy be subject to a human rights impact assessment.

With regard to the minimum age for marriage or civil partnership, the NIHRC favours increasing the age to 18. It notes that the Dublin Government has increased the minimum age to 18 and a current Private Members Bill is likely to bring about the same change in England and Wales (it has since done so). If the minimum age in this jurisdiction (and Scotland) remains unchanged, the NIHRC believes that this will create ‘a divergence of child protection laws’ with a lesser degree of protection here. The NIHRC is concerned that this lesser degree of protection might mean that 16 and 17 year olds are brought to this jurisdiction for marriage.

The NIHRC also notes that girls who marry may miss out on educational opportunities, risk domestic and sexual violence, and be denied proper access to healthcare, including reproductive rights. The Commission goes on to note that the boundary between child marriage and forced marriage can be blurred—e.g. parents putting pressure on 16 or 17 year olds to marry. The NIHRC advises that Article 2 of the NI Protocol requires the Westminster Government and the Executive to ensure that Brexit does not result in any diminution of the rights, safeguards and equality of opportunities contained in the relevant part of the 1998 Agreement. On this basis, the Commission recommends that any work we undertake in respect of the marriage law is screened to ensure compliance with Article 2 of the Protocol.

Finally, the NIHRC advises that the right to marry under Article 12 of the European Convention on Human Rights (ECHR) is subject to domestic legislation. European Court of Human Rights jurisprudence indicates that an obligation to abide by the marriage age of a state does not constitute a denial of the right to marry.

Presbyterian Church in Ireland

The Church states that it:

'believes that marriage and family are themes central to the Christian faith, reflecting not only God's loving design for humanity, but also providing a rich image of the relationship between Christ and His Church.'

While noting that the judgments of the Courts in 2017 oblige the Department to legislate for belief marriage, the Church comments:

'it is regrettable that in extending the current marriage legislation to include belief marriage, this understanding will be diluted'.

The Presbyterian Church in Ireland agrees that the Registrar General should assess the suitability of belief groups to provide marriage ceremonies just as she currently does for religious groups. The Church supports qualifying criteria for belief groups and considers the Dublin model 'a useful template', noting especially criteria such as membership levels and length of time in existence. In addition, the Church is not opposed to such criteria being applied to new religious groups seeking official approval to provide marriage ceremonies. However, it notes its own longstanding relationship with the state, a relationship it has in common with the other main denominations in this jurisdiction and comments that this 'should continue to be recognised.'

The Presbyterian Church considered that there may be greater potential for sham marriages in belief ceremonies for the reason noted in the Consultation Document—the possibility that belief couples are not as well known to the celebrant as a religious couple might be to an officiant. However, the Church commended the role of the

statutory agencies in preventing sham marriage and thought that training might make officiants better able to detect sham marriage.

The Church did not favour marriage ceremonies being provided on a for-profit basis. It did not therefore support independent celebrants being enabled to provide legally binding ceremonies. It itself does not charge fees for marriage ceremonies but rather accepts donations. It stated that, where a religious or belief body charged a fee for conducting a marriage ceremony, that fee should be published in the interest of transparency.

With regard to minimum age, the Presbyterian Church in Ireland favoured retaining the current minimum age (and safeguards) on the basis that relatively few 16 and 17 year olds nowadays marry and that 16 remains the age of consent for sexual activity. With regard to marriage by people under the age of 18, the Church was not in favour of the removal of parental consent in favour of consent by a court or other official body but was not opposed to parental and official consent provided that religious freedoms were preserved.

The Presbyterian Church thought that even if we raised the minimum age to 18, we should continue to recognise marriages involving 16 and 17 year olds contracted outside this jurisdiction. (The numbers involved would be small and non-recognition could disadvantage the young person involved). It did not favour criminalisation of marriage by people under the age of 18.

Sinn Féin

Sinn Féin supports the proposed legislative change that will put belief marriage on an equal footing with religious marriage.

The party is supportive of increasing the minimum age for marriage or civil partnership to 18. It notes international opinion supportive of an increase, the risk of forced marriage, and clear evidence that girls are more likely than boys to marry (and thereby miss out on opportunities and life chances). Sinn Féin is also concerned that this jurisdiction might be the only jurisdiction on these islands where marriage or civil

partnership by under-18s remains possible. It is concerned that, in such circumstances, we might become a centre for under-18 marriage or civil partnership.

Annex 3

Meetings with Stakeholders

Youth Assembly—Rights and Equality Committee

The Committee members were unanimous in their support for legislation to put belief and religious marriage on an equal footing.

‘Everybody should get the opportunity to be able to have their marriage the way they want to have it, with their own beliefs.’

However, it was the minimum age for marriage and civil partnership that prompted the most interest and a lengthy discussion. A common view was that young people at sixteen and seventeen had not reached a sufficient stage in their psychological and educational development to make a properly informed consent to marriage or civil partnership. One participant, for example, noted that, as a majority of sixteen and seventeen year olds are at school and still getting to grips with ‘basic life skills’, it was expecting a great deal of them that they could enter, knowledgeably, into a binding contract.

People at age 16 and 17 have so much to discover, both the world and even in themselves. It is such a growing period for us, so much development.

I'd be very very surprised if any 16-year-old or any 17-year-old knew what they were actually doing [when they consented to marriage or civil partnership].

A related concern was that young people—people aged 16 and 17—were at risk of being exploited if it were legally possible for them to marry or form a civil partnership. Indeed, the fact that our law permitted under-18s to marry was seen by some as an ‘open door to people being exploited’. One Committee member, while noting that there is no evidence that any marriages in this jurisdiction involving sixteen and seventeen year olds were forced, quoted UK statistical data which indicated that marriages by

under-18s made up a disproportionate share of all forced marriages. To the Committee member, there was a risk in this jurisdiction that the number of forced marriages might grow. It was a risk we could remove by raising the marriage age to 18.

There was a concern that the need for parental consent might not be sufficient to protect 16 and 17 year olds from being forced into marriage or civil partnership. The parents, one Committee member said, might be more in control of the decision than the 16 or 17 year old.

There was some interest in introducing additional consents such as the consent of a Court to marriage or civil partnership by people under the age of 18. Some Committee members—though very much a minority—thought that this was a possible, even promising, compromise but that the detail of the proposed consent needed to be developed—should it be for a court to provide consent, or some other authoritative body and what criteria and evidence would be used to inform the decision to grant or withhold consent. It might be that the decision could focus on the best interests of the 16 or 17 year old(s) in question.

There were few opinions expressed on whether we should recognise marriages or civil partnerships involving people under 18 from other jurisdictions. One Committee member thought we should look at these case by case rather than have a general policy of non-recognition.

There was some concern that this jurisdiction might be left behind; that it might, in time, be the only place on these islands where marriage or civil partnership by people under the age of 18 are permitted.

The only one left behind with outdated marriage laws? I think it's already happened with gay marriage and we don't want to be seen as the backward or place of the UK where they take forever to get anything done.

That 16 and 17 are the minimum ages for other activities (e.g. a driving licence, employment) or decisions (e.g. leaving school) prompted considerable discussion. The general view was that different types of activity and different types of decision will

each have their own, particular age threshold. Getting a licence to drive a motor cycle at 16, or a car at 17, did not carry the same, life-changing consequences as getting married. The same was true of employment or even leaving school. A person who regretted leaving school at 16 could more readily go back on that decision than a person who got married at 16. A person could resign from a job they didn't like.

One exception here was the age of consent for sexual intercourse. One Committee member thought that, if the minimum age for marriage/civil partnership were increased to 18, consideration should be given to raising the age of consent as well.

If we were to increase the marriage age to 18 that could possibly open a door to increasing the age of consent or getting a discussion around that because I think that is something that would help protect children more. I think 16 is far too young to get consent. So I wondered if that could be like a gateway into a bigger discussion.

NICCY

A CLRD official met with the NICCY Chief Executive and Senior Participation Manager on 9 November 2021. The meeting focused solely on minimum age. The following were the main points raised:

1. NICCY noted that the UN Committee responsible for the UN Convention on the Rights of the Child (UNCRC) supports 18 as the global minimum for marriage/civil partnership and regards marriage by under-18s as child marriage. This is also the view of a range of NGOs and stakeholders, international and local, including NICCY. The UNCRC Committee has criticised the UK for permitting what it regards as child marriage and this jurisdiction has also been criticised in this context.
2. NICCY has long supported increasing the minimum age for marriage and civil partnership to 18. It has suggested that there is a greater imperative for such change given that the Dublin Government has increased the minimum age in its jurisdiction to 18 and there is a strong possibility that England and Wales will

do likewise, through the Private Members Bill currently sponsored by Pauline Latham. There is a risk that we might become the only jurisdiction that permits under-18s to marry and that 16 and 17 years might come here—or be brought here—to be married.

3. NICCY did not view the small numbers currently marrying at 16 and 17 to be relevant. NICCY did not support the current minimum age of 16 and was concerned that *any* were marrying before the age of 18. It supported an increased minimum age (18) and not additional or alternative consent arrangements (e.g. consent by a court or similar authoritative body).
4. NICCY welcomed the consultation, and hoped that it would attract a significant response and result in legislation to increase the minimum age for marriage.

NI Humanists

CLRD officials met with a delegation from NI Humanists on 11 February 2022. Belief marriage was the principal focus of the meeting. The following were the main points raised:

1. Humanists were happy with the progress to date regarding consultation. They advised that they had prepared their written response to the consultation which they would submit before the deadline.
2. Regarding belief marriage, the humanists made the following comments:
 - a. Their preference is for qualifying criteria for belief groups along the lines of the current arrangements in Dublin—belief groups that wish to solemnise marriages should be formally assessed against qualifying criteria. The humanists preferred this to the Scottish approach.
 - b. The humanists had two main concerns regarding the Dublin criteria.
 - i. Per the Dublin criteria, belief groups cannot promote political causes. Religious groups are not constrained in this way and NI

humanists frequently engage on political issues such as education, blasphemy laws and, indeed, marriage law.

- ii. The use of the word 'secular' to distinguish non-religious and non-civil marriage. 'Secular' does not capture the belief aspect of belief groups—the post-office is secular, humanism is a belief system. (CLRD noted that Dublin model is tripartite—religious, civil, secular. In contrast, we have just two categories, civil and religious/belief).
 - c. Humanists were concerned that prospective celebrants might present themselves as belief and/or religious celebrants if the criteria were too loose or if there are no qualifying criteria. NI Humanists believe that actual belief celebrants should be part of a group that has a meaningful membership and has an existence and identity beyond marriage ceremonies. Robust qualifying criteria could screen out nominal groups that did not meet regularly or have a belief system.
 - d. Humanists were also concerned that commercial celebrants might create a competitive market for marriage ceremonies. Commercial marriage ceremonies are not humanist ceremonies (or religious ceremonies). NI Humanists state that a commercial ceremony lacks the humanist belief dimension, something that is as important to humanists as the religious aspect of a religious marriage is to a religious believer.
 - e. Humanists were happy for qualifying criteria to be applied to belief groups only. They believe that qualifying criteria create safeguards.
3. Regarding minimum age, NI Humanists offered some initial opinions. On balance, they thought the current arrangement of permitting under-18s to marry or form a civil partnership was likely to cause more harm than good. Therefore, raising the minimum age to 18 should be supported. One exception might be where one party in a relationship was under 18, terminally ill and wanting to marry.

NI Human Rights Commission (NIHRC)

CLRD officials met with NIHRC on 2 February 2022. The meeting focused primarily on minimum age. The following were the main points raised:

1. NIHRC had few issues regarding belief marriage aside from commenting that a human rights impact assessment would be beneficial.
2. On minimum age, NIHRC advised that its response to the consultation would be delivered before the deadline and would be a restatement of its known opinion that the marriage age should increase to 18.
3. Commenting on the significant proportion of under-18s who marry in this jurisdiction but are not from here, NIHRC advised on the importance of a human rights impact assessment, to see if increasing the marriage age to 18 might have a disproportionate impact in terms of ethnicity or religious community background.
4. NIHRC noted that the UN Committee responsible for the UN Convention on the Rights of the Child (UNCRC) would be examining UK compliance with the Convention in 2023. The issue of marriage age would feature in the examination. To inform the UN process, NIHRC would be providing a shadow report.