

Safer and Stronger Communities Board

Agenda

Thursday, 12 November 2020
11.00 am

Videoconference via Zoom

To: Members of the Safer and Stronger Communities Board
cc: Named officers for briefing purposes

www.local.gov.uk

This meeting is



Safer & Stronger Communities Board
12 November 2020

There will be a meeting of the Safer & Stronger Communities Board at **11.00 am on Thursday, 12 November 2020**, via Zoom.

Political Group meetings:

The group meetings will take place in advance of the meeting. Please contact your political group as outlined below for further details.

Apologies:

Please notify your political group office (see contact telephone numbers below) if you are unable to attend this meeting.

Conservative:	Group Office: 020 7664 3223	email: lgaconservatives@local.gov.uk
Labour:	Group Office: 020 7664 3263	email: martha.lauchlan@local.gov.uk
Liberal Democrat:	Group Office: 020 7664 3235	email: libdem@local.gov.uk
Independent:	Group Office: 020 7664 3224	email: independent.grouplga@local.gov.uk

LGA Contact:

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Carers' Allowance

As part of the LGA Members' Allowances Scheme a Carer's Allowance of £9.00 per hour or £10.55 if receiving London living wage is available to cover the cost of dependants (i.e. children, elderly people or people with disabilities) incurred as a result of attending this meeting.

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The twitter hashtag for this meeting is #lgassc

Safer & Stronger Communities Board – Membership 2020/2021

Councillor	Authority
Conservative (7)	
Cllr Katrina Wood (Vice Chairman)	Buckinghamshire County Council
Cllr Eric Allen	London Borough of Sutton
Cllr Mohan Iyengar	Bournemouth, Christchurch and Poole Council
Cllr Andrew Joy	Hampshire County Council
Cllr John Pennington	Bradford Metropolitan District Council
Cllr Dave Stewart	Isle of Wight Council
Cllr Lois Samuel	West Devon Borough Council
Substitutes	
Cllr Richard Auger	Daventry District Council
Cllr Paul Findlow	Cheshire East Council
Cllr James Gartside	Rochdale Metropolitan Borough Council
Labour (7)	
Cllr Nesil Caliskan (Chair)	Enfield Council
Cllr Kate Haigh	Gloucester City Council
Cllr Alan Rhodes	Nottinghamshire County Council
Mayor Damien Egan	Lewisham London Borough Council
Cllr James Dawson	Erewash Borough Council
Cllr Farah Hussain	Redbridge London Borough Council
Cllr Johnson Situ	Southwark Council
Substitutes	
Cllr Daniel Francis	Bexley Council
Cllr Jeanie Bell	St Helens Council
Cllr Tim Roca	Westminster City Council
Liberal Democrat (2)	
Cllr Bridget Smith (Deputy Chair)	South Cambridgeshire District Council
Cllr Jeremy Hilton	Gloucestershire County Council
Substitutes	
Cllr Jon Ball	Ealing Council
Independent (2)	
Cllr Hannah Dalton (Deputy Chair)	Epsom and Ewell Borough Council
Cllr Philip Evans JP	Conwy County Borough Council
Substitutes	
Cllr Jo Beavis	Braintree District Council
Cllr Helen-Ann Smith	Ashfield District Council
Cllr Nicola Dillon Jones	North Kesteven District Council

Agenda

Safer & Stronger Communities Board

Thursday 12 November 2020

11.00 am

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4. Law Commission review of Weddings law	1 - 8

Date of Next Meeting: Thursday, 14 January 2021, 11.00 am,
Videoconference via Zoom

Law Commission Review of Weddings law

Purpose of report

For discussion.

Summary

This report outlines the proposals from the Law Commission to change the law governing weddings in England and Wales and their potential impact on councils.

Recommendation/s

That the Safer and Stronger Communities Board consider the issues set out in the paper.

Action/s

Officers will formulate a response to the Law Commission's review based on member's feedback.

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Law Commission Review of Weddings law

Background

1. The Law Commission has published a consultation paper on reforming the law governing weddings. They are asking for responses to their consultation by 4 January. This has been extended from the 3 December due to Covid. The Law Commission has set out a wide range of proposals to simplify and update marriage law.
2. The proposals as set out within the consultation paper will have an impact on council's registration services. Registrars perform the preliminaries to most weddings, through issuing marriage notices. They then conduct civil ceremonies and keep marriage registers. They have a particular role in checking the legitimacy of weddings and detecting any sham or forced marriages.
3. The LGA has engaged with the National Panel for Registration to understand the concerns of local authorities' registrars and to help formulate a response to the consultation.
4. This report will focus on civil ceremonies, as those are conducted by local authorities. However it should be noted that religious ceremonies do have different forms and requirements to those performed by registrars.

Issues

Law Commission

5. In 2014 the Government asked the Law Commission to conduct a review of weddings law in England and Wales. In 2015 the Law Commission published a scoping paper in which they concluded that wholesale reform of the law in this area was necessary. The Government announced in the 2018 Budget that they were asking the Law Commission to conduct a full law reform project, and work was commenced in July 2019.
6. The review is guided by five principles for reform:
 - 6.1. Certainty and simplicity
 - 6.2. Fairness and equality
 - 6.3. Protecting the state's interest
 - 6.4. Respecting individuals' wishes and beliefs
 - 6.5. Removing any unnecessary regulation, so as to increase the choice and lower the cost of wedding venues for couples.
7. The Law Commission are only looking at the law governing weddings including:
 - 7.1. The preliminaries to the wedding (giving notice of the intended marriage)
 - 7.2. The location of the wedding

- 7.3. The content of the ceremony
 - 7.4. Who must attend, including the role of any person officiating or registering the wedding; and
 - 7.5. The registration of the marriage.
8. There are a number of aspects of the law that are outside of their scope, including whether or not independent officiants should be able to conduct weddings.

Current weddings law

9. Most of the law governing weddings dates from the Marriage Act 1949, which consolidated a number of earlier acts, dating from the 18th and 19th centuries. The Marriage Act 1949 introduced approved premises (venues where civil ceremonies can take place that are not the register office) however, the Law Commission states that the fundamental structure of weddings law remains largely unchanged from 1836.
10. The law governing weddings is complex, and there are specific rules that apply depending on what type of ceremony the couple are having. The choice currently is between a civil (council registration service) or religious ceremony (Anglican, Jewish, Quaker, other religious groups). If having an Anglican wedding, authority to marry can be gained from the church, all other couples must give notice at a register office. After the couple having given notice, the notice is publicised for 28 days (displayed in register offices) to ensure that any objections can be noted and investigated. Weddings take place either at a place of worship or a licensed secular venue (couples cannot marry outside).
11. Currently approximately 77 per cent of weddings are civil ceremonies conducted by registrars. These can take place at an approved premises or within council register offices. Approved premises need to undergo a licensing process in order to hold weddings. To be approved for weddings, the premises must be “a permanent immovable structure comprising at least a room, or any boat or vessel which is permanently moored”. The premises must also be “seemly and dignified” and have fire precautions and health and safety provisions. Local authorities must also hold a public consultation on the application.
12. Applications for approved premises are made to councils, and, often, a fee is charged which is set locally. Some rooms within register offices are classified as approved premises for larger weddings, rather than the register office. Rooms available for weddings within the register office will depend on the policy of the local authority, however they need to offer a “low-cost” statutory wedding option. There is a statutory fee set by regulation of £46 for this service, but concerns have been raised that this does not cover the cost of providing the service.

13. Approval for a premises to be a wedding venue maybe denied if the venue does not met the requirements set out above, or the registrars will be unlikely to be available to attend given the number of approved premises already within the area.
14. Civil ceremonies require two registration staff to attend (a superintendent registrar and a registrar from the registration district) as well as two witnesses. Aside from the statutory fee of £46 mentioned above, and a nationally set fee for attending some church weddings of £84, the fees for the attendance of the registrars at an approved premises are determined by the local authority. Following the ceremony the registrar present is responsible for registering the wedding as soon as it takes place.

Key changes in the proposals

15. The Law Commission are proposing a wide number of changes to the law that surrounds weddings, including those performed by local authority registrars. Councils have a key interest in the proposals. The proposed key changes to the current law that impact most on councils are set out below.

Preliminaries to weddings

16. The proposals set out that the same preliminaries could be required for all weddings, including religious weddings, or the current system of two different preliminaries could be retained. At the moment the preliminaries are different depending on whether you are having an Anglican wedding, or civil or other religious types of wedding. To give notice there would be a nationally prescribed fee for civil preliminaries and a two step approach; firstly an initial giving of notice, which could be done remotely, and then an in-person meeting. Once the initial notice has been given, that would be publicised on a national online database and start the 28 day notice period.
17. The second stage would be to hold an in-person meeting, this would enable the registrar to make sure that there were no impediments to the marriage and offer support if there were concerns.
18. Provided there were no concerns a schedule would be issued, authorising the wedding to take place, which would be valid for 12 months. The schedule would then need to be returned to the register office following the wedding.

Officiants

19. The provisional scheme is based on the regulation of the officiant rather than the current law which is generally based around the building in which the wedding takes place. All weddings would be required to take place in the presence of one authorised officiant (currently civil ceremonies require two registrars to attend). The officiant would have a duty to ensure that:
 - 19.1. The parties freely expressed consent to marry each other

- 19.2. The other requirements of the ceremony were met (eg the requirement for two witnesses)
 - 19.3. The marriage schedule was signed
 - 19.4. The dignity of marriage was upheld
 - 19.5. The venue was safe and dignified.
20. Officiants could be; registration officers, Anglican clergy, nominated officiants (eg from religious organisations or if the government determines, non-religious belief organisations), independent officiants (if authorised by Government), and maritime officiants.
21. Independent officiants would be regulated by the General Register Office (GRO), which would provide a list of officiants and would provide training. There would not be requirement for insurance. The GRO could also de-authorise an independent officiant who no longer meets the standard of being a fit and proper person to undertake weddings.
22. The Law Commission propose that the fee for a registration officer to officiate at a civil wedding would be prescribed nationally, for those outside of a register office there would be an additional fee charged at a prescribed hourly rate. Other officiants would determine their own fee for conducting weddings, however they would not be able to act in a conflict of interest (eg stipulate a wedding venue in exchange for their services).

Venues

23. The proposals are intended to enable weddings to take place at a greater variety of venues than currently. The Law Commission identify that the regulation of venues through the approved premises process can impose costs on the couple that are not proportionate as venues will pass the cost of licensing onto them. They also assert that these costs prohibit smaller venues from applying. The current limitations on what can be an approved premises, with the need for a permanent immovable structure and the inability to get married outside are highlighted as key issues.
24. The Law Commission examined a range of options, however they do not believe that there should be a pre-approval system in place run by local authorities, as that would not answer their key concerns around unnecessary regulation and cost. Their preferred system is for the couple and the officiant to agree the location with a requirement to consider dignity and safety. They would expect that the General Register Office would provide guidance to officiants to help them assess against this criteria.
25. The consultation outlines a potential pre-approval process for wedding venues where ceremonies are held regularly, saying that approval for those venues for every wedding would be inefficient. The Law Commission propose that local authorities (or potentially

the GRO) maintain lists of locations assessed as suitable for weddings. If a pre-approval process for venues is put in place the fee to undertaking any assessment could be set by the council or Government body responsible for it on a cost recovery basis.

Fees

26. There are a range of fees currently prescribed nationally including:
- 26.1. the fees for civil preliminaries;
 - 26.2. the fee for the attendance of the registrar at a wedding in the register office;
 - 26.3. the fees for the certification of places of worship and their registration for marriage;
 - 26.4. the fee for the attendance of the registrar at weddings at registered buildings;
 - 26.5. the fees for a marriage certificate and for searches and copies of entries in the register.
27. At a local level fees are set by local authorities on a cost recovery basis for:
- 27.1. Applications for approved premises
 - 27.2. Renewal of approvals
 - 27.3. Reviews of an application outcome
 - 27.4. The attendance of the superintendent registrar and registrar at a wedding held in approved premises
28. The Law Commission propose registration officers should be able to charge a fee for any time spent by registration officers ensuring that locations are safe and dignified, with this fee determined by councils on a cost recovery basis. If a pre-approval process for venues is put in place the fee could be set by local authorities or Government body responsible for it on a cost recovery basis. They set out that for weddings outside of the register office they support the use of the same fee as for weddings in the register office, plus an additional fee set at an hourly rate to reflect the registrars travel to and from the venue. Councils could still offer additional discretionary services, such as two registrars attending rather than one.
29. Their proposals would eliminate costs for two registrars to attend a wedding and the costs for approval from the council to host weddings.

Impact on councils

30. It is clear that the current proposals set out within the Law Commission's review would have a significant impact on council registration services. There are a number of concerns amongst councils regarding the changes set out in the review. These are outlined in further detail below.

Civil preliminaries

31. The consultation asks if there should be universal civil preliminaries or if the Anglican preliminaries should continue to be recognised alongside civil preliminaries. If the move to universal civil preliminaries was taken forward this would have a significant impact on councils who would undertake them.

Officiants

32. The proposals include a number of changes regarding those who officiate at weddings. Whilst the Law Commission does not take a view on whether or not independent officiants or nominated groups should be allowed to undertake weddings, they outline how the system would work with them undertaking weddings alongside religious organisations and registration services.
33. A number of councils have expressed concerns about the introduction of independent officiants, and whether registrars could act as independent officiants alongside their registration role. There are differences in the fee structure proposed for registrar services and independent officiants. Some concerns have also been expressed that despite the proposals around conflict of interest, some officiants might have relationships with venues. There were also concerns regarding how independent officiants would deal with sham or forced marriages.

Wedding venues

34. Currently councils provide licenses to locations to act as approved premises. The Law Commission's proposals remove this requirement for a license, instead introducing a more light-touch system. The Law Commission outlines that venues will already have to abide by a range of laws such as health and safety, fire safety etc that would mean that the venue should already have a number of protections in place to make it a suitable place for a wedding. A venue under the new system would need to be "safe and dignified", this may be determined by a site visit or in some cases the Law Commission state that some venues that hold regular weddings might only need a phone call with the operator or a visit to their website to determine if these conditions are met. Law Commission have also outlined a system of pre-approval for some venues that hold regular weddings
35. There are some concerns that this system will not be sufficient. In particular the potential pre-approval process would need further detail, including how long any pre-approval was valid for.

Fees

36. A number of councils have identified that the fees structure proposed in the consultation does not cover the costs of all the interactions performed by the registrar service with the couple. There can often be informal conversations around different options prior to notice being given, which has an impact on council resource. Covid has also meant that

couples are interacting more regularly with the registrar service. These interactions have not been considered within the cost-recovery scheme. The statutory fee for register office weddings of £46 has also been a source of concern.

37. Further information is needed on the possible pre-approval system as well, whilst the Law Commission outlines that these fees would be charged on a cost recovery basis they are not clear how long any pre-approval would be valid for, which would have an impact on the level of fee that provided full cost recovery.

Implications for Wales

38. The Law Commission's Review covers weddings law in England and Wales.

Financial Implications

39. There are no financial implications for the LGA.

Next steps

40. The LGA will respond to the Law Commission's review based on member's feedback during the discussion, and further discussions with the National Panel for Registration. This will go to Lead Members for approval.