



Weddings Team
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Re. Weddings Law Consultation

We remain deeply concerned by the plight of many women in sharia-compliant marriages, who have had a religious wedding ceremony but without legal consequences. These women often only discover their lack of official marital status when their relationship breaks down. They have no legal rights against their 'husband' and have no option of obtaining a civil divorce.

Their suffering is sometimes compounded by barriers from within their own communities. According to the independent review into the application of sharia law in England and Wales, 'some sharia councils are deemed to be discriminating against women who use their services on matters of marriage and divorce.' However, this is not merely a 'social issue', as the Government claim. It is also a legal issue that requires an urgent legislative response. We therefore welcome the Law Commission's proposals to modernise and improve wedding law, to eliminate statutory anomalies and – we hope – ensure greater protections for Muslim women.

Protracted process

We acknowledge that the Marriage Act 1949 is a complex maze of different rules for different types of ceremonies. We also recognise the limits of the Law Commission as a recommendatory body. However, almost a decade has passed since this issue was first discussed in Parliament – long before any delays caused by the COVID-19 pandemic – and we have seen no sign of any significant progress.

The Law Commission has, after numerous setbacks, launched a public consultation on 'provisional proposals' to reform the law, following the Government's commitment in March 2018 to 'explore the legal and practical challenges of limited reform.' Such vague commitments, while broadly welcomed, do not inspire confidence. We have seen little evidence in ten years to suggest that promises to 'continue the exploration of

reform' will not be used to postpone viable legislation or to kick these issues into the long grass.

In your analysis of consultation responses and final scoping report, we urge you to stress the urgency of the situation facing Muslim women who do not have the protection of legal marriage. The Government's response to date (or lack thereof) is, at best, demonstrative of their failure to keep pace with social changes and cultural-religious practices. At worst, it exposes an unwillingness to protect one of this country's most marginalised, excluded and discriminated-against groups.

Provisional proposals

Notwithstanding these concerns, we agree that the law needs updating.

- The core provisions of marriage law, which date back to 1836, have been developed incrementally and confusingly over centuries. The Marriage Act 1949 as it relates to Muslim weddings compared to others religious weddings (Anglican, Jewish and Quaker) is complex and inconsistent. Yet Government ministers tell us that the current law is almost impossible to amend without causing a raft of unintended consequences. **We therefore endorse the Law Commission's spirit of certainty and simplicity.**
- Paragraphs 10.171-10.179 summarise our main concern: that difficulties arise where a religious rite takes place first (in an unregistered mosque, private home or elsewhere) and is not followed by a legally-binding ceremony. **We support in principle the Law Commission's proposals to make it easier to have a religious wedding that is also a legally-binding wedding**, such as the proposals to remove the necessity for religious groups to incorporate prescribed words and to reduce the red tape around wedding venues.
- The consultation document does not pay enough attention to the problems associated with polygamous religious marriages which, according to the Casey Review, are 'more commonplace than might be expected' and 'impact negatively on women (and their children)'. Such multiple marriages have no more legal status than other extra martial relationships – there is nothing illegal about having a wife and a girlfriend. However, serious concerns remain over the lack of protection for those who may be misled as to the legal status of these 'marriages'. **All parties should be fully and provably aware of their situation.** There may even be a case for expanding the offence of bigamy to catch both formal and informal polygamous marriages, as well those who conduct them.
- Couples should nevertheless be free to 'marry' purely in a religious sense, provided their decision is based on an informed choice to opt out of legal protection. **If couples desire a religious-only marriage, which is not recognised as a matter of law, it is essential that they are made aware of the consequences that flow from it**, including deprivation of the protections of

family law and a lack of entitlement to financial support upon the breakdown of the relationship.

- We agree there should be consequences for misleading a couple as to the effect of a ceremony. **The suggested criminal offence in paragraph 10.170 is well-defined**, although a more targeted offence may be necessary to deter against malpractice and to clarify – beyond doubt – how vulnerable women entering a religious-only marriage will be protected from ignorance or deception.

We hope your final report will promote a meaningful and rapid response from the Government, including the introduction of legislation to simplify weddings law and to address the suffering endured by so many Muslim women.

Yours sincerely,

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Lord Carlile of Berriew (Crossbench)
Pauline Latham MP (Conservative)
Lord Dholakia (Liberal Democrat)
Baroness Lister of Burtersett (Labour)
Lord Desai (Non-affiliated)
Lord Alton of Liverpool (Crossbench)
Baroness Massey of Darwen (Labour)
Lord Mackay of Clashfern
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Lord Singh of Wimbledon (Crossbench)
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