

<b>Institution:</b> The Open University		
<b>Unit of Assessment:</b> C18 Law		
<b>Title of case study:</b> Civil weddings and celebrations: impact on practice and law		
<b>Period when the underpinning research was undertaken:</b> 2016-2020		
<b>Details of staff conducting the underpinning research from the submitting unit:</b>		
<b>Name(s):</b>	<b>Role(s) (e.g. job title):</b>	<b>Period(s) employed by submitting HEI:</b>
Dr Stephanie Pywell	Senior Lecturer in Law	November 2013–present
<b>Period when the claimed impact occurred:</b> 2019-2020		
<b>Is this case study continued from a case study submitted in 2014?</b> N		
<b>1. Summary of the impact</b>		
<p>Many couples in England and Wales are distressed by inconsistencies in the law and practice regarding weddings. <b>Pywell's</b> work has led to the following impacts:</p> <ul style="list-style-type: none"> <li>• Gloucestershire Registration Service, which conducts over 3,000 weddings per year, has changed its approach to the material that it permits in civil weddings, thus increasing consistency and fairness. It has also initiated a discussion about fairness with 14 other registration services.</li> <li>• Independent 'wedding celebrants' conduct an estimated 10,000 ceremonies per year. These ceremonies have no legal effect. The Wedding Celebrancy Commission, an umbrella body for many such celebrants, has amended its professional standards so that no couple can erroneously believe that a celebrant-led 'wedding' ceremony is legally binding.</li> <li>• The Law Commission drew heavily on the research in <i>Getting Married, A Consultation Paper on Weddings Law</i>. This is expected to result in changes to the law, as indicated in a recent High Court case in which counsel's arguments were informed by <b>Pywell's</b> research.</li> </ul>		
<b>2. Underpinning research</b>		
<p>Couples in England and Wales must choose between being married by a registrar in a completely secular ceremony in a limited range of approved indoor premises, or by a religious officiant in a wholly religious ceremony in a registered building. Many couples wish to blend secular and religious elements, or elements from different religions and cultures, in personalised ceremonies that reflect their lifestyles. They are therefore opting for non-legally-binding wedding-style ceremonies that are led by 'wedding celebrants' who – unlike their counterparts in Scotland, Ireland, Northern Ireland and Jersey – cannot conduct bespoke wedding ceremonies in any venue that a couple chooses. <b>Pywell's</b> body of research explores, and recommends ways of changing, law and practice so that couples can have the wedding ceremonies that they want, led by people of their choice, wherever they wish.</p> <p><b>The content of civil wedding ceremonies</b></p> <p><b>Pywell</b> led a study that included two online surveys (conducted in September and October 2017) constituting the first investigation into the content of civil wedding ceremonies. One survey involved registrars throughout England; the other involved couples marrying in register offices run by 15 English registration services. This research revealed that, despite registrars' best intentions, there is considerable variation in practice between registrars about the words, rituals, readings and music that are permitted in civil wedding ceremonies. This is because of confusion about whether some things are 'religious in nature', and thus banned by law from civil marriage ceremonies. The main output from this work was a 13,000-word article in the very prestigious journal <i>Child and Family Law Quarterly</i> [O1]. The findings were also reported in the national press, and summarised in the respected and widely-read <i>Law &amp; Religion UK</i> blog (<a href="https://www.lawandreligionuk.com/2018/12/12/religious-content-in-civil-wedding-ceremonies/">https://www.lawandreligionuk.com/2018/12/12/religious-content-in-civil-wedding-ceremonies/</a>).</p> <p><b>An exploration of wedding celebrancy</b></p> <p>In January and February 2020, <b>Pywell</b> conducted an online survey exploring the work of independent celebrants who conduct non-legally binding celebrations of couples' relationships in England and Wales. This was the first systematic study of this fast-growing profession and resulted in two further 13,000-word articles in <i>Child and Family Law Quarterly</i> [O2, O3].</p>		

**Pywell's** first article concluded that a number of the constraints on, and formalities within, civil wedding ceremonies should be removed, so that more couples can marry in their preferred venues, with more personalised ceremonies.

**Pywell's** second article reported her finding that most respondents would like a statutory body – most popularly the Wedding Celebrancy Commission, which is an umbrella group for celebrants' professional organisations – to represent and regulate their profession. Having discovered that almost all respondents would like the law to be changed so that they could conduct legally binding marriage ceremonies, she proposed a system that could achieve this.

### ***The cost and availability of minimal civil wedding ceremonies***

In November–December 2019, **Pywell** conducted a desk-based project into the cost of getting married in a 'minimal' civil ceremony – attended by only the couple, two registration officers, and two witnesses – in England and Wales, and the availability of such ceremonies. Her findings were published in two short articles in the widely read and influential *Law Society Gazette* [O4, O5]. She explored the websites of 34 (about 20%) of the registration services in England and Wales and found that 14 did not mention ceremonies that cost only the statutory total of GBP127, and that the minimum cost charged by one service was GBP321. She also discovered that such ceremonies are available, from most services, at very limited times and in a very limited number of register offices. This means that many couples may be unable to have a minimal ceremony within a few months of deciding to do so. Given that a minimal ceremony is usually the preferred choice for 'the legal bit' for couples who opt for non-legally binding celebrant-led ceremonies, this discrepancy between supply and demand is a significant concern.

**Pywell's** ground-breaking work has contributed significantly to a wider understanding of the effects of the current law and practice around weddings in England and Wales. Its importance is reflected in the fact that [O1, O2, O4, O5] constituted the empirical basis of Law Commission's Consultation Paper (CP) for its *Weddings* project; [O3] had not been published when the CP was launched, but featured in **Pywell's** feedback on this document.

### **3. References to the research**

- O1. **Pywell, S.**, & Probert, R. (2018) 'Neither sacred nor profane: the permitted content of civil marriage ceremonies'. *Child and Family Law Quarterly*, [2018] 415. <http://oro.open.ac.uk/56733/>
- O2. **Pywell, S.** (2020) 'The day of their dreams: celebrant-led wedding celebration ceremonies'. *Child and Family Law Quarterly*, [2020] 177. <http://oro.open.ac.uk/70734/>
- O3. **Pywell, S.** (2020) 'Beyond beliefs: a proposal to give couples in England and Wales a real choice of marriage officiants'. *Child and Family Law Quarterly*, [2020] 215. <http://oro.open.ac.uk/72503/>
- O4. **Pywell, S.** (2020) '2+2=GBP127, if you're lucky'. *Law Society Gazette*, 3 March. <https://www.lawgazette.co.uk/practice-points/2--2--127-if-youre-lucky/5103309.article>
- O5. **Pywell, S.** (2020) 'Availability of two-plus-two marriage ceremonies'. *Law Society Gazette*, 31 March. Available at <https://www.lawgazette.co.uk/practice-points/availability-of-two-plus-two-marriage-ceremonies/5103708.article>

### **4. Details of the impact**

#### ***Impact on registrars' practice***

**Pywell's** research confirmed anecdotal evidence that, despite almost all the 136 respondent registrars knowing the relevant law, there was considerable variation – even within the same registration service – in the wedding vows that they would instinctively permit couples to use [O1]. Most registrars did not immediately recognise as religious any vows other than the Church of England's traditional 'to have and to hold... to love and to cherish...' – and even this would have been allowed by 25% of respondents. These findings support a reported account of a couple who were told, on the day before their wedding, that they could not use these words, despite their

having previously been approved by a different superintendent registrar. Such inconsistencies distress couples: in the reported case, the groom stumbled over his amended words, and the bride 'got the giggles', marring the dignity of the occasion (see Robin de Peyer. 'Couple's wedding vows "too religious" for Tower Hamlets officials', *East London Advertiser*, 3 July 2013. Available: <https://www.eastlondonadvertiser.co.uk/news/couple-s-wedding-vows-too-religious-for-tower-hamlets-officials-3446806>, accessed 5 January 2021).

A Senior Registration Officer (SRO) from Gloucestershire Registration Service (GRS) read **Pywell** and Probert's "excellent and informative guest post to *Law & Religion UK*", and requested a copy of their article [O1]. She expressed her appreciation: "The full article was fascinating, and I have shared an overview of your methodology and findings with the rest of our team" [C1].

The SRO later explained how practice within GRS (which conducted 3,057 mixed-sex civil weddings in 2017) have changed as a result of the article: "[W]e included an overview of your study methodology and results in one of our Ceremonies Team's regular training meetings [...]. We [...] will do further research and discuss together any requests where a decision is not immediately obvious. This applies as much to wording and readings that appear not to be 'seemly and dignified' as much as to religious readings, as you discuss in page 19 of your article [...]. The discussion of the legal background has been useful in justifying our decisions to some couples who have challenged us" [C2].

GRS also developed a resource containing examples of wording, readings and music that have been classified as 'religious' or 'essentially non-religious', and these same lists are written on a "a large board in their office with the two lists for quick reference". **Pywell's** research "has increased our confidence in reaching decisions. We realise now, having read your article, that other districts struggle with the same questions, and that there often isn't a 'right' answer, only the best answer we can give [...] to be consistent [...] and to give a reason for any decision to decline any particular request". GRS is continuing "to add to the resource that we created directly stimulated by your research" [C2].

The SRO contacted the registration services in the 14 other districts in the South West region – where another 18,852 mixed-sex civil weddings took place in 2017 – sharing GRS's lists of 'religious' and 'essentially non-religious' sources to initiate a discussion on consistency and best practice between registration services: "Do you have a definition of 'essentially religious' that you find helpful in making decisions? [...] I offer our own current list of material we do and do not permit as our 'starter for ten'" [C3]. This email was forwarded to **Pywell** on 13 March 2020, and England and Wales went into lockdown on 24 March. From that date, every registration service had to deal with very significant difficulties, including excess deaths with additional reporting requirements, the cancellation of all marriage ceremonies, and the inability to register births. The resultant backlog of work did not clear during the subsequent nine months and made it impossible to gather any evidence regarding the extent and nature of any changes made in response to GRS's communication.

### **Impact on civil wedding celebrants' practices and professional standards**

**Pywell's** research into wedding celebrants was half-funded (GBP6,000) by the Wedding Celebrancy Commission (WCC), because it was keen to have an independent academic view of celebrants' work. **Pywell** found that almost all celebrants refer to their ceremonies as 'wedding celebrations' or 'wedding ceremonies', and some refer simply to 'weddings' or 'marriages'. This terminology could lead couples to believe that such ceremonies result in their being legally married [O2]. This mistaken belief can have catastrophic consequences if the relationship breaks down: the couple remain no more than 'common-law spouses', whose lack of rights is the focus of political and social concern (see, e.g. BBC News, [Cohabiting couples warned of 'common law marriage' myths](#), 27 November 2017).

**Pywell** found that the WCC's *Professional Standards for Celebrants – Couples Ceremonies* did not require celebrants to ensure that couples are aware of the lack of legal status of a ceremony.

She pointed this out to the WCC, who swiftly replied that **Pywell** had made “a very good point [...] As a result of your research, we believe that there needs to be a change to our professional standards”, and noted that another of **Pywell’s** comments had led to: “a further suggestion that celebrants alter booking forms so couples sign to say they understand the ceremony has no legal implications. We will consider this as well [...]” [C4]. The WCC’s ‘Advising on and Managing Ceremony Choices – Couples Ceremonies’ standard was amended 19 days after **Pywell** had made the WCC aware of these issues. The first item in the ‘Competent to perform’ section is now “Inform all couples clearly that the ceremony conducted does not create a legally binding marriage” [C5].

These clarifications will ensure that the estimated 10,000 couples per year who opt for celebrant-led ceremonies are fully aware that they will acquire no legal rights or obligations.

**Pywell** delivered a webinar summarising her findings and recommendations to 20 independent celebrants on 12 October 2020. She subsequently answered questions from those present, and a recording of the session in YouTube on the WCC’s website had received 223 views as at 31 December 2020 [C6]. She was subsequently told that: “The statistics that you were able to produce have great impact, not only as they are the first to be compiled, but they also add context to the celebrant’s role and are therefore invaluable [...]. It has been immeasurably important for celebrants to gain a deeper understanding of the sector that they work in, and your work, and the presentation of it directly to celebrants, makes a huge difference to this” [C7]. For unknown technical reasons, not all the participants are visible in the YouTube recording, which was made by one of **Pywell’s** colleagues.

#### **Impact on the Law Commission’s ‘Weddings’ project**

The aim of ‘Weddings’ is to “provide recommendations for a reformed law of weddings that allows for greater choice within a simple, fair and consistent legal structure”. Its principles for reform are: “Certainty and simplicity; fairness and equality; protecting the state’s interest; respecting individuals’ wishes and beliefs; and removing any unnecessary regulation, so as to increase the choice and lower the cost of wedding venues for couples” (Law Commission, [Getting Married: A Consultation Paper on Weddings Law](#), 3 September 2020, paras 1.68 and 1.69).

The Law Commission’s consultation paper cites **Pywell’s** research 18 times [C8], referring to findings such as:

- An estimated 10,000 ceremonies – a number that has doubled since 2015 – are conducted annually by independent wedding celebrants [O2];
- The availability of ‘minimal’ ceremonies is often severely limited [O4, O5];
- The legal requirement to use the words ‘husband’ and ‘wife’ should be removed, as these terms exclude some transgender, gender-fluid and intersex people [O1];
- Some words that are currently not allowed in civil weddings because they are ‘religious’ do not in fact include reference to any deity, afterlife or the sanctity of marriage [O1];
- The fees most commonly charged by independent celebrants are comparable with those charged by most registration services for weddings at approved premises, such as hotels, stately homes and barns [O2].

**Pywell’s** body of work thus ensures that the Consultation Paper is based on current evidence, and that the respondents who offer views on how the law should be reformed will be better-informed. The Law Commissioner provided a letter for the Panel, stating that **Pywell’s** research “informed the Commission’s thinking as we formulated our provisional proposals for reform of the law”, and outlining the specific impacts of [O1, O2, O4, O5, O3] had not been published when the Consultation Paper was drafted [C9]. **Pywell** received a personal invitation from the Law Commission to act as a consultee, and her response referred to [O3].

The content and impact of the Law Commission’s final report, due in 2021, remain to be seen, but there is widespread public support for a review of this area of law. The judgment in *R (Harrison and others) v Secretary of State for Justice* [2020] EWHC 2096 (Administrative Division; 7 and 8 July 2020) accepted that the current law discriminates against humanist

couples, because they cannot be married by a celebrant of their choice. However, Mrs Justice Eady declined to rule in favour of the claimants because of the imminence of the Law Commission's review. She commented that its result should be the removal of discrimination against humanist and all other couples who cannot marry in accordance with their beliefs or non-beliefs. Counsel for both parties in the case had pre-publication access to [O3], and one Barrister-at-Law involved in the case confirmed that **Pywell's** research "*was carefully considered by counsel in this case and it did help to inform the arguments*" [C10]. The reasoning inherent in the judgment – that there should be a much wider choice of celebrants – reflects one of **Pywell's** main recommendations.

#### 5. Sources to corroborate the impact

- C1. Email from Senior Registration Officer, Gloucestershire Registration Service, to Stephanie **Pywell**, 11 July 2019.
- C2. Email from Senior Registration Officer, Gloucestershire Registration Service, to Stephanie **Pywell**, 6 January 2020.
- C3. Email from Senior Registration Officer, Gloucestershire Registration Service, to other registration services in the south-west; content forwarded to Stephanie **Pywell**, 13 March 2020.
- C4. Email from Managing Director of Civil Ceremonies Ltd, and member of the WCC, to Stephanie **Pywell**, 19 March 2020.
- C5. Wedding Celebrancy Commission [Professional Standards for Celebrants – Couples Ceremonies](#), 2019, p 4.
- C6. [Wedding Celebrancy Commission YouTube recording](#) of Stephanie **Pywell** giving webinar to wedding celebrants, uploaded 14 October 2020.
- C7. Email from Managing Director of Civil Ceremonies Ltd, and member of the WCC, to Stephanie **Pywell**, 13 October 2020.
- C8. Law Commission, [Getting Married: A Consultation Paper on Weddings Law](#), 3 September 2020, pages 36, 41, 128, 139, 164, 176, 178 (two footnotes), 180, 193, 195, 199, 308, 354, 356, 363, 364 and 373.
- C9. Letter from Law Commissioner, 'To whom it may concern', 12 October 2020.
- C10. Email from Barrister-at-Law, the Bar Library of Northern Ireland, to Stephanie **Pywell**, 8 July 2020.