



**Submission to the Inquiry into the Attorney-General's Portfolio
Miscellaneous Measures Bill 2023 [Provisions]**

The Celebrant Institute provides professional development and mentoring for our more than 500 Commonwealth-Registered Marriage Celebrants members, and training for aspiring celebrants through the Certificate IV in Celebrancy. Founders of the Celebrant Institute, Sarah Aird and Joshua Withers, are well regarded as experts in the field and advocates for improvements to Australian marriage legislation and the Marriage Celebrants Program.

We are pleased to accept the invitation to make a submission to the above-named inquiry as set out below. Our submission focuses on Schedule 3, the proposed amendments to the *Marriage Act 1961*.

In summary, we are in support of most provisions of Schedule 3 of the Attorney-General's Portfolio Miscellaneous Measures Bill 2023.

Schedule 3, Part 1 Deputy Registrars of Marriage Celebrants	Currently there are many decisions that require the Registrar's sign-off, and having them all made by one person leads to delays, particularly in the registration of new celebrants. If some everyday decisions such as approval of new celebrant registrations could be delegated, more decisions could be made in a more timely fashion, and the Registrar would be freed up to deal with more controversial issues that require a higher level of oversight. The Celebrant Institute supports these amendments.
Schedule 3, Part 2 Timeframes for considering application for registration as authorised celebrant	Currently applications for registration as a celebrant are deemed to have been rejected if no decision has been made three months after submission. The extended timeframe will serve applicants well particularly when their referees take a longer-than-expected time to respond to enquiries for further information, ensuring the applicant is not penalised by having their application automatically rejected at the three-month mark. If an application is rejected for reasons outside the applicant's control, they have to start the application process again, including paying a new application fee. The Celebrant Institute supports these amendments.
Schedule 3, Part 3 Refund of registration application fee	Aspiring celebrants must hold a Certificate IV in Celebrancy, a qualification in celebrancy awarded by a university, or celebrancy skills (defined as fluency in an Australian Indigenous language, ability to conduct a marriage ceremony in accordance with the marriage legislation, and effective communication). Although these requirements are clearly outlined on the Attorney-General's Department's website, we understand that for various reasons a small number of people per year apply for registration without meeting any of these qualification/skill requirements. For this reason only, we have no concerns with refunds being granted, as long as they are not granted for any other deficiency in an aspiring celebrant's application. The Celebrant Institute supports these amendments.
Schedule 3, Part 4 Celebrant to be physically present at marriage	Currently the legislation only states that ceremonies must be conducted "in the presence of" the authorised celebrant. Replacing "in the presence of" with "in the physical presence of" clarifies the requirement and ensures nobody can argue that the original text could be interpreted as "in the digital presence of".

	<p>We are delighted to have this clarified in the legislation to avoid arguments from couples, particularly when "Zoom weddings" are popping up in media stories from overseas on a regular basis.</p> <p>The Celebrant Institute supports these amendments.</p>
<p>Schedule 3, Part 5 Identity requirements</p>	<p>The way s42(1)(b) is currently written causes some confusion. It currently states that parties to a marriage must present evidence of their date and place of birth to the authorised celebrant before the marriage can take place. In order, the options for evidence of date and place of birth are:</p> <ul style="list-style-type: none"> (i) an official certificate or an official extract of an entry in an official register, (ii) a statutory declaration made by the party stating that it is impracticable for them to obtain such a certificate, or (iii) a passport. <p>The way this is written has led some celebrants to understand that they can accept a statutory declaration even where a party has a passport.</p> <p>This amendment will change the order of the types of evidence and clarify that a statutory declaration is only sufficient evidence where it is impracticable for a party to obtain an official certificate or extract AND the party does not hold a current passport.</p> <p>The Celebrant Institute supports these amendments.</p> <p>While we are delighted to have this clarification, we would like to see it go further. We will soon be submitting a paper to the Attorney-General requesting further amendments to the Marriage Act, one of which refers directly to these subsections.</p> <p>S42(1)(b)(i) refers to "an official certificate, or an official extract of an entry in an official register, showing the date and place of birth of the party." The <i>Guidelines on the Marriage Act 1961 for authorised celebrants 2021</i> part 4.10 and the wording on marriage documentation such as the Notice of Intended Marriage tells us that the Attorney-General's Department interprets this section as referring to a birth certificate or extract thereof. However, this is causing some confusion as this definition could also be applied to a change of name certificate issued by a State or Territory Registry of Births, Deaths, and Marriages, or even to an entry in an international register of refugees. We request a further amendment to this section to read "an official certificate of birth..."</p> <p>Furthermore, the suggested amendment does not confirm whether a statutory declaration should be accepted in a situation where it is impracticable for a party to obtain a birth certificate, although they are able to obtain a passport but have chosen not to do so. We are advised in the <i>Guidelines on the Marriage Act 1961 for authorised celebrants 2021</i> part 4.10.1 that "a party who does not have a passport and is able to obtain their original birth certificate or extract is expected to do so", regardless of cost or timeframe. But should a party who is able to apply for a passport do so? For example, in the (admittedly rare) case of a refugee for whom it is impracticable to obtain a birth certificate, when they obtain Australian citizenship, they become eligible for a passport; should they be required to obtain a passport rather than having the ability to produce a statutory declaration regarding their date and place of birth? We would like to see this issue clarified in this amendment.</p>
<p>Schedule 3, Part 6 Notice of intended marriage and consent</p>	<p><u>Remote witnessing for Notices of Intended Marriage</u></p> <p>Currently the Act requires the Notice of Intended Marriage (NOIM) to be signed "in the presence of" an authorised witness. For the past two years temporary COVID-related measures have been in place allowing signatures to be witnessed "under the observation of" an authorised witness using electronic means, a video link, or an audio-visual link. This temporary legislation is due to end on 31 December 2023.</p>

	<p>The temporary change to the legislation has been extremely successful and popular with both celebrants and marrying couples. In response to a survey of celebrants held in August 2022, 86% of celebrants said rescinding the measure would have a negative impact on their business; 11% said it would have no impact on their business, and 3% said while it would not likely impact their own business, they supported maintaining the ability to witness signatures on NOIMs remotely; there were no responses stating that rescinding this measure would have a positive impact on their business (individual text responses have been included as an attachment to this submission).</p> <p>The Celebrant Institute supports these amendments.</p> <p><u>Celebrant to physically meet each party before the marriage</u></p> <p>Currently s23B(1)(d) of the Act states that a marriage is void where the consent of either of the parties is not a real consent because it was obtained by duress or fraud, one party is mistaken as to the identity of the other party or the nature of the ceremony performed, or one party did not understand the nature and effect of the marriage ceremony. The Act does not define how celebrants should ensure real consent, although the <i>Guidelines on the Marriage Act 1961 for authorised celebrants 2021</i> parts 8.5-8.6 outline some considerations for celebrants and ways celebrants can assess whether a person's consent is real.</p> <p>The proposed amendment will require celebrants to meet separately with each party before the marriage is solemnised. While it is not expressly outlined in the proposed amendment to the Act, the Explanatory Memorandum to the Bill tells us "this meeting provides an additional safeguard, where the NOIM is remotely witnessed, or witnessed by an authorised person other than a celebrant," is designed "to ensure that each party is freely and voluntarily consenting to the marriage" and that it "can occur at any time up to and including on the day the marriage is solemnised". No further details are given on how long this meeting should go for, how it should be approached, and what should be discussed during the meeting.</p> <p>The NOIM has been able to be witnessed by a person other than a celebrant for many years; as far as we are aware there has never been a suggestion that celebrants who do not witness the couple's signatures on the NOIM are not fulfilling their obligations regarding assessing consent.</p> <p>While this meeting may appear as though it would give parties who are under duress or not truly consenting the opportunity to raise any issues with the celebrant, we think it unlikely, in practice, that such parties will do so. This could be for a myriad of reasons, including fear of reprisals from their partner or family members, or concern about the emotional and financial toll of calling a wedding, particularly if the meeting were held on the same day as the wedding. We believe that any party who would be willing to raise a concern during such a meeting would raise it anyway, and we question the practical benefit of such a requirement.</p> <p>In some religious or cultural settings, it would not be appropriate or feasible for an authorised celebrant to meet alone with each party to the marriage, making this an impossible task to complete.</p> <p>The Celebrant Institute does not support these amendments.</p> <p>We believe there are better ways of achieving a higher rate of real consent, such as providing celebrants with more education on how to assess real consent and what to do in situations where real consent may be in doubt.</p> <p><u>Transfers of NOIMs</u></p> <p>Currently a NOIM can be transferred from the original celebrant to a new celebrant if the original celebrant is unable to perform the marriage due to death, absence, or illness of the celebrant, or where "for any other reason it is otherwise impracticable for that person to solemnise the marriage."</p>
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	<p>It has always been the Attorney-General's Department's advice to celebrants that "any other reason" included where the couple decided they wanted to change celebrants; it would not be practicable for the original celebrant to solemnise the marriage if the couple didn't want them to.</p> <p>This amendment simply cements this long-term advice by adding it to the legislation.</p> <p>The Celebrant Institute supports these amendments.</p>
<p>Schedule 3, Part 7 Single registration as authorised celebrant</p>	<p>Celebrants will only be able to be registered under one subdivision at a time, i.e. they'll only be able to be Ministers of Religion of Recognised Denominations (Subdivision A), State and Territory Officers (Subdivision B), or Commonwealth-Registered Civil or Religious Marriage Celebrants (Subdivisions C and D). This is to ensure no confusion for celebrants who are operating under different requirements. Any current celebrants who are registered under more than one subdivision won't be affected: it's only going forward. We foresee no issues with this change.</p> <p>The Celebrant Institute supports these amendments.</p>

Thank you again for the opportunity to make this submission.

Sarah Aird

Joshua Withers

21 December 2023

Attachment 1: Survey responses re remote witnessing of NOIMs

When the Covid measures end on 31 December 2022, and you can no longer witness NOIMs over video conferencing, how will that affect your business?
I am high risk with my health and this is a life saver literally to limiting the chance of myself being exposed to any virus/ colds or flus.
It will increase the time I spend organising to meet couples in person, and increase the complexity of running my business - I marry a lot of couples who live regional or who work irregular hours (hospitality, healthcare etc) which can make finding a time to catch up in person difficult. The NOIM is often the last thing couples think of when they're getting married, so having the ability to sign online takes the stress out of meeting the 1 month deadline.
It's like many things with an Act that is over 60 years old - archaic and needs repealing. Even the monitum does not reflect modern-day values. Having to witness the NOIM F2F can be very time consuming, especially in remote areas like I'm in. Especially with the price of fuel!
It will mean having to meet both parties face-to-face again, no matter the distance required, and will be more difficult when taking covid waves into account.
Personally I am not doing very much business now but it will definitely impact the business of busy celebrants. Being able to witness NOIM's over video conferencing has been great and allowed Celebrants to accept clients that would otherwise have been difficult, especially from overseas.
I will cry because life got that much harder. No, in all honesty, having to ask couples to find someone to witness the NOIM is annoying for both me and my couples. Sometimes they will leave it until the last moment, then struggle to find an appropriate witness at a time that is convenient for them. Some authorised people (such as police) are reluctant to witness because they don't understand what they're signing. Or worse, the couple get it signed by a pharmacist. NOIM witnessing has really simplified the process, and ensures that witnessing is always done correctly. This temporary measure has proven that witnessing over videoconference is not just possible, but also convenient and accessible. As celebrants, we are experts in marriage documentation and should be trusted to be able to do our jobs in the best way for both us and our couples.
It's going to slow the processes of my business right down. I deal with couples from all over the country. Couples will continue to find it difficult to sign and manually mail the Notice in
It has been such a time saver for myself and my couples to not have to physically drive to and fro for a signature. With the cost of everything going up, people appreciate any thing that can reduce their costs and save time. You can buy a multi million dollar property electronically without video, without meeting in person, without so much as a phone call, just documents sent back and forth with an electronic signature at both ends, so why not continue to allow witnessing a document by video conferencing where we can still instruct them where to sign and explain in real time what they are signing, along with answering any of their questions?!
It will add significant inconvenience to the Celebrant and clients alike as well as costs and health risks
This will mean a lot more work and inconvenience of needing to meet up with couple in person. Due to the increase in COVID cases and other viruses doing the rounds, I am not comfortable having couples come into my family home nor am I comfortable having to meet in a busy cafe to sign documents. Many couples feel the same. I have found being able to witness the NOIM via Zoom invaluable as have my couples. It is a quick and safe process. It has also allowed me to get bookings from couples that do not live in my area whom I would not have been able to meet up with physically due to living on opposite sides of town. In this day and age, witnessing NOIM's via Zoom should remain in place. It is good for the industry as we all know how celebrants were hit hard by the lockdowns, losing money and unable to do our work.
It will make it more difficult to meet at suitable times and locations with clients, increase the time spent traveling, or increase risk of contact and spreading illnesses unnecessarily.

When the Covid measures end on 31 December 2022, and you can no longer witness NOIMs over video conferencing, how will that affect your business?
I do several regional weddings and so the couples will need to come to Adelaide to sign the paperwork. It is an inconvenience to the couple. Also couples that live interstate and want to get married in SA will have to make special trips. When video-conferencing ceases for signing the NOIM the window of opportunity for signing will be greatly reduced.
It will make things significantly more time consuming in trying to arrange in person meetings rather than being able to witness via online. Living in a remote area with couples generally travelling to destinations close to me for their weddings, this will again be somewhat inconvenient, especially in the hustle and bustle of the busy part of the season.
It will take up more time in my business having to travel to appointments. Being in WA with a lot of FIFO workers there can be weeks delay in waiting for partners to return to Perth from their rosters.
More time in my business schedule meeting couples somewhere. Couples who live far away may not book anymore as we don't have that online convenience; it makes a difference. Petrol money is costly. Couples WANT to sign over Zoom, it's easier for them and us.
Significantly in every way possible!
Definitely effect my business. So much stress is taken off the process when couples can sign during a video call. Also saves the cost of driving to meet me and therefore better for the climate!
Substantially affect my business and in some cases cause undue stress if couples need to take time out to drive to my home to sign NOIM in my presence. Witnessing the NOIM's over a video call saves time, money, petrol and therefore is good news for the climate! It's been working successfully for 12 months and so why not continue this practise. If withdrawn it will feel like going backwards.
Whilst I haven't needed to witness signing the NOIM via video-conferencing over the past year, it would be beneficial to have this option made permanent and I support the changes that would need to be made in the Marriage Act for this to happen.
It will greatly inconvenience my couples many who are located interstate and in remote regional locations of Queensland.
It will make things tricky, I live in a small town that is a big wedding destination for Melbournians. I also have small children who have so far had covid twice each and at different times so I am stuck home a lot. It would be immensely helpful to keep the rule.
Dramatically, keep the opportunity to witness over video call in place forever.
Being able to sign NOIMs via video had been a game changer for myself and for couples. It expedites the process, provides a more streamlined customer journey and saves me and the couple a tonne of time! It also means that couples who live regionally don't need to travel to sign one document and it also means I get to book more regional couples because there is no tyranny of distance keeping us part
It will affect the efficiency of my business
It will take so much more time for both myself and couples if we revert to in person signatures. It's been incredibly helpful for interstate and rural couples to sign the NOIM digitally. It's 2022. Keep it.
This will have a huge impact on myself and my couples- especially those interstate it's living rurally. It saves so much valuable time being able to witness online. It really needs to stay. Its 2022

When the Covid measures end on 31 December 2022, and you can no longer witness NOIMs over video conferencing, how will that affect your business?
It can make the process a lot easier on the couples. I do most of my meetings face to face but have had a few couples sign over zoom, due to distance, lock outs and couples having covid.
At least two shortenings of the time would not have gone ahead without the video signing provision. I will likely have to increase my fees due to increased travel.
99% of my bookings have been online from other states. If this stops the carbon footprint will so much higher. With airfares rising we will lose alot of work.
It will mean more couples will be asked to go find JP's or police officers to witness NOIM's if we can't find a place or time to meet in person.
I'll send my couples to JPs to do have the NOIM witnessed
I simply will Not have time to travel one way 2.5 hours to the city where most couples I marry live to get them to sign in person. I live in a regional, destination wedding region. Couples don't always come down here to meet their vendors either, making in person signing impossible for approx 90% of my clients. Electronic signing has made the most incredibly positive impact on my business and being able to marry all of the couples who had to postpone their weddings as a result of the covid pandemic has made me even busier next season. It makes no sense to go backwards. Electronic signing is the way of the future, surely?
It will mean a lot more travelling
It will be a significant detriment to my business as we deal with many couples wanting to be married in a months time and signing online is an expeditious way to do the NOIM's and have them married quickly. Having them go to the police station or doctor can add a delay to their marriage date.
Profoundly
I am based regionally and the video-conferencing allowance has revolutionised my business. I can safely say that 90% of my couples have been able to eliminate a 600km road trip and still meet their legal deadlines. It has also freed up a lot of travel and family time for me, and ensured a much more easy to meet schedule. I am far less stressed about the paperwork and much happier to handle things electronically. Record keeping is also a far smoother process now. A big winner in every way.
These days, many of us know marrying couples who are not within a driving distance. This will be a huge inconvenience to all parties involved. In this age of electronics, surely we should move with the times.
Dramatically! I live in a small country town in WA 3 hours from Perth. 95% of my couples are either from Perth , over east or overseas so having had the freedom & ease of signing the NOIM via zoom has been such a blessing , not to mention a time saver. It has reduced the stress on me & my couples of having to find availability in our busy schedules for F2F meetings. I urge you to reconsider this action and keep video signing in place. Thanks
It will make it more time consuming for clients and us and also put us and clients at more risk of exposure with covid etc. it also increases stress on clients and us with time, cost of travel , environment and more when we can just do it online !
Living in a rural community, having the ability to witness the NOIM remotely saved both myself and my couples a significant amount of time, energy and resources. Either myself or my couple would need to drive 6h+ return from the city to sign the required documentation which puts quite a strain on my small business and puts excess pressure on the couple if they need to drive to me. With a young family, witnessing the NOIM online allows me to carry out my work at home without needing to be away from my babies for long periods. Would be absolutely ecstatic if we have the opportunity to continue to use electronic tools to carry out our role as a celebrant. Thank you for your time and consideration.

When the Covid measures end on 31 December 2022, and you can no longer witness NOIMs over video conferencing, how will that affect your business?
Drastically. As a regional celebrant this has ensured minimal exposure and less downtime for my business. Covid is still huge in WA so the safety of myself and my couples is key. By having the option to work electronically it is safer, more accurate as I am witnessing all my own NOIMS instead of someone else and allows an extra touch point
As I officiate many long distant ceremonies the temporary option has been wonderful and a great addition to our profession and our clients. To retain this process would be of immense benefit both for the celebrant and clients.
Make a big impact on my business and time. Driving distances to meet can impact whether couple choose me.
There will be a lot of wasted time driving all over the countryside and interstate to meet couples to witnesses them signing their NOIM. This will also take me away from my time spent with my children and in some case mean additional babysitting measures will need to be put in place.
I am signing 95% of my NIMs over video conferencing, it is a quicker, easier process and couples love it.
So much has changed since the pandemic restrictions hit. I've had to create (and re-create) so many systems to try to manage all the constant changes. This instrument is a God-send for my ability to focus on delivering a high level of service and making the process straightforward for my clients. My clients buy houses together without ever going into a bank... I think it's unreasonable to expect small sole traders to have to go further than banks.
It would not be helpful to longer be able to witness NOIMs over video conferencing.
The ability to sight parties signing their NOIM's via video call is a great measure to ensure I'm proactively doing everything I can to stay Covid safe, in turn helping keep my couples and their wedding guests safe, plus my own family + friends. I would love to see it continue.
It will add tremendously to my business costs with higher travel costs
This will hugely affect my business as I will have to put my prices up to cover the time spent travelling to couples simply to sign this one form.
as I reside regionally, to take away remote witnessing will increase my overheads for travelling etc, please keep it forever
There's a risk of being infected with COVID again and finding myself unable to witness signatures on the NOIM remotely. There's also the risk of coming into contact with someone already infected with COVID, and being infected from visiting them to get signatures. It alleviates deadlines of couples who may be short on the 30 day minimum notice, to sign and witness remotely. Also with the price of petrol being at a record high, it is also financially viable to witness a signature remotely, rather than having to travel for a simple 15 minute meeting. To lose 5 entire weddings in 2 weeks, over being infected from a 15 minute meeting created a massive financial loss for me -not to mention struggling to organise other Celebrants (at the last minute), whilst being extremely ill from COVID and informing all my weddings that I had to be replaced. By changing the legalities back to witnessing in person, all of these benefits are lost. I would love to see a permanent change in witnessing the Notice of Intent to Marry remotely.
Yes
Negatively
It will go back to making it much harder on both myself and my couples as a lot of couples choose my location but don't live anywhere near here.
It will impact my business significantly as most of my couples are from interstate and/or rural areas

When the Covid measures end on 31 December 2022, and you can no longer witness NOIMs over video conferencing, how will that affect your business?
Many of my couples are marrying in secret and a few of them are marrying with short lead times The reversion of the remote signing will make things more difficult for my couples and May impact on the number of couples who can use my services the way they would like to
It will be much less convenient- means we have to meet in person, exposing us to more germs and travel time unnecessarily.
It will reduce signing options for me and impose additional costs on those wishing to marry by way of travelling costs and time.
I will cry! Signing electronically has been amazing, couples are able to meet last minute, in their PJ's or even when they are sick. I'm able to meet with couples last minute, in my PJ's or when I am sick. As I have elderly parents living with me, being able to sign electronically has reduced the chance that I will get sick and pass on to them or my family. It also saves time for both couples and myself. The meetings are generally more relaxed because the couple don't need to leave their comfort zone. We are able to sign other legal documents electronically, I really hope that this stays too :)
Time Management and extensive excess travel
It will increase the costs due to petrol price increases and having together in person
It re creates the cost of driving to meet clients that are a significant distance away. I also travel a lot and witnessing like this maintains my relationship with the couple. Otherwise I would be adding to their already full schedule.
It will effect my family and business massively. Couples interstate having to unnecessarily run around to get witnessed. Pre Ceremony Meetings having to be face to face resulting in huge overheads for food and beverages.
Significantly! Couples much prefer online.
I'm regionally based but work with couples across the state. Scheduling face to face meet ups is difficult, and made even more challenging with covid risks. Being able to do initial paperwork electronically has had a significant benefit for my business.
While my experiences are limited, I have just become registered, the big difference I'd report is that the electronic version is user friendly. While minimising errors, the electronic form is simple, clear and easy to populate. Let's make these pandemic measures permanent.
Cost me more petrol and time to meet with couples. Put my health at risk which puts wedding attendance at risk too.
More travelling to see couples for signing and at times that may be later at night due to couple availability (because of their work hours/schedule)
Greatly
Additional time needed to meet in person
It will reduce the flexibility I have when it comes to meeting with clients whilst having a young family, it means I will always be away from home most weeknights for meetings and away for the weddings which often results in me not being able to see my family much, which at times puts strain on our relationships at home.
Increase in costs, time, fuel, less environmentally friendly. Wonder if this will impact couple's decision to travel to the district.
Negatively. Witnessing over video conference has been the best! Saves time and money!

When the Covid measures end on 31 December 2022, and you can no longer witness NOIMs over video conferencing, how will that affect your business?
<p>This will drastically increase the time for my couples most of them live regionally and don't work normal hours to get paperwork witnessed. Slowing the whole process down increases the risk of anxiety and can increase mistakes made by couples who then need to get the NOIM corrected and witnessed again.</p> <p>If they need to meet me in person it contributes to the expense of the wedding adding on more travel. With fuel prices so high everything is just getting more expensive for them.</p>
It will not allow us to makeup some of the time time lost during lockdown
It will make it so much harder to be covid safe for upcoming weddings and be very inconvenient once it becomes face-to-face again
Adversely. Adding time and costs going and meeting with couples in person. This can be one hour travel each way ... Time I could be performing other aspects of my business and incurring the cost of diesel which is increasing rapidly.
Hours I can offer signing meetings will be reduced to school hours. Increased time & fuel travelling to meetings. Police & doctors witnessing a document that I possibly haven't checked = more room for errors
Increase time pressure
It has made it easier to witness NOIMs for couples who don't live locally and even couples who live locally when we struggle to arrange an appropriate time to meet.
I will miss it dearly
It won't.
Not at all
It won't.
It won't
No effect
Will not affect my business
It won't effect business as such but it will effect convince for out of town clients..
It won't
It won't
Not a great deal
It won't at all, but it would be nice to know I have the option
It would not effect me at present however I support allowing the witnessing NOIM over video conferencing to continue.
It doesn't make much difference to me personally as I give my couples clear instructions on where to get the NOIM witnessed but it will SAVE THEM time in not having to go to a local police station (for example). It does feel like a step backwards not to be able to witness over Zoom.