

# Submission to the Attorney-General's Department

## *Ongoing Professional Development for Commonwealth-registered marriage celebrants and Guidelines on Conflict of Interest and Benefit to Business for Commonwealth-registered marriage celebrants DISCUSSION PAPER – NOVEMBER 2016*

**SUBMISSIONS MUST BE RECEIVED BY 5pm FRIDAY, 13 JANUARY 2017**

### Your details

<b>Name/organisation</b> <i>(if you are providing a submission on behalf of an organisation, please provide the name of a contact person)</i>	Registrar-General, Access Canberra, ACT Chief Minister, Treasury and Economic Development Directorate,  Contact person: Vesna Cvjeticanin
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## Your submission

### ACT Registrar-General's comments

#### Part A – Ongoing Professional Development (OPD)

##### ISSUE 1: OPD obligations

- The split between 'compulsory' and 'elective' units should be retained, with an introduction of a 'refresher' course which would probably be optional, but if done would count towards the OPD
- OPD could be based on 'points' rather than 'hours' (as is currently the case): compulsory units would have higher 'weight'/ point count, and elective and refresher would have a lesser point count (detail to be discussed – there are models that could be explored, such as CPD for agents)
- Compulsory training should focus on technical/legal obligations of MCs. Any compulsory units should educate on NEW legislative developments, such as over the past year.
- Elective training could include broader ethical issues, code of conduct issues, training on multicultural issues, how to best involve translators and interpreters, 'best practice' marriage celebrant activities etc
- There could also be a set of 'refresher' courses that would ensure MCs who have had a break in their activities could find the 'state of affairs' when re-activating as an MC
- The above categories of training should be overseen by the AGD, and delivered by training organisations registered with the Registrar
- Conferences and networking events should also be part of the points scheme

##### ISSUE 2: Timeframes (i.e. whether to count financial or calendar year) –

- No preference. What is agreed between the AGD and the MCs would be supported.

##### ISSUE 3: Subject variety and availability -

Panel of training providers:

- One issue that is not mentioned in the Discussion Paper is a possible role the Australian Skills Quality Authority (ASQA) could play in ensuring quality of the training that is delivered by Registered Training Organisations (RTOs) to all MCs nation-wide
- The ACT Registrar-General would be prepared to consider a potential role in the provision of training (e.g. information sessions that could count towards the OPD) to ACT-based MCs. This would need to be underpinned by an agreement with the AGD.

##### ISSUE 4: Exemptions from OPD –

- It is considered reasonable that more experienced MCs may obtain exemptions from some aspects of OPD. The position of the ACT RG is that the compulsory units should not be on an exemption list, only the elective/refresher units/courses.

#### ISSUE 5: Compliance monitoring –

- While the self-reporting approach has its benefits in reducing internal red tape (requesting reports, following up etc) and associated resources in monitoring full compliance, not doing so also has its risks (such as neglecting to report by the MCs, inadequate compliance records for any reporting purposes by the AGD, with associated longer term consequences of not being able to impose any disciplinary measures for lack of evidence).
- The public risk of not receiving most up to date services of a MC needs to be balanced against the AGD compliance resources. What is the AGD appetite for increased risks of doing only random checks? [Should this be assessed in a collaborative project between AGD and all BDMRs given the jurisdictions register the 'outcomes' of the MC activity?]

## **PART B - ACT RG's comments**

- The four options presented in the Paper each have their costs/risks and a potential for benefits/opportunities. The question is how to strike the right balance between the competing interests of (i) community interests in ensuring marriage services are conducted with the highest levels of integrity, (ii) the ethical integrity of each and every MC in each and every marriage event and (iii) the freedom of commercial activity and facilitating (if not encouraging) [small] business.
- The above balance changes from Option 1 (where the 'cost' is highest on both the MC [in not being able to engage in commercial activities regarding their function as a MC], as well as the Registrar [in ensuring compliance]), to Option 4, where the more liberal legislative and policy framework (would) allow for self-regulation of COI and business activity with less intrusive compliance and enforcement activities on the side of the Registrar.
- From the ACT RG perspective, the Option 1 is perceived as overly restrictive, does not keep up with the latest [Cth] Government policies of entrepreneurship, innovation and commercial progress, and seems to be over-regulated. It also engages the Registrar in assessing the individual applications from the MCs, which does not seem to be in line with the red tape reduction policies and business simplification principles.
- On the other end of the spectrum, in Option 4 the risk of ethical standards being potentially weakened by removing any restrictions to business in MC services may be perceived as too high from the public/community perspective.

#### **Preferred approach**

- In ACT RG's view, an acceptable option would not only preserve, but enhance the current COI principles, while reducing restrictions on associated business run by the MCs.
- Either a modified Option 2 or Option 3 may serve towards this aim, with Option 3 preferred.
- Parameters of any new approach should be carefully defined and broadly tested and consulted on with the industry and any other stakeholders as these two sets of interests (COI/ethical *and* business/commercial) are highly complex and multifaceted.
- It would be essential to first test any approach that would change the current situation.
- There may be need for a transitional period, which would involve adequate education drive to the industry, after which an evaluation of the tested approach could be completed before any final decisions are made.

#### **Additional observation:**

As a closely related issue, we note that the current *Code of Practice* for MCs (*Schedule A to the Marriage Act 1963 (Cth)*) focuses on the *practice* of solemnising a marriage. An expanded Code of *Ethics* (i.e. rather than the current Code of *Practice*) could provide a closer guidance on the COI and business interests issues.

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