

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

Name/organisation <i>(if you are providing a submission on behalf of an organisation, please provide the name of a contact person)</i>	Ronald McSporran
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Your submission

Thank you for the opportunity to comment on this Discussion Paper. I was appointed a celebrant in 1996 and have performed almost 2050 weddings.

In the opening comments of **Part A** and under the heading **Background** training providers send details to the department of celebrants who have completed their OPD obligations for a particular year. The question is although they have *completed* their OPD and received a *Certificate of Completion* from the RTO has the celebrant actually *passed* the particular compulsory or elective activity. To have completed an examination of any description does not necessarily mean the student has passed the level of knowledge required. The very high percentage of celebrants who completed OPD in 2015 (94%) does not mean they are successful or professional celebrants.

How many incidents where a marriage celebrant had not adequately performed their role has led to action being to be taken by BDM'S or the department to validate a marriage and what disciplinary action was taken against the celebrant?

It's true that OPD provides an opportunity to network and share experiences with other celebrants. My experience is celebrants are very guarded in revealing information about their role, fees or other information which might lead to criticism or conflict by other celebrants. In 2015 what was the percentage of feedback received from celebrants regarding OPD compared to the actual number of questionnaires distributed? Some celebrants obviously expressed critical assessment of OPD not appropriately targeting the role of a celebrant. I recall the number of responses received was small which demonstrates the level of interest celebrants have in these types of surveys. It will be interesting to know how many actually reply to this Discussion Paper and the level of interest shown.

Some celebrants cite the cost of OPD coupled with the annual registration charge too much in relation to the number of weddings they perform. Some fault for this can be attributed to the department appointing too many celebrants in certain areas. When I was appointed it was on a 'needs' basis i.e., the number of civil marriage ceremonies being performed in a particular area as against the number of celebrants appointed to service those locations. When first appointed in 1996 there were some 45 celebrants in my area. There are now almost 350. There was a time when the department assessed that most

celebrants were averaging 30 weddings a year. The latest figures indicated the figure is far less and in some cases some perform nil. Some professions and occupations do not appoint applicants merely because they have completed the education and training requirements of their chosen career.

ISSUE 1. OPD obligations that should be imposed on marriage celebrants.

I personally believe 5 hours each year is adequate to develop and maintain professional skills and knowledge. The question is how those hours are achieved. A 2 hour compulsory update of legal changes regarding marriages are necessary and could be suitably completed on-line through an RTO or departmentally on line. (NZ test) For newly appointed celebrants consideration of completing the remaining 3 hours could be given to a 'field officer' appointed by the department who would be an experienced celebrant or other qualified person with knowledge of correct wedding procedure attending a ceremony to evaluate their first or subsequent wedding ceremony.

The aim would be to ensure the ceremony was conducted in accordance with the Marriage Act and Regulations and include all aspects of the Code of Practice, checking paperwork and declarations and generally provide advice and assistance to the celebrant on any issues arising concerning the delivery of the ceremony.

The 'field officer' would provide an evaluation report to the department and the evaluated celebrant which would be recognised as the remaining hours of the OPD (elective) for that year. The celebrant being evaluated would pay a reasonable fee to the approved 'field officer' to compensate for time and travel. The ceremony evaluation would only need to be completed once provided all aspects of the evaluation were met. The same system of evaluation could be extended to any celebrant who wished to be evaluated to confirm their compliance and satisfaction of their ceremony. This type of program could greatly reduce the number of complaints received by the department, the evaluated celebrant would establish a 'mentor' in the 'field officer' and it would complete their OPD obligations for that year. It may also reduce the number of complaints or enquiries received by the department and reduce costs to that celebrant for that particular year. In so far as external courses for establish business development is it the responsibility of the department to be involved in including those modules and are they within the requirements of the Marriage Act? .

ISSUE 2. Timeframe for completing OPD activities.

I find it hard to accept why some celebrants have confusion associating the annual registration charge with the costs of their OPD requirement. It questions their ability to fully understand their responsibility and role as a celebrant. Do they experience the same confusion attending to household and other time-framed payments to attend to on a personal basis which occur throughout the year?.

For the department to have to exhaust resources to check on celebrants compliance also questions their initial suitability for appointment and in some way reflects on the teachings and decisions of RTO's when certifying applicants as being suitable to be a celebrant. Obviously celebrants are permitted to retire or resign at any time. The fact some chose to do so just prior to the conclusion of the financial year and not complete their OPD obligations for that year should not place them in a position for non-compliance if the reason for their resignation is not an issue of discipline.

The issue of exemption from OPD obviously is one of concern for the department. Examples of applications received are not given but obviously it is many and varied. I have completed OPD (prefer face to face) since 2003, with the same RTO. In February 2016 I had to undergo heart bypass surgery and needed rehabilitation for six months. In June I suffered a stomach infection which required surgery but due to my physical condition could not undergo surgery until September or October. I submitted an application in August 2016 for exemption from OPD for 2016 and paid the required fee application fee. I did not supply a medical certificate as I believed it was not necessary based on all the information I submitted with my application. I preferred attendance in my local area but could not envisage being well enough to attend any dates set down by the RTO.

In October I was reminded by the department that I still had time to complete OPD either on-line or by distance learning before the 31st December. Following that information I applied and paid \$160 for on-line OPD material which I received in due course. I withdraw my application for exemption but under the guidelines no refund of the application fee was available. . On the 4th November I was advised by my Doctor the need to undergo surgery on the 6th November which duly took place and I was in hospital for a further four days. I completed the on-line OPD while I was recuperating from that surgery although there were other forms of activity during my rehabilitation I would much rather have enjoyed.

I felt very little compassion or consideration had been given to my application. I appreciate the fact a medical certificate at the outset would probably have been successful in obtaining an exemption. I have been a successful celebrant for 20 years and believe I have a sound knowledge of what is required for wedding ceremonies and knew a one-off exemption from OPD would not affect my celebrant duties. I now believe no application fee should be payable unless and until a final decision is made either for or against an application for exemption. Surely \$30.00 of the annual registration fee could be set aside in the event of an application being made by a celebrant for exemption during the course of a year OR a celebrant should be allowed one application for exemption each five years without any payment of a fee. .

These changes could be introduced in the 2017-2018 registration year without loss of revenue to the program. Apart from a seasonal newsletter what other benefits do celebrants receive for their annual registration fee that could be recognised as an appreciation of the duties they perform as a community service.

ISSUE 3. Subject variety and availability

How many presenters of the four RTO's are actually civil marriage celebrants?. Why aren't celebrant associations allowed to conduct conferences without having to obtain approval from the department? If only two or three conferences are conducted each year to service and attract 8450 celebrants (*Marriage Celebrant Matters..Spring/Summer edition*) then either associations are not catering for the needs of their members or few applications for conferences are being received. I believe only marriage celebrants and celebrant associations know what is in their best interests and their members interests to achieve best practises and service delivery. Through regular meetings celebrant associations refer their suggestions and discussions with members of CoCA (Coalition

of Celebrant Associations) who in turn discuss those concerns with representatives of the department. The next meeting of CoCA with the department is not until April 2017. Why are there not more regular meetings to discuss the issues concerning celebrants. How many staff changes take place annually within the department that disrupts suggested programs and ideas being fully considered and implemented?

As previously indicated the range of activities for OPD training is of major concern to the department and celebrants. If celebrants wish to gain more knowledge of general small business development they should seek advice and information from appropriate administrators of that matter, State or Federal. If BDM offices express concern about errors in completion of forms and matters pertaining to civil marriages then celebrants conferences, OPD training or other opportunities for gaining such knowledge should enlist their services. If celebrants want to seek advice on funeral services they seek information from Funeral Associations or Funeral Directors. Such issues should form part of OPD and contribute towards hourly participation. (Several marriage celebrants in my area have decided to officiate at more funerals yet they are not prepared to forfeit their marriage registration.

3.2 Panel of training providers

The four training providers approved by the department should be notified to all celebrants at the commencement of the OPD calendar year. This would allow celebrants to make a personal choice as to who they select to undergo the training. I would expect that most celebrants now choose the same RTO for their training due mainly because they are satisfied with their delivery and convenience of location to their home address.

How many celebrants actually 'fail' their participation in OPD training days. What systems are in place when a celebrant fails to understand or acknowledge the level of competency required. I once attended an OPD day when a young mother brought along her young baby to the venue. During the day the the young mother attended to the needs of her child but played a minimal active role in group discussions or activity yet at the end of day was presented with a Certificate of Attendance.

It would seem that once the fee is paid and participation either face to face or distance learning is fulfilled everyone will receive a certificate regardless. In reality what the current OPD program is doing is funding the training providers with large amounts of income. Closer consultation needs to be improved between CoCA .

If the department is serious about improving the OPD program much more needs to be done. Increasing the number of providers is not the answer but improving the content of the subject material for discussion would help towards a better system.

Consider some of the subjects included in past electives. *Cultural Diversity, Theatre of Ceremony, Electronic Data Entry, Creating Quality Handouts, Making a Good Impression, Speaking Professionally.* In the application process the background and previous experiences of applicants should include all or some of these qualifications before they are regarded as suitable for appointment and not something they have to

acquire once they are appointed. One not only has to *learn* to drive a motor car but also Traffic Rules and Regulations *before* they obtain their driver's licence.

Issue 4 Exemptions from OPD

What benefit is there to a celebrant having to complete OPD in the same year they are appointed. Provided they keep up to date with any changes to the Act or other relevant matter in the same year their OPD obligation should follow the year after their registration.

Issue 5 Compliance monitoring

To my knowledge the department has no record of how many weddings a celebrant performs each year. To my knowledge those records are only maintained by each State and Territory BDM office. Training providers do not record the number of weddings performed by individual celebrants at OPD days. Does the department have to contact the relevant BDM for that information when considering any action being taken against a celebrant for issues of complaint or discipline?

The annual return of weddings should be re-introduced to monitor the number of weddings when considering appointing new celebrants to a particular location and to monitor the number of weddings celebrants are performing each year.

END OF PART A

PART B Conflict of Interest and benefit to business

Statistical data released in 2016 indicates that a large percentage of celebrants are performing less than 10 weddings per year. Their belief at the time of their application that becoming a celebrant would substantially increase their income has become a myth. Even if some celebrants have taken the opportunity to become involved in a small business venture involving weddings that too would probably have been proven to be financially unsuccessful.

The definition or 'conflict of interest' and 'benefit to business' has not prevented some celebrants from disregarding the implications of their practises. Although they may not be directly involved they have taken the opportunity to include family members in these activities while at the same time gaining additional income as a celebrant.

Departments responsibility as a regulator

I believe celebrants are reluctant to lodge a complaint about another celebrant for fear of reprisal or offensive rumour or innuendo about the complainant. It is the word of the complainant against that of another celebrant in which one or both parties may not fully disclose the nature of the complaint. The department may not have the resources to fully investigate a significant number of complaints of conduct or breach of conflict of interest of business benefit and so the matter is probably left unproven or withdrawn.

Complainants may not report issues to Fair Trading or other agencies due to the time and effort needed to satisfy a hearing and so the matter may be disregarded. If the department believes based on the number of enquiries received that celebrants do not

fully understand the policy that issue is one that must be addressed by consultation with CoCA.

Possible Policy Options. Option 1

Retaining the current policy will only allow for the current situation being experienced to continue. I refer to my previous comment that the department does not appear to have the investigative resources to allow for a thorough enquiry to be made. Merely issuing a caution to discontinue a conflict of interest or business benefit will only lead to a change in operation on the part of the celebrant to allow the practice to continue.

Option 2

Providing a range of products or services are not compatible with the role of a marriage celebrant. The celebrants first responsibility is to provide a meaningful and memorable professional ceremony to their clients. To do otherwise in my opinion is a neglect of their role and only influences a desire to inject more finance to their position of authority.

For the past 20 years as a celebrant if a couple expressed a desire to add or include sand, candle or traditional or customary aspects into their ceremony I referred them to the appropriate supplier or provider at no cost or thought of cost for such information. For celebrants to include these services as an extra costs to their normal fee restricts other small business owners and operators involved in the wedding industry to successfully run their business activities.

If the current policy continues then future involvement by the ATO in relation to celebrants financial situations could lead to some celebrants being in breach of Australian Tax Laws.

Option 3. Retain the current policy on conflict of interest and remove the benefit to business restrictions.

To introduce this option the department would only be encouraging greater opportunity for some celebrants to obtain an advantage over others. A large percentage of celebrants may not have family members or others to assist in providing other services.

Religious celebrants do not encourage these types of 'add ons' and the department could be viewed as not being able to control the activities of celebrants or of not being sincere in the administration of the marriage celebrants program. I believe the role of marriage celebrants is already being viewed with a loss of dignity and professionalism by the number of TV reality shows depicting weddings as a means of couples earning a quick income by becoming celebrities in a fictitious wedding.

Option 4. Remove conflict of interest and benefit to business restrictions

Under this Option the department would have more time and resources to enforce the Marriage Act and Regulations thus ensuring appropriate applicants are being received for appointment to the role of marriage celebrant. This procedure along with a serious

review of the number of celebrants being appointed at any particular time seems to me to be of the highest priority for the future of the Marriage Celebrants Program.

CONCLUSION

I personally believe I am drawing to a period of time when family and other interests need to be considered over and above my role as a celebrant for the past 20 years. One of the biggest disappointments has been the number of celebrants appointed since 2003 and the number of 'stories' I have personally heard of some celebrants being unprofessional particularly in public speaking skills and personal appearance. I have always believed the 'ceremony can make or break the day' and the impact on some couples whose celebrant has been unprofessional can be devastating. This issue reflects on the character and skills of the person being appointed.

Further, although celebrants carry out a valuable and important role in the community on behalf of the Australian Government they are not officially recognised for their contribution to that role by any political or senior departmental official. In reality celebrants present couples with their 'Certificate of Marriage' but there is no provision to award a 'Certificate of Appreciation' to a celebrant who has honestly and diligently fulfilled their role over many years. Most senior and long time celebrants have fulfilled their role without intending or wishing to attract a huge income by other means other than to be a professional and popular celebrant.