



**Australian Government**  
**Attorney-General's Department**

**Access to Justice Division**

**Meeting of the  
Coalition of Celebrant Associations and the Attorney-General's Department  
18 April 2013**

**CoCA Attendees:** Robyn Caine, Rona Goold, Yvonne Werner, Dorothy Harrison, Charles Foley, Trevor Willmott-Potts, Judy Brooks, Ann Wilkinson, Maarit Kasurinen, Sybil Sleight, Lyn Knorr, Gail Nagel, Liz Pforr.

**AGD Attendees:** Peter Arnaudo, Susan Davis, Ruvani Panagoda, Esther Bogaart, Angela Tsongas, Matthew O'Brien. In part: Louise Glanville, Megan Billing, Jane Atchison, Bonnie Richardson, Thomas Teifel.

## **Introductions**

AGD welcomed CoCA delegates and thanked them for their attendance.

AGD explained to CoCA delegates that Susan Davis will be taking maternity leave in August. AGD will let CoCA know who will step into the Registrar role.

CoCA announced office holders as a result of elections held at the CoCA meeting of 17 April 2013: Robyn Caine (Chair), Dorothy Harrison (Vice Chair), Rona Goold (Secretary), Judy Brooks (Treasurer), Gail Nagel (Public Officer), Yvonne Werner (Minute Secretary).

AGD noted there were no objections to the October 2012 official meeting summary.

## **AGD update on Marriage Celebrant Program Reforms**

### Introduction of Bills

2. On 20 March 2013, the Attorney-General introduced two Bills into the House of Representatives. The Marriage Amendment (Celebrant Administration and Fees) Bill establishes the infrastructure for the fees and charges, including exemptions, and consequences of non-payment. The Bill also makes minor amendments to increase efficiency in the Marriage Celebrants Program. This includes:

- Allowing the use of an Australian passport to establish marrying couples' date and place of birth.
- Removing the obligation for the Registrar of Marriage Celebrants to review the performance of celebrants every five years.
- Administrative amendments to remove references to dates that are no longer relevant (ie references to cap which expired in 2008 and Registrar updating the List of Authorised celebrants each 14 March which is no longer relevant as it is automated online).

3. The second Bill, the Marriage (Celebrant Registration Charge) Bill, provides legislative authority for the government to charge Commonwealth-registered marriage celebrants an annual cost recovery levy, the celebrant registration charge. The key features of the Bill are:

- Providing legislative authority for the Minister to set the charge of the annual celebrant registration charge.
- Sets a statutory limit to establish the maximum charge – which is standard practice in such legislation. In this Bill the statutory limit is \$600 which is the absolute maximum that the charge will ever be. The purpose of setting such a limit is to prevent the need for changing the Act every time we need to adjust the charge.
- Indexes the statutory limit based on the Consumer Price Index each year – again this is standard practice to allow for inflation.
- In 2013, the annual registration charge will be \$240. This commitment was made by the Attorney-General in his Second Reading Speech when introducing the Bill to the House of Representatives.

4. AGD explained that the Bills were introduced as a package. CoCA queried the Parliamentary process for considering the Bills and asked whether the process would be affected if an early election is called. AGD explained that caretaker conventions apply when writs to dissolve Parliament are issued. If at that time the Bills have not yet been considered it would be up to the new government to re-introduce them in the future.

5. AGD also clarified that staffing resources for the Marriage Law and Celebrants Section (MLCS) are not dependant on the Bills passing through Parliament as suggested by CoCA. The department has obligations in administering the Marriage Celebrants Program. These obligations will continue irrespective of the Bills. However, if the Bills are not passed, many of the reforms would not be able to be introduced.

6. CoCA requested a copy of Article 7 of the International Covenant on Economic, Social and Cultural Rights referred to in the Explanatory Memoranda for the Bills.

*Action: AGD to provide a copy of Article 7 to CoCA.*

#### The costing model

7. The development of the costing model for the annual celebrant charge and application fee was discussed, including the assumptions made by the independent consultant engaged to develop the model. AGD made assumptions about the number of celebrants that may ‘drop out’ once the fee is implemented, based on BDM statistics about the number of registered marriage celebrants who have not registered a wedding in the last three years. Full details on assumed celebrant numbers will be included in the Cost Recovery Impact Statement which will be available on the department’s website before cost recovery measures commence in July.

8. AGD explained that the information provided to CoCA in 2012 on the breakdown of costs for each component – direct costs, indirect costs, capital costs, other costs – remains correct, and that the fees and charges are based on those figures. AGD reiterated that cost-recovery arrangements must be reviewed every 2-3 years. The CoCA executive is welcome to distribute the figures more broadly to CoCA delegates.

9. One CoCA delegate asked about value for money for celebrants from the annual registration charge. AGD reiterated the services it will provide to celebrants under the reforms including:

- Direct access to MLCS through a telephone line for enquiries from celebrants, as well as the continued email service.
- Improved information provision including up to date guidance material, fact sheets and a quarterly newsletter.
- Access to a secure online self-service portal for celebrants to update their contact details, access a resource library, complete an annual performance questionnaire and apply for exemptions from the charge and OPD.
- Improved regulation through targeted performance reviews and streamlined complaints handling.
- An annual registration certificate.
- Increased engagement by MLCS with celebrants including attendance at conferences and meetings with BDMs.

10. CoCA asked about the number of enquiries received by the MLCS. AGD provided statistics over the past four years as follows:

**Annual enquiries (increase/decrease on previous year) YTD 31 December 2012**

	2009	2010	2011	2012
Telephone	5,490	1,415 (-74%)	850 (-40%)	387 (-55%)
Letter/fax	2,857	2,908 (+2%)	1,230 (-57%)	1,380 (+12%)
Email	10,071	9,412 (-7%)	8,383 (-11%)	13,118 (+56%)
<b>TOTALS</b>	<b>18,418</b>	<b>13,435 (-27%)</b>	<b>10,463 (-22%)</b>	<b>14,885 (+42%)</b>

11. AGD explained that the *Guidelines on the Marriage Act 1961 for marriage celebrants* have created efficiencies for AGD in answering enquiries.

12. CoCA also queried how much has been allocated to ongoing maintenance of the MarCEL database. AGD reiterated that irrespective of the commencement of cost-recovery measures, the department's obligations continue and some of the IT systems will be retained. CoCA suggested that MLCS voicemail should refer callers to a CoCA member association.

Referral to Senate Committee

13. AGD explained that the Bills have been referred to the Senate Standing Committee on Legal and Constitutional Affairs – a standard practice when new legislation is introduced in Parliament.

14. The Senate Committee will consider the Bills and any submissions received by 26 April. The Committee is due to report by 18 June. The Parliamentary process is complex and things can happen quite quickly if there are certain deadlines like a 1 July implementation date.

## How fee will work in practice

15. AGD explained how the annual registration charge will work in practice. From 1 July, MLCS will issue invoices to a celebrant's postal addresses as recorded on the register. Celebrants will have 60 days to pay the invoice.
16. AGD has had a few celebrants advise that they will be overseas during July and 60 days thereafter. AGD is keeping a list of celebrants to whom it will manually email their invoice.
17. Celebrants will have 21 days to seek an exemption from paying the annual charge. Exemptions will be available on two grounds:
  - A. Remoteness – celebrant lives in a remote or very remote area as defined by the ABS Remoteness Structure, **and** there are no more than two Commonwealth-registered celebrants residing in the same postcode (including the applicant celebrant).
  - B. Specified circumstances – very limited grounds including long term illness, caring responsibilities (such as maternity leave) or long term absence from Australia.
18. The intention of the remoteness exemption is to ensure remote areas maintain access to a celebrant. It is not intended to give celebrants living in high volume wedding areas an advantage. For that reason, the Regulations will include the second limb that there can be no more than two Commonwealth-registered celebrants living in the same postcode in the remote area. MLCS is confident that this will manage CoCA's concerns that celebrants living in high volume wedding areas will not obtain any unfair advantage.
19. The intention of the specified circumstances exemption is to give celebrants relief from paying the charge during a temporary circumstance that affects them for a particular year. It is not intended to be available for consecutive years.
20. A celebrant may seek an internal review of an exemption refusal decision within 28 days of that refusal decision. A senior departmental officer who was not involved in the original decision will review that decision and make a finding. The outcome can be that the decision is reversed and the exemption is granted, or the decision is upheld and the decision is maintained – meaning the celebrant needs to pay the charge to remain registered.
21. If, after the 60 day payment date expires, a celebrant has not paid, received an exemption or has an active internal review pending, they will be deregistered. The Registrar will send a notice at this time, notifying the celebrant that they will be deregistered on a certain date – no less than seven days from the date of that notice. This will give celebrants time to transfer any NOIMs or clients prior to being removed from the Register.
22. Depending on payment method used, a receipt will be issued within a week to celebrant.
23. CoCA expressed opposition to the impending introduction of cost-recovery and reiterated there are other ways to implement cost-recovery as outlined in CoCA's submission.
24. CoCA expressed concern about posting invoices in hard copy and queried whether there would be any extensions to pay eg, if mail goes missing or the cheque bounces. AGD advised that invoices were being posted in the first year because we have 600 celebrants without email addresses in our system and a further 500+ who we receive 'undeliverable' messages from. We are making

many attempts to ensure that celebrants provide us with an up to date email address. To ensure that all celebrants are sent the invoice at the same time and have the maximum time to pay (rather than us chasing at least 500 undeliverable responses), we are posting the invoice to everyone. We hope we can send them via email next year.

25. There was discussion about the requirement to transfer NOIMs in the event a celebrant is deregistered as a result of non-payment of the annual charge. CoCA was concerned that seven days was not sufficient and would be disruptive to clients. AGD explained that celebrants will have 60 days to pay the charge and is working to ensure that everyone receives the invoice with sufficient time to pay. Celebrants have also had two years notice, with extensive consultation and information from AGD about what to expect from 1 July. AGD is confident that if a celebrant chooses not to pay the annual charge, they will have already had sufficient time to transfer any clients well before the seven day period following expiry of the due date.

26. CoCA asked what celebrants would need to do if they are deregistered as a result of not paying the fee and they wanted to re-register. AGD explained that celebrants would need to apply for registration and meet the registration requirements at that time, including holding a Certificate IV in Celebrancy.

27. One CoCA delegate sought clarification about what constitutes a 'completed' application for registration before 1 July – specifically, whether applicants will need to submit their answers to the legal questions as part of the consideration of a completed application. AGD confirmed that a completed application includes answers to the legal questions and that the intention is that legal questions will be sent with the application pack in the near future.

#### Registration certificates

28. During consultations in October and November 2011, many celebrants requested a registration certificate be issued by AGD to confirm their ongoing registration for marrying couples. AGD contacted CoCA recently to seek suggestions about how such a certificate might look and developed samples based on CoCA's feedback. AGD provided CoCA with three samples of a possible registration certificate. CoCA indicated agreement to include the coat of arms and seal on the proposed certificate.

29. CoCA raised having the signature of the Attorney-General on the certificate. MLCS indicated that the Registrar registers marriage celebrants so it is not relevant for the Attorney-General to sign the registration certificates.

30. Other suggestions from CoCA included, a receipt that can be downloaded rather than a certificate. MLCS advised that the receipt generated by our financial reporting system would not provide the level of detail needed- for example, we have a 30 character limit to describe the purpose of the invoice/receipt. It would also not meet the request during consultations that a displayable certificate be issued to demonstrate registration to clients.

31. It was also suggested that the certificate include the words 'civil marriage celebrant' on the certificate and that an identification card be issued rather than a certificate. CoCA agreed to provide e-mailed feedback to AGD.

**Action:** CoCA to provide AGD with feedback about what should be included on the registration certificate by 26 April 2013.

## Performance monitoring and review from 1 July

32. CoCA raised concerns about the proposal to remove the five yearly obligation to review celebrant performance. It suggested that the RIS provided in 2011 stated that cost recovery would assist MLCS to better review celebrant performance.
33. AGD explained that each marriage celebrant will be required to complete an annual online performance questionnaire. The annual online performance questionnaire is intended to complement (rather than replace) the performance review process. The purpose of the questionnaire will be to gather information about celebrants' ongoing compliance with their obligations, seek statistical information about the number of marriages performed in a year and seek feedback about ongoing professional development and services provided by my department. This will enable the department to improve its services, and ongoing professional development for celebrants on an annual basis. The performance questionnaire does not replace the obligation of the Registrar to regularly review the performance of each marriage celebrant. The changes will only remove the five year period between each performance review. The Registrar will still be required to review each marriage celebrant's performance from time to time to ensure that it is satisfactory. The online performance questionnaire will assist the Registrar to target performance reviews on those celebrants who require additional attention. Celebrants are not required to 'pass' the questionnaire in order to remain registered as a marriage celebrant.
34. AGD explained that the annual online questionnaire is a tool to seek information from celebrants about their ongoing compliance with the Marriage Act, as well as seeking feedback on OPD and departmental services. It is not a tool to deregister people. AGD confirmed that the requirement to complete the annual online questionnaire will commence from 1 July 2013. AGD also clarified that it does not currently wait until five year performance reviews are due to check OPD compliance.
35. The introduction of the celebrant registration charge imposes a new obligation upon celebrants, similar to existing obligations imposed on all Commonwealth-registered marriage celebrants to remain registered – to conduct themselves in accordance with the Code of Practice; undertake annual ongoing professional development; and update the Registrar of Marriage Celebrants of any change in their circumstances. Subject to the proper fulfilment of their obligations, which will include payment of the celebrant registration charge each year, Commonwealth-registered marriage celebrants are appointed for life. AGD also noted that any deregistration of a celebrant is subject to merits review by the Administrative Appeals Tribunal. This appeal mechanism (which is and will continue to be independent of the Department) will be available to celebrants who are deregistered because they have not paid the annual charge.

## Ongoing Professional Development

36. An OPD working group meeting was held in February to develop a shared understanding of the purpose of OPD for Commonwealth-registered marriage celebrants and how it can be best designed to meet that purpose. The working group comprised representatives of CoCA, the panel of OPD providers and the department and was facilitated by an independent facilitator. Discussions from the OPD working group meeting are being used to develop an approach to OPD from 2014. A paper will be available in coming weeks.

37. CoCA expressed concern that it does not have input into the elective subjects and that OPD providers are not marriage celebrants. CoCA explained that it does not have access to feedback forms given to OPD providers, although it does receive feedback from participants at their association conferences about OPD provided there. One CoCA delegate indicated that the quality of OPD delivery at association conferences was poor.

38. There was general discussion about the quality of OPD content and delivery. CoCA suggested there was not enough choice with three OPD providers. AGD noted that by broadening the number of providers, there is loss of control over quality. AGD explained that the previous tender process did not seek a maximum of three providers, but that there were only three found suitable as part of that process at that time.

39. We discussed OPD trainers and whether that was a means to increase quality of content and delivery. It was suggested that the background of the trainer delivering the OPD session be included in the advertising for the activity.

40. One CoCA delegate suggested that marriage celebrants should also take responsibility for their own development and look for courses and opportunities outside of the formal OPD space.

## **AGD General Update**

### Website

41. AGD explained that overall, the response received on the department's website redevelopment is quite positive. There were a few teething issues in the beginning, but these have been resolved. AGD is happy to receive comments and suggestions from CoCA about the website and ways to improve.

42. CoCA commented that association email addresses are not on the website and expressed concern that information about 'Becoming a celebrant' is so easy to find from the AGD home page while other information is not. AGD explained that topics on the 'I want to' list are determined by the popularity of the pages department-wide.

### Celebrant portal

43. CoCA gave feedback about the testing it did on the online self-service portal the previous day. CoCA reiterated some of the feedback provided during testing of the portal including that online instructions should be included. AGD explained that it will consult with CoCA after 1 July 2013 about the type of information material that could be available to celebrants via the portal.

44. There was discussion about using the celebrant portal to promote marriage celebrants on the AGD website including making available links to celebrants' websites. AGD noted that the portal is secure and only accessed by celebrants and not the general public. At this stage, there is no plan to allow the Register of Marriage Celebrants to include celebrant website details, but we may be able to consider this at a later date.

## **CoCA Update**

### CoCA costs for attending meetings

45. CoCA provided an estimation of the costs involved in attending meetings with the AGD and requested a contribution to these costs. CoCA estimated for this meeting it cost delegates over

\$11,000 collectively in travel costs, including lost income. CoCA suggested it had spent approximately \$125,000 since it commenced meeting with AGD in 2008.

46. AGD indicated it would consider this request further and noted that it would need to be considered in the context of other approaches to consultation by the department. CoCA expressed an interest in continuing to meet with the AGD irrespective of whether it will receive funding for travel costs to attend meetings. We discussed CoCA's role and the difference between a consultant and consultation. AGD indicated it values CoCA's input irrespective of whether there is agreement at meetings.

**Action:** *CoCA to provide AGD details of its travel costs to attend meetings.*

#### CSHISC Review of Certificate IV in Celebrancy

47. CoCA explained its participation in the Community Services and Health Industry Skills Council (CSHISC) Review of the Certificate IV in Celebrancy and the interest in increasing the Certificate IV level qualification to a diploma level qualification based on the job role of a celebrant. CoCA noted that the CSHISC, AGD and CoCA representatives had met the previous day to discuss the review. At that meeting the Australian Quality Framework (AQF) was circulated and discussed, as well as the job description of celebrants being used by CSHISC in its review. The AQF outlines the difference between the Certificate IV and the diploma level qualification. CoCA indicated its unanimous support for the diploma level qualification at the AGD-CoCA meeting.

48. AGD explained that the *Marriage Regulations 1963* currently list the Certificate IV in Celebrancy as the minimum training requirement for aspiring celebrants. It will need strong evidence to justify any increase in the qualification to a Diploma level qualification. This is because AGD must justify regulatory change to the Office of Best Practice Regulation and it needs to demonstrate that there is a problem that needs to be fixed through that regulatory change. CoCA explained that in its view, only it and the CSHISC can determine the level of training, not AGD because as the regulator AGD's role would only relate to marriage celebrancy. AGD disagreed with this view.

49. There was discussion about tightening the assessment requirements in the training package for the Certificate IV. AGD is providing input into the CSHISC review and has provided CoCA with a summary of its submission to CSHISC.

#### Certificate of interpreter (Form 24)

50. AGD explained that this issue has been raised by CoCA at previous meetings and that it has been addressed in previous action items. AGD also explained that the template for the Form 24 has been revised in accordance with CoCA's request and will be available when CanPrint do their next print.

**Action:** *AGD will send to CoCA a copy of the revised form.*

#### Extreme weather

51. CoCA acknowledged the article included in the Summer 2012 edition of the *Marriage Celebrant Matters* newsletter to address CoCA's concerns about marrying couples during extreme weather disasters. However, CoCA considers that extreme weather should be included in the Code

of Practice for marriage celebrants to provide celebrants with protection if they refuse to perform a wedding in extreme weather conditions. AGD reiterated this matter could be dealt with in a celebrant's written agreement with the couple. CoCA requested AGD to develop information material for couples that marriage celebrants could hand out to them, eg, material could cover complaints and the role of the celebrant. AGD agreed to consider this as part of the Program improvements after 1 July.

#### Principle of confirming identity

52. The QLD same sex relationship forms have a place for witnesses to put their address. CoCA queried whether there would be an advantage for the AGD if the same practice was followed on marriage documents. AGD indicated that it would think about the matter however it could see little benefit of adopting the practice.

#### Gender recognition guidelines

53. AGD noted that the Australian Government has released a draft consultation paper on 'Australian Government Guidelines on the Recognition of Gender'. A CoCA delegate raised an issue for clarification and commented on the need for guidance for marriage celebrants. AGD undertook to raise these issues with the appropriate area within the department.

### **Action items from last meeting – October 2012**

54. Outstanding action items were not discussed. The items are listed in the action items table at the end of this meeting summary.

### **Draft meeting summary and communiqué**

55. AGD will prepare a communiqué following finalisation of the meeting summary. The formal meeting summary will also be distributed at the next meeting.

### **Date for next meeting**

56. CoCA suggested a date for the next meeting – 17 October 2013 (with CoCA closed meeting on 16 October 2013). AGD will confirm the date in coming weeks.