



Australian Government

Attorney-General's Department

Marriage Celebrants Programme

Regulator Performance Framework

1 July 2017 – 30 June 2018

The Attorney-General's Department (department) registers and regulates marriage celebrants under Part IV, Division 1, Subdivisions C and D of the *Marriage Act 1961* (the Marriage Act) through the Commonwealth Marriage Celebrants Programme (the Programme). As at 30 June 2018, there were 8,808 marriage celebrants being regulated under the Programme, which represents a slight increase over the previous year (8,641).

The Australian Government has committed to reducing the cost of unnecessary or inefficient regulation imposed on individuals, businesses and community organisations, such as marriage celebrants, by encouraging regulators to adopt consistent, risk-based approaches to administering regulation. To support regulators achieve positive and lasting cultural change, the Australian Government has developed the Regulator Performance Framework (the Framework) which consists of six outcomes-based key performance indicators (KPIs).

The KPIs cover areas where the Programme could look to reduce the administrative costs to marriage celebrants of complying with regulation and managing their registration. The KPIs require the department to measure how the Programme is reducing administrative overheads for celebrants, ensuring communication is targeted and clear, using risk-based and proportionate approaches to enforcement, ensuring monitoring is efficient and coordinated, facilitating transparency, and identifying ways of adopting continuous improvement.

Each financial year, the department uses performance measures to track progress of the Programme against the six KPIs of the Framework. The Framework requires the department to publish a self-assessment report that is externally validated by celebrant associations and explains how the department is working to ensure the Programme is administered fairly, efficiently and effectively. The self-assessment process is also a useful tool for identifying future opportunities for managing the Programme with the minimum impact necessary to achieve the objective of ensuring that professional, knowledgeable and legally correct services are delivered to marrying couples.

The Programme's self-assessment of performance under the Framework for 2017–18 provides both qualitative and quantitative outcomes, and includes case studies for each of the six KPIs. The report outlines relevant activities that have been undertaken throughout 2017–18 and identifies opportunities for further progress against achieving the objectives of the Framework. This report, a self-assessment of the Programme against the Framework by the department, has been externally validated by celebrant associations and will be published on the department's [website](#).

KPI ONE

KPI ONE	MEASURES OF GOOD REGULATORY PERFORMANCE
<p>Regulators do not unnecessarily impede the efficient operation of regulated entities.</p>	<ol style="list-style-type: none"> 1. Regular consultations with marriage celebrants; Births Deaths and Marriage Registries; and training providers to ensure that the impacts of policies and legislative change are minimised. 2. Regular environmental scanning and the development of communications and training material to address emerging issues. 3. Consultation with regulated entities on proposed significant/regulatory changes.
SELF-ASSESSMENT AND SUPPORTING EVIDENCE	
<p>AGD considers that the Programme has met this KPI for 2017-18, based on the following:</p> <ul style="list-style-type: none"> • The Programme held a number of teleconferences with state and territory registries of births, deaths and marriages (BDMs). The purpose of those teleconferences was to provide an update on current issues and legislative developments including: marriage equality, review of marriage forms, sunseting of the Marriage Regulations 1963; and, issues relating to signing and lodging documents electronically with the BDMs. These discussions are extremely valuable in progressing issues of mutual interest and supporting the efficient operation of regulated entities. • In August 2017, the Programme advertised an expression of interest for registered training organisations (RTOs) to deliver elective and compulsory ongoing professional development (OPD) activities to marriage celebrants from 2018-2020. The Programme approved four RTOs to commence training from 1 January 2018: Australian Celebrations Training; Gordon Institute of TAFE; LifeSkills and QualTrain. 	
<p>Case Study:</p> <p>To keep celebrant associations up-date-with particular issues of relevance, the Programme may organise special presentations at Association meetings. In May 2018, a presentation was given by the Department of Finance on cost recovery of the Marriage Celebrant Programme. It was explained that cost recovery for the Programme enables the government to ensure that the costs of regulating marriage celebrants are borne by those who are the subject of regulation (marriage celebrants and aspiring marriage celebrants) and not the broader community.</p>	

KPI TWO

KPI TWO	MEASURES OF GOOD REGULATORY PERFORMANCE
<p>Communication with regulated entities is clear, targeted and effective</p>	<ol style="list-style-type: none"> 1. Provision of communications materials and maintenance of an up-to-date website ensuring that celebrants have ready access to current information to assist them to properly carry out their role. 2. Provision of access to a telephone and email service which provides celebrants with clarification and guidance on their role and responsibilities. 3. Consultation with regulated entities on proposed significant / regulatory changes.
SELF-ASSESSMENT AND SUPPORTING EVIDENCE	
<p>AGD considers that the Programme has met this KPI for 2017-18, based on the following:</p> <ul style="list-style-type: none"> • On 8 December 2017, the department wrote to all authorised celebrants including Commonwealth-registered marriage celebrants advising of changes to the Programme in anticipation of the commencement of the amendments to the <i>Marriage Act 1961</i> to implement marriage equality. The email highlighted new resources available to all celebrants, including the changes to the marriage forms and advertising requirements, from 9 December 2017. • On 9 December 2017, the Marriage Act was amended by the <i>Marriage Amendment (Definition and Religious Freedoms) Act 2017</i> (Marriage Amendment Act) to recognise marriage equality in Australia – the union of 2 people to the exclusion of all others, voluntarily entered into for life. This was a private members bill passed by the Australian Parliament, with implementation undertaken by the department. • On, and following, 9 December 2017, the updated marriage forms were available for download from the department’s website. A number of fact sheets on marriage equality were published on the website, including changes to marriage ceremony requirements; changes to marriage forms and certificates; protections for ministers of religion and a new sub-category of religious marriage celebrant and new advertising requirements for all Commonwealth-registered marriage celebrants. • The Marriage Amendment Act created a new subcategory of marriage celebrants, called ‘religious marriage celebrants’. <ul style="list-style-type: none"> ○ Marriage celebrants registered on or before 9 December 2017 who were also a minister of religion, automatically became religious marriage celebrants. ○ Marriage celebrants who were registered on or before 9 December 2017 who were not a minister of religion had until 9 March 2018 to choose to become a religious marriage celebrant, to make clear on the register of marriage celebrants and in their advertising that they hold religious beliefs. <p>The department wrote to marriage celebrants explaining this new subcategory and updated celebrant records where a celebrant elected to identify as a religious marriage celebrant.</p>	

KPI TWO

- The two hour ongoing professional development compulsory activity developed by the Programme for the 2018 calendar year was 'Marriage Equality: key changes'. The activity was developed in consultation with the four approved training providers of ongoing professional development and was finalised for delivery in early February 2018. The focus of the compulsory activity was on changes to the legislation resulting from marriage equality, specifically how it impacts on celebrants, such as the changes to the marriage ceremony and marriage forms. The activity was updated and circulated to training providers in April 2018 in response to feedback from trainers regarding sex and gender, together with a new fact sheet on Frequently Asked Questions about sex and gender (which was published on the department's [website](#)).
- On 6 October 2017, the department published its position paper outlining the new Conflict of Interest and Benefit to Business policy. The new policy was developed taking into account the 3,000 responses (online and written) received during the consultation period as well as other policy considerations, such as the need to take a proportionate response to regulation and to ensure greater consistency with the existing legislative framework. The final Conflict of Interest and Benefit to Business Guidelines published in September 2017, relaxed the rules by allowing celebrants to provide and charge for additional goods and services to couples they are marrying, as long as any potential conflicts of interest are reasonably managed.
- The Programme held two face-to-face stakeholder meetings in October 2017 and May 2018 with celebrant associations to discuss the operation of the Programme. Matters considered included: changes to the *Marriage Act 1961* for marriage equality; commencement of the Marriage Regulations 2017; the compulsory ongoing professional development topic for 2018; the review of marriage forms; and advertising by marriage celebrants. Associations provided valuable feedback as part of the consultation on the revised 'Guidelines on the *Marriage Act 1961* for authorised celebrants'.
- The Programme publishes a biannual newsletter (Autumn/Winter and Spring/Summer) 'Marriage Celebrant Matters', for all marriage celebrants to raise awareness about recurring and emerging issues. In 2017, this newsletter covered a wide range of current and relevant topics including the Australian Bureau of Statistics marriage law postal survey, reminder to undertake ongoing professional development in 2017 and the commencement of the Marriage Regulations 2017.
- Fact sheets on the Celebrant Resources webpage were amended to reflect the changes resulting from the commencement of the Marriage Regulations 2017 on 1 April 2018. This included the following fact sheets, 'About the Marriage Celebrants Programme' and 'Maintaining your registration as a Commonwealth marriage celebrant' and 'Complaints against a Commonwealth-registered marriage celebrant'.
- During 2017-18, the Programme responded to approximately 15,600 written enquiries. Of the overall total of 18,743 enquiries (written and calls to the helpdesk), 5,658 of these were received in July, August and September 2017 which corresponds to the timing of the annual celebrant registration process.
- On 8 August 2017, the department published the results of the ongoing professional development (OPD) survey and submissions to that review in an OPD Position Paper. The consultation was undertaken through the release of a discussion paper and accompanying online survey. The 2,940 responses to the online survey and 46 separate written submissions assisted the department to finalise its position on OPD which maintained the requirement for 5 hours of annual OPD for marriage celebrants.

KPI TWO

Case Study:

The Programme continues to look for ways to better communicate messaging about the roles and responsibilities of marriage celebrants and reduce the number of enquiries to the Programme. One such resource, the 'Guidelines on the *Marriage Act 1961* for marriage celebrants' was first published in 2012, and updated in 2014, to provide practical guidance for authorised celebrants in terms of their professional role and responsibilities. During the reporting period, the Guidelines were updated to reflect the changes arising from the introduction of marriage equality and commencement of the Marriage Regulations 2017 and published for consultation. The Programme received 38 submissions during the one month consultation period (4 May to 4 June 2018).

KPI THREE

KPI THREE	MEASURES OF GOOD REGULATORY PERFORMANCE
<p>Actions undertaken by regulators are proportionate to the regulatory risk being managed</p>	<ol style="list-style-type: none"> 1. Compliance activities that are targeted and use a mix of self-reporting and information available on the database to identify areas of actual and potential non-compliance. 2. Processing of complaints in accordance with natural justice principles and application of a proportionate response when considering appropriate action.
<p>SELF-ASSESSMENT AND SUPPORTING EVIDENCE</p>	
<p>AGD considers that the Programme has met this KPI for 2017-18, based on the following:</p> <ul style="list-style-type: none"> • In the 2017 calendar year, 97% of marriage celebrants met their professional development requirements. A total of 242 marriage celebrants received disciplinary measures – 236 celebrants were cautioned, four (4) were required to complete additional professional development in 2018 and two (2) were suspended. No celebrants were deregistered. All celebrants who were suspended were advised about their right to seek a review of the decision under section 39I of the <i>Marriage Act 1961</i>. No applications were made to the Administrative Appeals Tribunal (Tribunal) in relation to the disciplinary measures imposed by the Registrar in the reporting period, demonstrating the proportionate response taken to regulation by the Programme. • On 17 July 2017, invoices for the annual celebrant charge were sent to 8,641 Commonwealth-registered marriage celebrants. The Programme continues to ensure that marriage celebrants are aware of the consequences of not paying their celebrant registration charge by the due date through email reminders. This is to ensure marriage celebrants are aware of the consequence of not paying by the legislated ‘charge payment day’ (60 days after the invoice is sent), which is automatic deregistration. • During 2017-18, the Programme resolved 27 complaints relating to marriage celebrants. All complaints were dealt with in accordance with the principles of natural justice, and disciplinary measures were issued proportionately, taking into account the celebrant’s history, any remedial actions undertaken by the celebrant, and the seriousness of the breach of their obligations. • Four applications for review were lodged with the Tribunal during 2017-18 in relation to deregistration for non-payment of the annual celebrant registration charge. The Registrar’s decision to deregister for non-payment of the annual charge in 2017-18 was upheld in all cases – three matters were withdrawn and one was dismissed. • The Programme continues to look for ways to reduce the burden of regulation on marriage celebrants and, where possible, to provide professional and timely marriage services to the Australian public. This includes monitoring alignment between the Programme’s expenses and revenue and ensuring that fees and charges remain as low as possible in line with the government’s cost recovery framework. Fees and charges remained the same for 2017-18, for the fourth consecutive year. 	

KPI THREE

Case Study:

The high rate of OPD compliance in 2017 is, in part, due to resources that have been applied to targeting non-compliance and the move to quarterly OPD reporting by training providers which commenced 1 January 2018. Prior to that time, OPD training providers reported in January (following the end of the OPD year), which marriage celebrants completed their OPD for the previous year. This resulted in an intensive workload in a short period of time for both training providers and the Programme.

In 2018, the Programme introduced quarterly reporting so that celebrant data could be uploaded to their self-service portal throughout the year. This administrative efficiency has provided the Programme with a better overall picture of compliance, and provides marriage celebrants with certainty that their compliance has been reported for the calendar year. This has reduced uncertainty for celebrants and reduced the number of enquiries the Programme receives as celebrants no longer need to seek confirmation that their training provider has reported their compliance before the end of the calendar year.

KPI FOUR

KPI FOUR	MEASURES OF GOOD REGULATORY PERFORMANCE
Compliance and monitoring approaches are streamlined and coordinated	<ol style="list-style-type: none"> 1. Continuous review of IT systems to improve ease of compliance with requirements. 2. Provision to celebrants of an online portal that allows them to manage their own information. The portal also provides a single point for celebrants to pay their annual registration charge. 3. Maintenance of a case management system to ensure that accurate records are maintained, stored and information is re-used.
SELF-ASSESSMENT AND SUPPORTING EVIDENCE	
<p>AGD considers that the Programme has met this KPI for 2017-18, based on the following:</p> <ul style="list-style-type: none"> • Marriage celebrants have 21 days from the date the annual registration charge is sent to request an exemption from payment. Forty marriage celebrants sought an exemption from the Registrar of Marriage Celebrants who is required to respond within 21 days unless additional information is requested (which resets the 21 day period). While this is an administratively intensive two month period, the Programme considers that due to the non-discretionary nature of the legislation and consequences of non-payment, a robust and intensive process is justified. This also minimises the likelihood of applications for review to the Administrative Appeals Tribunal. • MarCel, the celebrants' self-service portal, and the register of marriage celebrants were enhanced in December 2017 to include the new category of celebrants, Religious Marriage Celebrants, to align with amendments to the <i>Marriage Act 1961</i>. 	
<p>Case Study:</p> <p>As reported in 2016-17, work to update the marriage celebrants database (MarCel) to a new platform was completed in 2017. This was required as the old platform (2011) was no longer supported by the software provider. Updating MarCel to the new platform has resulted in greater stability in terms of fewer technical failures over the year.</p>	

KPI FIVE

KPI FIVE	MEASURES OF GOOD REGULATORY PERFORMANCE
Regulators are open and transparent in their dealings with regulated entities	<ol style="list-style-type: none"> 1. Provision of access to a telephone and email service for celebrants to contact the department for clarification and guidance about their role and responsibilities. 2. Processing of applications from prospective celebrants within legislated timeframes. 3. Provision of information about the performance of the Programme in the cost recovery implementation statement (CRIS) and in regular stakeholder meetings and consultations.

SELF-ASSESSMENT AND SUPPORTING EVIDENCE

AGD considers that the Programme has met this KPI for 2017-18, based on the following:

- The Programme provides marriage celebrants with an enquiries service which includes access to a telephone service that is answered between 10:00am – 1:00pm and 2:00pm – 5:00pm, Monday to Friday (Canberra local time), and a dedicated email address. Marriage celebrants can use the enquiries service to contact the Programme for clarification about their role, responsibilities or registration.
- A telephone help desk and email service was maintained throughout 2017-18 – see response to KPI 2 above.
- The Programme provides transparency to all marriage celebrants through regular reporting to celebrant associations of statistics, such as new registrations, de-registrations and enforcement actions taken.
- During 2017-18, the Programme received 851 applications for registration as a marriage celebrant, and registered 795 marriage celebrants. If an application does not contain all required information, the application is put on hold until the information requested is provided by the applicant. All applications were processed within three months of the application being received as required under subsection 39J(2) of the Marriage Act.
- The fourth full year of cost recovery has been completed and the Programme is committed to continually evaluating the efficiency, productivity and responsiveness of the programme. Expenses and revenue are aligned on an annual basis to assess over, or under, recovery. The costs of service delivery and regulation have been estimated based on the most efficient business processes and their resource requirements, and then apportioned equally among Commonwealth-registered marriage celebrants.
- On 29 June 2018, the Registrar of Marriage Celebrants emailed 1,960 marriage celebrants to notify them the Programme would be removing their secondary email address on 29 September 2018 so that each marriage celebrant would only have one email address in the system. A follow-up email was sent on 9 October 2018 confirming the removal of the secondary email address. This was done to eliminate any confusion as to which email address the department uses for its correspondence, specifically the annual celebrant registration charge invoice.

KPI FIVE

Case Study:

In June 2018 the department published the *Disclosable Outcomes Guidelines*. This document aims to assist prospective celebrants determine whether their criminal history may negatively impact their application to become a Commonwealth-registered marriage celebrant. Having this information available on the department's website will reduce the number of enquiries from potential applications. This is especially important because applicants need to pay a \$600 application fee before their application can be considered. The application fee is also non-refundable.

KPI SIX

KPI SIX	MEASURES OF GOOD REGULATORY PERFORMANCE
Regulators actively contribute to the continuous improvement of regulatory frameworks	<ol style="list-style-type: none"> 1. Consideration of input received through consultations with stakeholders on the ongoing management of the Programme and possible future reforms or changes to the Programme. 2. Timely provision of documents, agendas and meeting notes to facilitate flow of information and feedback. 3. Consultation with other government agencies.
SELF-ASSESSMENT AND SUPPORTING EVIDENCE	
<p>AGD considers that the Programme has met this KPI for 2017-18, based on the following:</p> <ul style="list-style-type: none"> • On 30 March 2018, the Marriage Regulations 1963 sunset (ceased to apply) and on 1 April 2018 the Marriage Regulations 2017 commenced. The Marriage Regulations 2017 simplified many of the requirements of the Marriage Regulations 1963. The changes removed complex and outdated language and concepts as well as removing obsolete or unnecessary provisions. The department consulted with celebrant associations, state and territory justice departments and marriage registries, and training providers about the changes to the Marriage Regulations 2017. • The ‘Marriage Celebrants programme – fees and charges’ fact sheet was updated in April 2018. The fact sheet provides celebrants with information on the amount, the due date for payment (the charge payment date) and consequences of not paying by the charge payment date. 	
<p>Case Study:</p> <p>The new Marriage Regulations 2017 which commenced on 1 April 2018 made a number of significant changes that impacted marriage celebrants including:</p> <ul style="list-style-type: none"> • a streamlined Code of Practice and complaints process for marriage celebrants • clearer requirements around the documents that must be given to a celebrant in relation to a minor’s marriage • added two automatic exemption provisions: <ul style="list-style-type: none"> – celebrant registration application charge (circumstance in which Registrar must grant exemption for first year of registration) – ongoing professional development for a celebrant’s first year of registration (for celebrants registered from 1 January 2019 onwards – if they were awarded a Certificate IV in Celebrancy in the 12 month period before the date of their registration) • clearer requirements to keep records for six years, and • removal of a number of offence provisions duplicated in other legislation. 	

Looking Ahead

LEARNINGS AND PRIORITIES FOR 2018-19

During 2018-19, the Programme intends to maintain its process of continual improvement and refinement to identify further efficiencies in the operation of the Programme.

The Programme will continue to work with Associations to look for ways to improve training and assessment of celebrants.

The Programme also continues to improve on the quality, efficiency and effectiveness of the consultations between the department, professional associations and marriage celebrants more generally. Efficiencies will continue to be identified through effective consultation with professional associations, who have considerable knowledge and practical understanding of issues relevant to marriage celebrants, in both the development of materials and analysis of celebrant enquiries (with the aim of reducing the number of enquiries and minimising cost).

In addition, the Programme will examine the way the overall programme is monitored to find ways to reduce the regulatory burden on celebrants – this will include a review of the ongoing professional development compliance process.

A priority for 2018-19 is the review of the marriage forms – the marriage forms which include the Notice of Intended Marriage, official certificates of marriage, declaration by parties to marriage that there is no legal impediment and application for registration as a marriage celebrant. These are being progressed with the aim of making them more streamlined, intuitive and clearer, to reduce costs of compliance by marriage celebrants.

Further to the KPI 2, the updated Guidelines on the *Marriage Act 1961* for authorised marriage celebrants will be finalised and published.

2018-19 will also see the Programme continue to work on reviewing and upgrading the marriage celebrant database, MarCel, to enhance the administrative efficiency and effectiveness of the Programme. This will include reducing four pathways into the database into one. Work on refining the database, provides an efficient platform for marriage celebrants to make an application and apply for an exemption, change details, review OPD history and pay fees and charges. This will include work on the celebrant registration charge invoicing process which will contribute to a higher number of celebrants being aware of, and complying with, the legislated timeframes for payment of the charge. Once the work is complete, marriage celebrants will be encouraged to use MarCel to manage their information and interactions with the department. This is likely to have an impact on departmental resources dedicated to responding to marriage celebrant's enquiries and in turn, minimise costs.