



Attorney-General's Department and Marriage Celebrant Associations Meeting Minutes Thursday, 27 October 2016

1. Welcome

The chair welcomed attendees to the meeting. The meeting acknowledged the contributions of Ms Lyn Knorr, who after 43 years as a celebrant is retiring soon.

Attendees:

Attorney General's Department

Tamsyn Harvey, Civil Justice Policy and Programmes Division

Ashleigh Saint, Family Law Branch

Sarah Teasey, Marriage Law and Celebrants Section

Kim Williams, Marriage Law and Celebrants Section

Rohan Verco, Marriage Law and Celebrants Section

Janine McFarlane, Marriage Law and Celebrants Section

Lucy Stockwell, Marriage Law and Celebrants Section

Alarna Hayes, Marriage Law and Celebrants Section

Associations:

Dorothy Harrison, Coalition of Celebrant Associations and Marriage Celebrants Australia

Liz Pforr, Coalition of Celebrant Associations and Alliance of Celebrants Queensland

Judy Brooks, Celebrations Australia Inc

Rona Goold, Civil Celebrants Network and Association of Civil Marriage Celebrants of South Australia (proxy)

Lyn Knorr, Association of Marriage Celebrants of Victoria

Cheryl Lansdsberry, Professional Celebrants Association

John O'Carrigan, Association of Civil Marriage Celebrants of NSW and ACT

Yvonne Werner, International College of Celebrancy Associations

Len Masson, Riverina Marriage Celebrants Association

Craig Moran, Marriage Celebrants Inc

Karen Rose, Alliance of Celebrants Queensland

Anthony Burke, Australian Federation of Civil Celebrants

Sally Cant, Celebrants Association of Australia

Charles Foley, Humanist Celebrant Network

Apologies:

Brian Richardson, Australian Federation of Civil Celebrants

Sonia Collins, Civil Celebrations Network

Pamela Schultz, Association of Civil Marriage Celebrants of South Australia

Action items from previous meeting

The Chair noted that all action items were either finalised or in progress. There was no further discussion on this item.

General update from MLCS

Conflict of Interest and Ongoing Professional Development Discussion Papers

The department noted that discussion papers on conflict of interest and professional development are in the final stages of drafting before being released. The discussion papers will be supported by a two part survey (conflict of interest and ongoing professional development). Celebrants will be able to choose to complete either one part or both parts of the survey.

The department will communicate the survey broadly amongst associations, celebrants, and births, deaths and marriages offices in all states and territories. There is no release date for the survey, with the department anticipating it will be available by the end of the year. The department noted that the survey was one mechanism of responding and stakeholders are welcome to provide written responses.

The department advised it does not propose to consult on the survey questions before they go out. The questions will be broad and in many instances will include open ended questions and opportunities to provide general thoughts.

CoCA advised that the conflict of interest guidelines were no longer available on the aspiring celebrants webpage, and asked if these could be put back on.

ACTION ITEM: AGD to consider placing the conflict of interest guidelines on the “Becoming a marriage celebrant” webpage.

Marriage Forms

The department advised that work was continuing on revising the marriage forms following consultation completed with state and territory registries of births, deaths and marriages. Once the issues arising from that consultation have been resolved, the department will consult with associations on the revised forms.

The department advised the forms review covers both design and content. The department noted it has consulted with the Australian Bureau of Statistics (ABS) to identify the information collected by the ABS through marriage forms. The department noted that once consultation on the revised forms was complete they would be submitted to the Attorney-General for approval. The department is conscious that celebrants will need time to transition to the new forms once approved.

CoCA tabled a copy of a page from the new “Red Book” published by CanPrint, noting they were unhappy with the typesetting of the document.

ACTION ITEM: AGD to discuss quality of Red Book with CanPrint.

Cost Recovery Implementation Statement (CRIS)

The department advised the CRIS is in the final stages of approval. It will be placed on the department’s website once approved. The department advised that there was a small over-recovery for last financial year, and that a small under-recovery is forecast for the next few financial years which projects that the programme will be brought into balance into balance.

The department advised that consideration of fees and charges for 2017/18 will occur later in the financial year.

OPD Compulsory Subject

The department advised that the compulsory subject is currently being drafted and will focus on solemnising the wedding ceremony (utilising the fact sheet “Marriage celebrant obligations when solemnising marriage”), the transfer of NOIMs, and offences under the *Marriage Act 1961*. The department agreed to consider a request to utilise case studies (de-identified) to assist with demonstrating situations in which the offences may arise.

There were some general concerns expressed from associations that the proposed compulsory subject is basic training to experienced celebrants, stressing that the role of OPD is continuing education that extends practitioners knowledge and skills beyond basic training. However, association representatives, who are also OPD trainers, indicated that reinforcement of marriage law basics continues to be relevant for many marriage celebrants.

The department advised it expects the compulsory subject to be circulated to OPD providers early in the new year. Some concern was expressed that celebrants only have ten months to complete OPD and enquired if the compulsory subject could be made available earlier. The department advised that some OPD providers do not open in the early new year and the process this year is consistent with previous year’s practice.

AFCC asked when applications for recognition of association conferences could be made. The department advised that applications could be made straight away and that the department would endeavour to provide a response before the end of the year.

Marriage Regulations 1963 Review

The department acknowledged feedback received from associations last year on the current Marriage Regulations. The department advised the Attorney-General has approved a certificate to delay the sunseting

(expiry) date from 1 April 2017 to 1 April 2018. The department advised that this means the new regulations must be made by 1 April 2018, and explained that the extension was partly to allow the department to reflect the outcomes of the OPD consultation in the new regulations.

Presentation by the Department of Immigration and Border Protection (DIBP): Changes to the Migration Act 1958

The Chair welcomed representatives from DIBP.

DIBP discussed changes being made to partner and prospective marriage visas that aim to reduce family violence. From 18 November 2016, DIBP can advise people applying for partner and prospective marriage visas if their sponsor (generally their spouse or fiancée) has a conviction for a 'relevant offence'. Relevant offences include those involving violence, harassment, molestation, intimidation, stalking, dangerous weapons, people smuggling, or human trafficking.

The DIBP representatives also discussed that DIBP does not expect or require marriage celebrants to assess whether a couple has a genuine relationship. The department confirmed that marriage celebrants are only responsible for ensuring that the requirements of the *Marriage Act 1961* are met—such as, that the couple are free to marry and can provide real consent.

DIBP confirmed that marriage celebrants cannot provide advice to marrying couples on migration issues. However, marriage celebrants can inform couples that changes are being made to partner and prospective marriage visas, and encourage them to contact DIBP.

DIBP advised they are working on a broad communication strategy to inform stakeholders of these changes.

ACTION ITEM: AGD to consider:

- including wording on the migration regulatory changes in the upcoming marriage celebrants newsletter, and
- review whether guidance could be placed on the Marriage website.

2016 annual registration process

The Chair acknowledged that there were issues with this year's process with duplicate emails being sent to celebrants containing the annual registration charge invoice, and some duplicate emails containing payment receipts being sent. The Chair thanked associations for their patience with this issue. The department noted that an apology for any inconvenience caused to celebrants will be placed in the upcoming newsletter.

Apart from the duplication issue, the department advised the overall process went smoothly with all payments reconciled by 5 October 2016 which was a significant improvement on last year.

The department advised that four celebrants had made an application to the Administrative Appeals Tribunal (AAT) following their deregistration. The department advised that a deregistered celebrant who has appealed to the AAT will only remain as a registered celebrant if a "stay" order has been agreed to. One stay order has been agreed to out of the recent process.

Regulator performance framework feedback

The department advised the first assessment period commenced on 1 July 2015 and ended on 30 June 2016. The department reminded associations that the metrics for the framework had been agreed last year and were being used to record performance this year.

The department advised the framework had been circulated to associations with comments due by 4 November 2016. Once the consultation process has concluded, the department will consider comments received before providing the report to the Attorney-General for approval.

During this agenda item, a number of associations spoke of their concerns that some people who are not fluent in English have been registered as celebrants. The concerns focused on how celebrants who could not speak English could have successfully obtained a Certificate IV in Celebrancy, and, once registered, complete required marriage paperwork and OPD. The department noted that the legislation does not require fluency in English, but agreed to consider this issue further for discussion at a future meeting.

ACTION ITEM: AGD to circulate a response in relation to training issues with non-English speaking celebrants to all associations and training providers.

AGD to update the self-assessment report to amend page one to replace the word qualitative with quantitative and include ‘/celebrancy practice’ after the words ‘small businesses’ on page ten.

Marriage Amendment (Same-Sex Marriage) Bill

Associations sought advice from the department on the implications for celebrants of the Marriage Amendment (Same-Sex Marriage) Bill. The department stressed that the Bill is an Exposure Draft and that advice cannot be provided on what the ramifications of the Bill would be as it is uncertain whether this Bill will be presented to the Parliament. The department noted that it had notified associations of the Exposure Draft and the Attorney-General’s accompanying media release as soon as possible in accordance with the commitment it gave at the last associations meeting. The department advised it would inform associations when/if further information was released by the Government.

The department noted that the Attorney-General’s media release indicates that the Exposure Draft is subject to ongoing consultation, and that a comment by a Government Member in Parliament indicated that the consultation would be open to 6 December 2016. A number of associations expressed their intent to provide a submission on the Exposure Draft and the Chair indicated associations could, should they wish, provide their comments to the department.

In response to a question on whether additional changes to the Marriage Act could be inserted into the Bill, the department advised that as a general rule, the more things added to a Bill, the more complicated it is for the Bill to pass through Parliament.

Potential changes to the Marriage Act 1961

CoCA spoke to this item noting that in their view periodic review of the Marriage Act was required to ensure that it evolved with societal changes. CoCA briefly discussed a number of key issues for them including, consistent requirements for legal marriage in all ceremonies, modernisation of the vows, clear distinction between “civil celebrants” and “celebrants for non-recognised denominations”, and consistent fees and training requirements for all celebrants.

CoCA noted that it would submit a discussion paper on these issues after the meeting.

ACTION ITEM: AGD to circulate discussion paper to all meeting attendees.

Guidelines on the Marriage Act 1961 for Marriage Celebrants (Guidelines)

CoCA spoke to this item noting that it would be desirable for the Guidelines to be updated annually focusing on areas identified as problematic by the volume of enquiries received. CoCA noted it would like the updates to be done in coordination with associations.

The department advised that it is not planning on revising the Guidelines at this time. The department further advised it keeps a log of issues arising out of enquiries work and that fact sheets were regularly released in response to these issues. The fact sheets are intended to support the Guidelines. The department noted that it would consult with associations when it next reviewed the Guidelines.

CoCA noted that it would submit a discussion paper on this issue after the meeting.

ACTION ITEM: AGD to circulate discussion paper to all meeting attendees.

Workforce development

CoCA spoke to this item to provide an update on the status of celebrancy training through the VET system. CoCA advised attendees that they were the industry representative on the newly formed Client Services Industry Reference Committee which advises the Australian Industry and Skills Committee about training packages for industry. CoCA advised that the Certificate IV in Celebrancy qualification was next scheduled for review in 2019-20. CoCA also mentioned that the department could consider making mandated assessments a requirement to improve the standard of training, which in turn may lead to less enquiries to the hotline.

CoCA noted that it would submit a discussion paper on this issue after the meeting.

ACTION ITEM: AGD to circulate discussion paper to all meeting attendees.

Other business

Transfer of NOIMs

AFCC discussed their concerns regarding the transfer of NOIMs from BDMs to celebrants noting that some BDMs would not allow the transfer of NOIMs whilst others would not transfer the NOIM until a fee was paid. AFCC noted this can impact negatively on couples who may be subsequently required to get a shortening of time approval or complete a new NOIM.

In general discussion on this issue an observation was made that recognised denominations were sometimes reluctant to release a NOIM if a couple chose to change celebrants.

ACTION ITEM: AGD to discuss with BDMs the approach each takes to, or internal policies on, transferring NOIMs and report back to associations.

Agenda items for associations meeting

The department advised it had received feedback that it was not clear what particular issue is being proposed for discussion for some of the agenda items raised by associations. The department proposed that when an association suggest an agenda item in the future, that background material on the issue be provided in advance

of the meeting and circulated to all attendees to facilitate informed discussion. This proposal was supported by all meeting attendees. CoCA noted that as they meet immediately before the associations meeting, their items arising from that meeting would be raised in future under 'other business' as matters to be included on the agenda for the following meeting.

Fact sheets

CoCA noted that it would save time for celebrants if the webpage where the fact sheets are listed could be updated to show when the fact sheet was last updated. Presently, each fact sheet needs to be opened individually to determine when it was last updated.

ACTION ITEM: AGD to consider placing "last updated" notifications against each fact sheet on the celebrant resources webpage.

Correspondence from Civil Celebrant Network (CCN) on the annual charge and deregistration

The department noted CCN had written to Tamsyn Harvey (8 Sept 2016) on the issue of celebrants being deregistered for non-payment of the annual charge and options for retaining registration. The department noted that a response was nearly finalised and asked CCN whether its initial correspondence and response could be circulated to all associations. This was agreed.

ACTION ITEM: AGD to send copies of CCN correspondence and response to all associations.

The Chair thanked associations for their attendance and noted the next meeting will be scheduled around April 2017.

Consolidated Action Items

1. AGD to consider placing the conflict of interest guidelines on the “Becoming a marriage celebrant” webpage.
2. AGD to discuss quality of Red Book with CanPrint.
3. AGD to consider:
 - a. including wording on the migration regulatory changes in the upcoming marriage celebrants newsletter, and
 - b. review whether guidance could be placed on the Marriage website.
4. AGD to circulate a response in relation to training issues with non-English speaking celebrants to all associations and training providers.
5. AGD to update the self-assessment report to amend page one to replace the word qualitative with quantitative and include ‘/celebrancy practice’ after the words ‘small businesses’ on page ten.
6. AGD to circulate discussion paper (potential changes to the Marriage Act) to all meeting attendees.
7. AGD to circulate discussion paper (Guidelines on the Marriage Act) to all meeting attendees.
8. AGD to circulate discussion paper (Workforce development) to all meeting attendees.
9. AGD to discuss with BDMs the approach each takes to, or internal policies on, transferring NOIMs and report back to associations.
10. AGD to consider placing “last updated” notifications against each fact sheet on the celebrant resources webpage.
11. AGD to send copies of CCN correspondence and response to all associations.