



# Attorney-General's Department and Marriage Celebrant Associations Meeting Minutes

## Friday, 5 May 2017

### 1. Welcome

#### Attendees:

##### Attorney General's Department

Cameron Gifford, Civil Justice Policy and Programmes Division

Bridget Quayle, Marriage Law and Celebrants Section

Kimberley Williams, Marriage Law and Celebrants Section

Rohan Verco, Marriage Law and Celebrants Section

Hala Botros, 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 Celebrations Network

Sonia Collins, Civil Celebrations Network

Yvonne Werner, International College of Celebrancy

Marianne Macartney, Association of Marriage Celebrants of Victoria

Karen Rose, Alliance of Celebrants Queensland

Guy Piper, Professional Celebrants Association

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

Keith Lammond, Marriage Celebrants Inc

Marion Way, Riverina Marriage Celebrants Association

Judy Van Der Vegt, Riverina Marriage Celebrants Association

Brian Richardson, Australian Federation of Civil Celebrants

Irene Harrington, Australian Federation of Civil Celebrants

Dudley Raine, Celebrants Association of Australia

Charles Foley, Humanist Celebrant Network

## Apologies:

Pamela Schultz, Association of Civil Marriage Celebrants of South Australia Inc.

Lyn Knorr, Association of Marriage Celebrants of Victoria

AGD noted that during testing of the MLCS database on 3 May 2017 emails were inadvertently sent to approximately 900 celebrants. The MLCS sent a follow up email to all of these celebrants noting the mistake and advising celebrants to disregard and delete the email. AGD apologised for this error.

**Action Item:** AGD to provide updated organisational chart.

## 2. Action items from previous meeting

The Chair noted that all action items were finalised except for Item 9 which was that AGD would discuss with BDMs their policies on transferring NOIMs and report back to associations. AGD advised that it had not met with all BDMs since the last meeting but had received advice from both WA and Tasmania. Tasmania does not conduct registry weddings, and WA advised it only transfers NOIMs in accordance with s42(6) of the *Marriage Act 1961*. AGD advised it would follow up with BDMs at the next BDM meeting but ultimately transferring NOIMs is a matter between BDMs and individual celebrants.

Associations expressed their concern regarding celebrants who were unable to speak English being registered and asked whether MLCS followed up on language skills with each applicant. MLCS advised it did not specifically follow up on language competency but did follow up if any flags emerged during the assessment of an application. Associations raised concerns that applications may be completed by a third party rather than the actual applicant. MLCS advised that a declaration at the end of the application requires that the applicant confirm that all details in the application are true. The declaration requires the applicant to write their name, signature and date the declaration was made.

On the broader issue of celebrants being able to communicate in English, MLCS advised that there had been no examples of complaints received about non-English speaking celebrants understanding of or compliance with the legal requirements of solemnising a marriage.

The associations asked that the AGD consider adding a Statutory Declaration as to the identity the person making the Application to Application Process. AGD noted that, in the application form, applicants are required to make a declaration that the information they have provided is true and complete, and that where copies of documents are provided in support of the application, these copies are original in every detail.

**Action Item:** AGD to monitor complaints for any data or examples of language fluency being an issue in a ceremony. Associations to provide examples to AGD.

Associations sought advice on whether the Form 15 Marriage Certificate could be made available for purchase in both portrait and landscape layouts.

**Action Item:** AGD to provide advice on Form 15 layout.

### 3. General update from MLCS

AGD advised the annual registration charge will stay at \$240 for 2017/18. A reminder about the annual registration charge will be sent out in June and invoices should be issued in early July.

Associations raised concerns regarding deregistered celebrants making applications to the Administrative Appeals Tribunal when there were limited chances of success. AGD advised that all deregistered celebrants who contact the department are advised to seek legal advice if they wished to challenge the deregistration decision. AGD also advised that it provided significant detail on the outcome of an AAT matter in the Autumn/Winter 2016 issue of *Marriage Celebrant Matters*.

AGD advised that the 30 day administrative payment deadline in the invoice was included two years ago to encourage celebrants to pay the celebrant registration charge before the charge payment day which is 60 days from the date of the invoice. Celebrants who are liable to pay the charge must be deregistered if they do not pay by the charge payment day.

AGD advised that celebrants who tender their registration can be removed at any time from the Register of Marriage Celebrants. AGD's practice is to follow up with all resigning celebrants to confirm the date the resignation will take effect.

AGD advised that all celebrants who are registered on 1 July receive the annual registration charge invoice. Suspensions for celebrants who failed to complete OPD for 2016, will end before 1 July 2017.

AGD advised the programme is currently tracking in line with forecasts with no significant under or over recovery expected. AGD noted the Cost Recovery Implementation Statement would be available on its website in the new financial year.

### 4. Legislative work

AGD advised that work is progressing on the complete review of the Marriage Regulations. The Attorney-General's approval will be sought shortly to undertake further consultation with celebrant associations on the draft regulations. An exposure draft paper will be provided alongside the draft regulations which explains the changes made to the current Marriage Regulations. AGD will advise associations once the proposal for consultation has been agreed by the Attorney.

AGD advised that the Civil Law and Justice Legislation Amendment Bill 2017 was introduced into Parliament on 22 March 2017 and is due to be debated in the Winter Sitting which commences on 9 May 2017. The Bill proposes to make minor and technical changes to several different Commonwealth laws, including the Marriage Act. The Bill is currently being reviewed by the Senate Legal and Constitutional Affairs Legislation Committee which is due to report 10 May 2017.

**Action Item:** AGD to advise associations once the Committee has reported and once the Bill has passed.

AGD advised that the proclamation of recognised denominations is due to sunset on 1 April 2018. AGD will be seeking the Attorney's views on the preferred approach to dealing with the sunset of the proclamation.

Associations asked if celebrants registered under Category C are continuing to be authorised to conduct both civil and religious ceremonies. AGD advised that approximately 50 celebrants are authorised to conduct both ceremonies and the continuation of this kind of authorisation is something the department is considering.

**Action Item.** Department to advise associations of any decision regarding celebrants who are authorised to perform civil and religious ceremonies.

## 5. Marriage forms review

AGD advised that draft marriage forms were emailed to celebrant associations on 3 May 2017, with comments due back by 2 June 2017. Once association feedback has been received, AGD will consider any further changes and then seek the Attorney's approval of the forms.

AGD noted that in response to feedback already received, that numbers to identify each form were being reintroduced. AGD also noted that there would be no changes to the form 15 certificate of marriage.

AGD noted that the draft forms would not be provided to all registered celebrants and encouraged associations to provide consolidated responses by the 2 June deadline.

**Action Item:** AGD to recirculate draft forms with the word "draft" placed as a watermark.

## 6. Consultation outcomes

AGD thanked those celebrants and associations who contributed submissions and completed the survey in response to AGD's consultation on ongoing professional development, conflict of interest and benefit to business.

Associations noted that the results of the survey had only recently been released by AGD and it was difficult to provide constructive feedback in small timeframes. AGD acknowledged the lack of lead time in publishing the results and agreed that greater efforts needed to be made to ensure the timely release of such information.

The Associations noted that the Department in its consultations on ongoing professional development and conflict of interest / benefit to business had indicated that submissions made would also be published. Therefore the associations present requested that all submissions on OPD and conflict of interest / benefit to business be made available as indicated, but especially to the participant associations of this Attorney-General's Department and Marriage Celebrant Associations Meeting. The department agreed to send submissions as soon as practicable.

AGD noted that subject to any views of the Attorney-General, the department would retain the requirement for five hours of OPD annually which must involve as least two activities; retain the ability for the Registrar to impose up to two compulsory activities each year; maintain the calendar year as the OPD year; and retain the existing OPD exemptions on the basis of exceptional circumstances for the year and late-year registrations.

Associations discussed their views on the failure of the Marriage Celebrants programme to meet the objectives outlined in 2002 to develop a professional model of celebrancy and the implications for this model of the large number of celebrants conducting very small numbers of marriages. CoCA raised the need for further discussion on the model of celebrancy with the AGD as in their view there needs to be an agreed model of professional celebrancy to guide the approaches to OPD and conflict of interest / benefit to business and possible legislative changes that may result from the outcomes of these consultations.

AGD noted that position papers on both the OPD and conflict of interest and benefit to business issues would be released in the coming months.

The opportunity for celebrant associations to give feedback on the draft compulsory activities once they were drafted, was discussed and it was agreed that it would be beneficial for celebrant associations to be able to participate in the process.

**Action Item:** AGD to circulate the submissions it received in its 2017 Consultations on ongoing professional development and conflict of interest / benefit to business.

**Action Item:** AGD undertook to provide a copy of the draft compulsory activity to associations for comment on content before it is settled.

## 7. CoCA tabled papers

AGD thanked CoCA for the papers (Changes to the Marriage Act; Marriage Celebrant Guidelines, and Workforce Development) lodged out of session after the last meeting.

AGD noted these papers had been circulated to all associations out of session and that a letter responding to the issues raised in the papers was sent to associations on 24 April 2017. Some associations indicated that they had not received the papers tabled by CoCA out of session after the October 2016 meeting and the letter from AGD in response to these papers, and thus were not sufficiently informed for a discussion on the matters CoCA raised.

CoCA also made the point that receiving the letter so close to the meeting meant that CoCA delegates had not had time to prepare for the discussion that we had expected at this meeting. The AGD clarified that the letter was not meant to stifle discussion - just to put the current AGD point of view forward in advance so that the time for discussion was not taken over by AGD addressing the points raised in the papers.

With respect to the recommendation for mandated assessments in the previous VET report, CoCA stated that they were withdrawing the suggestion of mandatory assessments made in one of the papers as mandated assessments would not be an effective strategy for raising standards of VET celebrancy students.

AGD confirmed that it keeps a register of suggestions to amend the Marriage Act. AGD further confirmed that there is no intention for significant changes to the Marriage Act at this time. However, associations and the broader public would be consulted on significant changes if/when the opportunity to amend the Marriage Act arose.

**Action Item:** AGD to re-circulate copies of the CoCA papers (Changes to the Marriage Act; Marriage Celebrant Guidelines, and Workforce Development) to non-CoCA associations for the next AGD and Marriage Celebrant Associations Meeting.

## 8. Other business

Associations enquired when electronic signatures can be used on forms. AGD advised that the Form 15 marriage certificate must be completed in hard copy.

**Action Item:** AGD to confirm when electronic signatures can be used on other marriage documents.

Associations asked if they are required to keep hard copy documents which have been scanned and sent into BDMs in electronic form. Associations advised that some BDMs do not wish to receive hard copy documents if electronic documents have been submitted. AGD advised that the marriage certificate must be kept for at least six years.

Associations asked what the status of same-sex marriage was. AGD advised that the Government's policy is clear that same-sex marriage will only be considered via a plebiscite.

Associations noted that the recent storms in Queensland highlighted the need to have disaster management plans in place for when natural disasters occur. AGD noted that natural disasters can have a significant impact on performing marriage ceremonies and that while practical steps to facilitate the ceremony should be considered, celebrants must still comply with the Marriage Act (for example, the transfer of NOIMs).

**Action Item:** AGD advised that it will look at clarifying the use of electronic media in transferring of NOIMs and obtaining a shortening of time in a declared disaster situation.

In response to a question from an association, AGD advised that deregistration of celebrants for non-payment of the annual registration charge occurs 21 days after the date of the letter containing the notice of intended deregistration. AGD further advised that celebrants received a final notice of deregistration once they had been removed from the Register of Marriage Celebrants. AGD advised that deregistered celebrants received both of these letters in hard and soft copy.

The Chair thanked associations for their attendance and noted that associations will be consulted on the preferred date for the next meeting when the meeting minutes are sent out.

## Consolidated Action Items

<b>1.</b>	AGD to provide updated organisational chart.
<b>2.</b>	AGD to monitor complaints for any data or examples of language fluency being an issue in a ceremony. Associations to provide examples to AGD.
<b>3.</b>	AGD to provide advice on Form 15 layout.
<b>4.</b>	AGD to advise associations once the Committee has reported and once the Bill has passed.
<b>5.</b>	Department to advise associations of its decision regarding celebrants who are authorised to perform civil and religious ceremonies
<b>6.</b>	AGD to recirculate draft forms with the word “draft” placed as a watermark.
<b>7.</b>	AGD to circulate the submissions it received in its 2017 Consultations on ongoing professional development and conflict of interest / benefit to business.
<b>8.</b>	AGD undertook to provide a copy of the draft compulsory activity to associations for comment on content before it is settled.
<b>9.</b>	AGD to re-circulate copies of the CoCA papers (Changes to the Marriage Act; Marriage Celebrant Guidelines, and Workforce Development) to non-CoCA associations for the next AGD and Marriage Celebrant Associations Meeting.
<b>10.</b>	AGD to confirm when electronic signatures can be used on other marriage documents.
<b>11.</b>	AGD advised that it will look at clarifying the use of electronic media in transferring of NOIMs and obtaining a shortening of time in a declared disaster situation.