

MARRIAGE CELEBRANTS PROGRAMME
REGULATOR PERFORMANCE FRAMEWORK

1 JULY 2015 – 30 JUNE 2016

The Attorney-General's Department (AGD) registers and regulates marriage celebrants under Part IV, Division I, Subdivision C of the *Marriage Act 1961* (the Marriage Act) through the Commonwealth Marriage Celebrants Programme (the Programme). As at 1 July 2015, there were 8,786 marriage celebrants being regulated under the Programme.

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 to 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 AGD 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, AGD uses performance measures, which have been agreed with celebrant associations, to track progress of the Programme against the six KPIs of the Framework. The Framework requires AGD to publish a self-assessment report that is externally validated by celebrant associations and explains how AGD 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 2015-16 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 2015-16 and identifies opportunities for further progress against achieving the objectives of the Framework. The results of AGD's self-assessment of the Programme against the Framework and the external validation by celebrant associations will be made publicly available on the AGD website.

KPI ONE	MEASURES OF GOOD REGULATORY PERFORMANCE
Regulators do not unnecessarily impede the efficient operation of regulated entities.	<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 2015-16, based on the following:</p> <ol style="list-style-type: none"> 1. In response to concerns raised by celebrants, AGD commenced a review of the marriage Forms used by authorised celebrants to ensure that the Forms are 'fit for purpose' and minimise time taken to complete marriage paperwork accurately. AGD continues to work to address celebrants' concerns with marriage Forms and is in the process of consulting widely with state and territory Registries of Births, Deaths and Marriages (BDMs) and celebrant associations. To date, in response to celebrant concerns, AGD has removed dotted lines, created pdf writeable forms and altered one form to ensure that the declaration of no legal impediment and the official certificate of marriage print double sided more easily. These changes have made it easier and more efficient for authorised celebrants to comply with their legislative requirements and provide professional looking documents to their clients. Possible further changes to the Forms are being considered and developed in consultation with stakeholders. 2. The Programme holds biannual stakeholder meetings with celebrant associations to discuss the operation of the Programme. In 2015-16, meetings were held in October 2015 and April 2016. The matters considered included the review of marriage Forms, the annual registration charge process and professional development compliance. To keep celebrant associations up to date with particular issues of relevance, the Programme often organises special presentations at these meetings. In 2015-16, a presentation was given on the new Document Verification Service that makes identification checking simpler and more secure, and which may assist marriage celebrants and the department with identity checking responsibilities in the future. 3. The Programme conducted a review of the types of enquiries frequently received through the Programme's enquiries service, and consulted with stakeholders about commonly experienced issues. Understanding of the requirements for determining whether a party has provided real consent to marry, and the management of celebrant registration, were identified as two issues that can cause confusion for some celebrants. To assist marriage celebrants in fulfilling their legal requirements, and handling their registration, the department developed a two hour professional development activity for marriage celebrants to form part of the five hours of professional development celebrants are required to undertake each year. This training activity included detailed information about issues to consider when determining consent of the parties to a marriage. To make it easier to manage their own registration the training was accompanied by a hard copy fact sheet that celebrants could keep on hand to help them log into their celebrant self-service portal. Access to the portal allows celebrants to self-manage their contact details, annual celebrant registration charge payment and check their professional development history. 	

4. AGD also holds regular teleconferences with BDMs. In September 2015, discussions covered information sharing, and provided updates on upcoming changes to legislation and progress of the marriage Forms review.

Case Study: The Programme routinely conducts environmental scanning of the enquiries service to identify emerging themes in requests from marriage celebrants. During 2015-16, the Programme identified an increase in the number of calls being received about ‘pop-up weddings’, a new trend in the wedding industry, which involves a number of wedding-related services being packaged together for a competitive cost. Many celebrants were keen to understand how they could be a part of a ‘pop-up wedding’ business without creating a conflict of interest or benefit to (another) business, which are restricted under the legislation. In response to the increase in enquiries about this issue, the Programme published a fact sheet about ‘pop-up weddings’ on its website so that celebrants could organise their business affairs with greater confidence that they are complying with their legislative requirements and without the need to contact the Programme for guidance.

KPI TWO	MEASURES OF GOOD REGULATORY PERFORMANCE
Communication with regulated entities is clear, targeted and effective	<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 hotline 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 2015-16, based on the following:</p> <ol style="list-style-type: none"> 1. In addition to the bi-annual meetings with celebrant associations, the Programme provides a newsletter, <i>Marriage Celebrant Matters</i>, to all marriage celebrants to raise awareness about emerging issues. In 2015-16 these newsletters covered forced marriage, the use of passports as evidence of date and place of birth, using public address (PA) systems, supporting documents for visa applications, misleading advertising, summary of a recent Administrative Appeals Tribunal (AAT) decision, upcoming policy reviews into professional development and benefit to business restrictions, and the review of the Marriage Regulations. The newsletters, which were released in December 2015 and in May 2016, also contained valuable information for marriage celebrants on updates to AGD’s website and on maintaining their registration, including using the self-service portal, the annual registration charge process and professional development requirements. 2. The Programme publishes a range of guidance material to assist marriage celebrants to perform their role efficiently and effectively. Eight factsheets are currently published on the AGD website to provide guidance on a range of specific issues related to celebrants’ legislative obligations and 	

managing their registration. Four new factsheets were added during 2015-16 and three were updated. The Programme also publishes an extensive set of *Guidelines on the Marriage Act 1961 for marriage celebrants*. To supplement this resource, three sets of further guidelines on advertising, conflict of interest/benefit to business and exemption applications have also been published by the Programme. All material published by the Programme meets the Australian Government’s Web Content Accessibility Guidelines.

3. The Programme provides marriage celebrants with an enquiries service which provides access to a hotline that is answered from 10am-1pm and 2pm-5pm, Monday to Friday and a dedicated email address. Marriage celebrants can use the enquiries service to contact the Programme for clarification about their role, responsibilities or registration. During 2015-16, the Programme responded to approximately 24,700 enquiries. In a September 2015 survey of stakeholders, 90% of marriage celebrants who responded to the question rated the enquiries service as good or excellent.

Case Study: In 2015-16, the Programme updated the marriage celebrant online self-service portal to enable marriage celebrants to access their professional development history, exemption status and payment history. Receipts were also made available so that celebrants could check their payment status without the need to contact the department. Having efficient access to these details reduces the effort required by marriage celebrants to effectively manage their registration. The portal also allows celebrants to update and manage their contact details without the need to contact the department directly. Training on how to access the self-service portal was developed to assist celebrants in using this resource easily and included in the 2016 compulsory professional development training for celebrants.

KPI THREE	MEASURES OF GOOD REGULATORY PERFORMANCE
Actions undertaken by regulators are proportionate to the regulatory risk being managed	<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.
SELF-ASSESSMENT AND SUPPORTING EVIDENCE	
<p>AGD considers that the Programme has met this KPI for 2015-16, based on the following:</p> <ol style="list-style-type: none"> 1. A new enforcement strategy for issuing disciplinary measures for non-compliance with professional development obligations was implemented by the Programme in early 2015 and further streamlined in early 2016. The strategy takes a proportionate approach and allows a celebrant’s compliance history to be considered when determining what disciplinary measure might be imposed by the Registrar of Marriage Celebrants for not complying with this legislative obligation. The enforcement strategy is graduated to encourage marriage celebrants to complete professional development before more serious measures, such as suspension and deregistration, are considered. AGD advised celebrant associations about the approach taken 	

during a stakeholder meeting in April 2016 and has undertaken to update guidance material about the approach taken for the information of the broader marriage celebrant population.

Clear guidance is provided to newly registering marriage celebrants about their obligations, and the mechanisms available for the Registrar of Marriage Celebrants to review their performance, including through professional development monitoring, performance monitoring, the complaints framework and the disciplinary measures that can be imposed by the Registrar for failure to meet their obligations. In 2015, 94% of marriage celebrants met their professional development requirements (noting that this obligation relates to a calendar year). As a result of checking professional development completion, in 2015, 143 celebrants were cautioned, 217 were required to complete additional professional development, 19 were suspended and 14 were deregistered. A number of celebrants were provided with an opportunity to demonstrate that they would catch up on professional development before the Registrar made a decision on the severity of the disciplinary measure to be imposed. All celebrants who were suspended or deregistered were advised about their right to appeal the decision under section 39J of the *Marriage Act 1961*. No appeals to the AAT were made during 2015-2016 in relation to a disciplinary measure that had been imposed by the Registrar, demonstrating the proportionate response taken to regulation by the Programme.

2. In 2015-2016 (published during 2016-17), a fact sheet on the complaints process was developed to assist celebrant understanding of the process the Programme follows upon receiving a complaint about a celebrant. During 2015-16, the Programme resolved 35 complaints about 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. As a result, three disciplinary measures were imposed on celebrants, with one celebrant receiving a caution and two being required to undertake additional training.

Case Study: Commencing in 2015-16, the Programme implemented a streamlined approach to dealing with complaints about marriage celebrants. The new process ensures that the Programme has a consistent approach to decision-making, regardless of whether the complaint falls within the statutory framework provided for in the Marriage Regulations 1963. Consistent with access to justice principles, complainants are referred to other appropriate services where the Programme cannot deliver the outcome sought. Additionally, systems have been put in place to ensure that celebrants are made aware of complaints about them and afforded a fair opportunity to respond, even where such complaints are not being dealt with. Prior to implementing this streamlined framework, the Programme experienced a significant back log of complaints, with many complaints remaining unresolved for significant periods of time. Following the new complaints process, the Programme aims to acknowledge all complaints within 7 days and also aims to respond to all communication within 28 days. All complaints are dealt with as efficiently and as flexibly as possible, although some complaints may take additional time, for example due to being referred and investigated by other government agencies. AGD estimates that the new process for managing complaints against celebrants has reduced the time taken to resolve them by approximately 50%.

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 and meet reporting requirements (annual questionnaire). 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 2015-16, based on the following:</p> <ol style="list-style-type: none"> 1. In 2015-16 AGD commenced an IT upgrade project to move the ‘Marcel’ database containing celebrant records to an up to date platform (‘CRM 2015’) to ensure appropriate ongoing system support. This is expected to result in improvements to the way the system stores information and improve flexibility in the way bulk communications can be generated and distributed to celebrants. This work will continue throughout 2016-17. 2. Consistent with the Australian Government’s 2011 National Digital Economy Strategy, AGD continues to encourage marriage celebrants to use a self-service portal to manage their registration online, including applications for exemption, changes to details, reviewing OPD history and payments of fees and charges. In 2015-16 AGD developed a compulsory activity and reference card on how to use the self-service portal. AGD considers that, in combination, these steps have contributed to the reduction in enquiries this year. 3. The Programme also recently completed an integrated framework for complaints and performance reviews of celebrants. In accordance with a proportionate and risk-based approach, performance reviews of marriage celebrants will only be undertaken in circumstances where there appears to be a history of issues with a particular celebrant or patterns of behaviour that would suggest that their performance as a marriage celebrant has been unsatisfactory. In accordance with this policy, AGD expects that the Programme will only conduct a small number of performance reviews each year, with the first being scheduled to commence in 2016-17. To ensure that the process is coordinated with the complaints framework, the complaints and compliance teams will engage in regular communication and cross-refer matters where appropriate. The policy ensures that marriage celebrants will have an opportunity to put forward their view about any information the Registrar receives, even if the Registrar is not taking any further action in relation to the information. This will ensure that the celebrant’s statement about the circumstance is on record if it is considered in any future performance review. 	
<p>Case Study: Early each year, professional development training providers advise the Programme of which marriage celebrants have completed their OPD for the previous calendar year. The Programme contacts celebrants where it appears they have not completed their OPD and offers them an opportunity to explain the circumstances before the Registrar of Marriage Celebrants decides whether to issue a disciplinary measure. In early 2015, approximately 22%</p>	

(154) of the marriage celebrants who were offered an opportunity to explain their circumstances had actually completed their OPD for the previous year and were contacted due to AGD error. Due to a significant review of Programme processes for administering OPD and AGD's IT system, this figure was reduced to an AGD error rate of 0.005% (3 celebrants) when the process was conducted in early 2016. In 2015, 94% of marriage celebrants met their OPD requirement. The Programme was able to target its follow-up of celebrants accurately and ensure it was focussing resources, including requests for information, on the celebrants who had not met their requirements.

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 hotline 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	
<p>AGD considers that the Programme has met this KPI for 2015-16, based on the following:</p> <ol style="list-style-type: none"> 1. A hotline and email service was maintained throughout 2015-16; please see response to KPI Two above. 2. During 2015-16, the Programme received 605 applications for registration as a marriage celebrant, and registered 574 marriage celebrants. The average time taken to process applications was two months, which is within the three month timeframe required by subsection 39J(2) of the Marriage Act. 3. In September 2015, AGD published the CRIS for the Programme on the departmental website in accordance with the expected timeframes for disclosure under the Australian Government's Cost Recovery Guidelines. The CRIS contains detailed information about the financial performance of the Programme and explains what activities the Programme undertakes and applies cost recovered funds towards. The Programme has a policy of providing a regular update to stakeholders at biannual celebrant association meetings on the current financial status of the Programme throughout the year and is available to answer any questions or concerns raised by stakeholders. In early 2015, this included a presentation from the Department of Finance about the cost recovery framework. 4. In 2015-16, the Programme developed an information sheet for marriage celebrants to explain the different functions of the Programme and that of BDMs in each state and territory. Many marriage celebrants have cited confusion about the roles of the Programme and BDMs in the regulation of marriages and the subsequent marriage paperwork that marriage celebrants are obligated to complete. This information sheet is intended to provide greater transparency about the complementary, but separate functions of the state and territory governments. 	

5. In 2015-16, substantial improvements to the annual celebrant registration charge invoicing process were achieved. Improvements included providing celebrants with access to their invoice via their self-service portal as well as via email. New due dates for payments well ahead of the legislated charge payment day (after which deregistration occurs) were introduced, as well as intensive follow up using multiple communication methods, including text messaging to send payment reminders. These improvements may have contributed to a higher number of celebrants being aware of, and complying with, the legislated timeframes for payment of the charge and a significant reduction in the number of AAT matters filed in relation to non-payment of the charge from thirteen in 2014 to six in 2015.

Case Study: The Programme provides transparency to marriage celebrants through regular reporting to celebrant associations of statistics, such as new registrations, de-registrations and enforcement actions taken. Although this detail is also provided through the CRIS, the Programme draws out specific statistics for associations upon request to ensure the information can be easily and readily accessed by stakeholders. The Programme has also made significant efforts to keep marriage celebrants apprised about the consequences of not paying their annual registration charge by the due date by including comprehensive advice in the newsletter on the outcome in the matter of *Thiel and the Registrar of Marriage Celebrants* [2015] AATA 872, which was the first AAT review of this particular issue.

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 2015-16, based on the following:</p> <ol style="list-style-type: none"> 1. The Programme has an established bi-annual meeting schedule with peak stakeholders, such as celebrant associations, BDMs, and professional development training providers. Immediately following each of these meetings, the Programme has finalised minutes and agreed action items with each stakeholder. The minutes of each celebrant association meeting are published on the AGD website for the information of all marriage celebrants. In addition, the Programme maintains regular contact with other key stakeholders, such as the AGD sections responsible for identity security and people smuggling and trafficking, and other external stakeholders including the Department of Immigration and Border Protection, Department of Foreign Affairs and Trade, Australian Skills Quality Authority, Australian Federal Police and Commonwealth Department of Public Prosecutions. 	

2. In September 2015, the Programme surveyed all marriage celebrants through a questionnaire provided on the online self-service portal. The questionnaire was intended to prompt marriage celebrants to check that they were meeting their obligations, such as reporting any changes to circumstances, and to provide an opportunity to give the department feedback about the operation of the Programme. The Programme has reviewed the responses received to the questionnaire and has used the responses to inform policy development around professional development and other refinements to the Programme.
3. During 2015-16, the Programme contributed to the streamlining of the Certificate IV in Celebrancy, which is required to be completed by most applicants for registration as a marriage celebrant. The review of the qualification was conducted by the former Community Services and Health Industry Skills Council, using a subject matter experts group, including officers from the Programme and celebrant associations. As a result of this review, the qualification was updated and the marriage units required for this qualification were reduced from four units to three units.
4. In July 2015, AGD sought feedback from celebrant associations, BDMs, registered training providers (including professional development training providers) and government agencies on improvements that could be made to the Marriage Regulations 1963 when they are remade due to sunseting (expiring) in April 2018. A decision was made in 2016 to remake the regulations with amendments, with further consultation to be undertaken with stakeholders on the new regulations. Although some of AGD's work to review and remake the regulations falls outside of the Programme's operation, the consultation on regulations related to the Programme will impact the Programme's future operation and consultation is being conducted with the Programme's stakeholders as part of the review of the regulations.

Case Study:

In 2015-16, the Programme reviewed the annual celebrant registration charge process whereby marriage celebrants are required to pay an annual fee during the months of July – September each year. The process involves the Programme sending out invoices to approximately 8,500 marriage celebrants, reconciling their payments against their record and sending follow up reminders to celebrants who have not paid. The consequence of not paying by the legislated 'charge payment day' (60 days after the invoice is issued) is deregistration. Improvements in the 2015-16 process involved implementing an administrative due date 30 days prior to the legislated charge payment day to allow the Programme to actively follow up with celebrants who do not make a timely payment. Intensive follow up with celebrants includes email and text message reminders and where a contact is known to be unsuccessful (eg, bounced email or return to sender mail) the Programme individually attempts to alert the celebrant through alternative contact details on record. The objective is to ensure any celebrant who wants to remain registered pays before the charge payment day. While this is administratively intensive for a 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 appeals to the AAT.

LEARNINGS AND PRIORITIES FOR 2016-17

During 2016-17, the Programme intends to continue the process of continual improvement and refinement to identify further efficiencies in the operation of the Programme. A review of professional development obligations and the conflict of interest and benefit to business restraints on marriage celebrants will be conducted. It is anticipated that these reviews will identify appropriate opportunities to reduce red tape experienced by marriage celebrants in the conduct of their small businesses/celebrancy practice.

In addition, the Programme will be consulting extensively with marriage celebrants on the review of the Marriage Regulations 1963, which are due to sunset in 2018. The review of the regulations, which is the first major review in over 40 years, will simplify and modernise the language of these regulations so that it is more easily understood by all authorised celebrants, including marriage celebrants and the general public. The review of the marriage Forms should also be completed during 2016-17, and may contribute to a reduction in the costs of compliance by marriage celebrants by making the Forms more streamlined, intuitive and clearer. Obsolete fields on the Forms will also be considered for removal, thereby reducing the number of requests for information that celebrants will need to make of their clients and requests to the Programme for clarification.

2016-17 will also see the Programme continue to work on reviewing and upgrading the marriage celebrant database to further opportunities to improve the operation of the IT system.