



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

## Wednesday, 10 October 2018

### 1. Welcome

#### Attendees:

##### Attorney-General's Department

Cameron Gifford, First Assistant Secretary, Families and Legal Services Division

Julie Taylor, A/g Assistant Secretary, Family Law Branch

Bridget Quayle, Registrar of Marriage Celebrants, Marriage Law and Celebrants Section

Rohan Verco, Assistant Director, Marriage Law and Celebrants Section

Gemma Barnes, Policy Officer, Marriage Law and Celebrants Section

##### Associations:

Yvonne Werner, International College of Celebrancy (CoCA Chairperson)

Sonia Collins, Civil Celebrations Network (CoCA Secretary)

Helen Pearce, Civil Celebrations Network

Dorothy Harrison, Marriage Celebrants Australia

Judy Brooks, Celebrants Australia Inc

Marianne Macartney, Association of Marriage Celebrants of Victoria

Karen Rose, Alliance of Celebrants Queensland

Guy Piper, Professional Celebrants Association

Susan Winters, Association of Civil Marriage Celebrants of NSW and ACT

Marion Way, Riverina Marriage Celebrants Association

Judy Van Der Vegt, Riverina Marriage Celebrants Association

Anthony Burke, Australian Federation of Civil Celebrants

Irene Harrington, Australian Federation of Civil Celebrants

Patricia Williams, Celebrants Association of Australia

Charles Foley, Humanist Celebrant Network

## **Apologies:**

Association of Civil Marriage Celebrants of South Australia

Australian Marriage Celebrants Inc

## **2. Action items from previous meeting**

The department noted that a letter was sent to associations on 9 August 2018 providing an update on action item progress since the last meeting. There was no comment from associations on the content of the 9 August letter. The department advised that all action items were now complete except for the item where the department will seek to consult with associations on the development of new fact sheets and the updating of existing fact sheets. This item remains an ongoing commitment from the department.

## **3. 2018-19 Celebrant registration charge process**

The department advised that an all celebrant email was sent on 14 June 2018 advising of the upcoming celebrant registration charge notice. The email contained advice that a text message reminder would not be sent as part of the 2018-19 process.

Celebrant registration charge notices were sent to approximately 8,800 celebrants on 2 July 2018 with the charge payment day of 31 August 2018. As required under the Marriage Regulations 2017, all notices were emailed where the department held an email address for the celebrant. Approximately 75 celebrants who do not have an email address received the notice via hard copy. The invoice was also available on each celebrant's self-service portal from 2 July.

The department advised a reminder email was sent on 8 August 2018 to celebrants who had not yet paid the charge. The department further advised that the Celebrant Matters Newsletter – Winter 2018 edition contained a reminder that celebrants must pay the charge by the charge payment day of 31 August 2018. A link to the newsletter was emailed to all celebrants (with an email address) on 20 August. The newsletter reiterated to celebrants that no text message would be sent this year.

The department advised that 370 celebrants had been removed from the register of marriage celebrants on 3 October 2018 for failing to pay the celebrant registration charge by the charge payment day. The department further advised that eight applications were made to the Administrative Appeals Tribunal (AAT) regarding the deregistration decision. Seven of these applications are about the lack of discretion regarding deregistration for non-payment and one is about the notice period for deregistration being extended. The department noted that it sent a fact sheet on applying to the AAT to each celebrant who was notified of the intention to deregister them and also encouraged these celebrants to seek independent legal advice before making an application to the AAT.

All associations support the deregistration process noting that it was fair and celebrants should be aware of the outcome if they failed to pay the charge by the charge payment day. Associations collectively agreed that the text message reminder was a good alternative to email reminders in getting the message out to celebrants and encouraged the department to investigate options for including a text message in the registration charge process.

There was broad discussion about options for re-registering celebrants, who do not hold a Certificate IV in Celebrancy, and who are de-registered for non-payment. CoCA advised they would provide a paper to the department on this issue. The department advised that in order to make this change that amendments to the

Marriage Regulations would be required and in line with the broader government policy, (including in relation to the deregulation agenda and cost recovery charging framework). Discussion was also held about Registered Training Organisations and recognised prior learning being available for up to about 70% of the Certificate IV. The department is to confirm if Certificate IV 4105 is still recognised. ACMC asked the department to consider issuing a late payment fine. The AFCC advised they do not want excessive time spent on an issue which impacts on less than half a percent of all registered celebrants. AFCC confirmed they do not wish to see an increase in the charge amount as a result of addressing this issue.

The Humanists expressed concerns that de-registered celebrants are continuing to make applications to the AAT even though there are lack of prospects as shown by the Thiel matter. The Humanists advised their association welcomes the opportunity to discuss options with celebrants who are to be deregistered if the department is open to referring them. This suggestion was supported by other associations.

## 4. Marriage forms

The department advised the review of the marriage forms has been progressing. There is a draft revised Notice of Intended Marriage (NOIM) form on the department's website for comment by 28 October 2018. The department further advised the draft NOIM form had been built upon feedback received following the commencement of marriage equality in December 2017 as well as previous work undertaken to streamline and modernise the forms, including previous consultation with associations.

The department advised that since the last associations meeting consultation has occurred with state and territory registries of births, deaths and marriages, the Australian Bureau of Statistics, and representatives of the LGBTI community. Once the NOIM form is finalised there will be flow on effects to other official marriage forms, specifically the Official Certificate of Marriage and the Declaration of No Legal Impediment to Marriage. The department also advised it would consider a transition period for the implementation of the new forms once they were finalised.

CoCA noted they had received feedback that the draft document was not compatible across all IT platforms and this would need to be addressed when the document was finalised. CoCA provided detailed feedback on the draft NOIM advising the feedback would be provided in writing to the department. There was concern about the unintended effect of removing parents details from the NOIM. The AFCC are currently surveying their members and will provide feedback by 28 October.

Both the AFCC and Humanists commented positively on the level of consultation from the department on the draft NOIM.

## 5. Ongoing professional development program

The AFCC asked if there would be a compulsory OPD activity for 2019. The department advised that a decision had not been made as yet but indicated that a possible topic for a compulsory activity could be the new marriage forms if they have been finalised. The department indicated that if there is a compulsory activity for 2019 it may not be finalised until after the start of the new calendar year. The department advised it would notify associations as soon as possible after a decision (either yes or no) is made on a compulsory OPD topic for 2019.

The AFCC asked if there was a requirement for associations to provide a certificate of attendance to members who attended the AFCC national conference. The department advised it was a matter between associations and their members as to whether an attendance certificate was provided. The department advised that if associations are using their conference for OPD purposes, attendance must be recorded and provided to the department.

CoCA noted the administration of the celebrant registration charge should be included in every compulsory OPD activity. The department advised that we will continue to provide a 10 minute update from the department for all compulsory activities, which will include information about the celebrant registration charge.

CoCA also noted the level of disciplinary measures applied to celebrants who do not meet their OPD obligations remains a concern. The department advised this issue was dealt with in the previous meeting and re-iterated that significant efforts are made to ensure celebrants who do not complete their annual OPD obligation are regulated appropriately. The department advised there are four disciplinary measures available and the Registrar of Marriage Celebrants assesses each OPD non-compliance on a case-by-case basis. The Humanists asked if the department could consider sending information about resigning when communicating the disciplinary measure to the celebrant.

CoCA advised there is some uncertainty as to whether the liability to pay the celebrant registration charge remains after a celebrant has been deregistered. The department advised that if a person is a registered celebrant on 1 July of the financial year, they incur the liability to pay the celebrant registration charge. If a registered celebrant who has incurred the liability resigns before the charge payment day then they are exempted from the liability. If the person has been deregistered for failure to pay the charge, the liability remains a debt to the Commonwealth.

CoCA asked about the assessment methods used to determine if an applicant can demonstrate sufficient knowledge of the law relating to the solemnisation of marriages by marriage celebrants. The department advised that each applicant completes a questionnaire containing 25 questions. If the applicant fails to demonstrate their legal knowledge on the first questionnaire, they are provided a further 25 questions. If there are still doubts about the applicant's legal knowledge the applicant is provided with an opportunity to demonstrate their legal knowledge via an interview process.

The department advised it was happy to provide the legal questions to associations for comment

The AFCC advised it would be in favour of removing the legal knowledge questionnaire and relying on the Certificate IV in Celebrancy to demonstrate sufficient legal knowledge of the law relating to the solemnisation of marriage.

## 6. Religious freedoms review – update and Religious Marriage Celebrants

CoCA asked whether the department had any insights on the Religious Freedom Review and whether there would be any impact on marriage celebrants. The department advised the Government had not released the Religious Freedom Review and the department was unaware of any potential impact on marriage celebrants. The department advised it would contact associations when/if the report is released.

There was general discussion on the implementation of marriage equality changes to the *Marriage Act 1961* and how the use of the term religious marriage celebrant was impacting on celebrants and confusing the general public. The department advised the marriage equality changes to the Marriage Act were a result of a Private Member's Bill. The department advised the differences between a Private Member's Bill and a Government Bill and the ability of the department to influence each process.

## 7. Forward work calendar/major projects

CoCA noted that significant effort on their part goes into providing feedback on issues the department consults on. In order to best position themselves to contribute feedback, CoCA asked whether the department could

provide forward notice of when it would be consulting with associations on issues. CoCA also asked if a consolidated list of proposed changes to the Marriage Act could be managed by the department.

The department advised priority projects in the near future included finalising the forms review, determining whether a compulsory OPD activity for 2019 will be developed, and enhancing the existing IT infrastructure which supports the programme.

The department noted there is no intention to review the Marriage Act in the next twelve months. There was broad discussion on how best associations could communicate proposed legislative change, either through the department or their elected representatives. The department advised that working together would be the most efficient way to progress any possible legislative change. The department further advised that generally an omnibus Bill is presented to the Parliament each year which is focused on addressing problems with the mechanics of existing legislation rather than proposing to legislate significant policy changes. The department welcomed associations providing their views on legislative changes in writing.

## 8. Celebrant self-service portal

CoCA noted that it raised the issue with the celebrant self-service portal as there were some inconsistencies with the chronology of receipts for payment, and also that some receipt PDFs were linking to the original invoice and not the correct receipt. CoCA acknowledged that these issues were quickly resolved once brought to the department's attention.

The department noted the celebrant self-service portal is an important tool for celebrants and that every effort is made to ensure it is working effectively. The department encouraged associations to bring any concerns regarding portal performance forward as soon as they become aware of them so they can be addressed.

The department noted that significant work has been progressing on the IT infrastructure which supports the programme's database and the self-service portal. The department advised that the presentation of the portal will soon be updated to enable greater usability. In addition, changes made in the self-service portal will soon be enacted in real time. For example, if a celebrant changes their contact details in the self service portal, this will appear nearly simultaneously on the register of marriage celebrants. The department advised it would contact all celebrants when these changes are ready to be put into the production environment.

## 9. General Discussion

CoCA advised its preference was to hold two face to face meetings with the department each year. CoCA further advised if possible, it would be useful to discuss specific issues with programme officers once the formal part of the meeting was concluded. An example of providing feedback on the forms directly with the officers coordinating the project was used by CoCA. The department noted it was open to this approach but would need sufficient notice of the issue to be discussed. MLCS to invite ACT BDM to present on 'common mistakes' at the next associations meeting.

CoCA noted that the *Guidelines on the Marriage Act 1961 for authorised celebrants* suggested that couples wishing to personalise their vows could do so after saying the minimum words. CoCA asked whether this was a requirement given there is no legal requirement in the Marriage Act. The department advised there is no legal requirement for personal vows to be stated after the minimum vows required by s45(1) of the Marriage Act and that the Guidelines will be updated when next reviewed.

The AFCC noted the teleconference held with association office bearers mid-year worked well when discussing the 'one month' notice issue. AFCC noted this is type of meeting was a useful vehicle for progressing urgent issues as well as a mid-year check-in.

The Humanists asked if the Attorney-General would accept an invitation to attend one of the association meetings. The department advised that it couldn't predict if the Attorney would accept an invitation and noted that the Attorney-General's Office was briefed after each association meeting.

Confirmation was sought about the advertising guidelines and the use of the words 'marriage celebrant' and 'religious marriage celebrant'. Action arising that guidance from the department (in written fact sheets and in responses to enquiries) confirm that 'civil marriage celebrant' can be used.

## Consolidated Action Items

	Action Item	Status
1.	The department to investigate options for including a text message reminder for the 2019 registration charge process.	
2.	The department to confirm if Certificate IV 42608 is still recognised for the purposes of making an application for registration as a marriage celebrant.	Complete
3.	COCA to send forms comments, re-registration options paper, list of possible Marriage Act amendments	
4.	Provide full list of legal questions to associations.	
5.	MLCS to invite ACT BDM to present at next Associations meeting	
6.	MLCS to convey that 'civil marriage celebrant' is a term which meets the requirements of the Marriage Act in future guidance.	Complete