



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

## Wednesday, 2 May 2018

### 1. Welcome

#### Attendees:

##### Attorney-General's Department

Cameron Gifford, First Assistant Secretary, Civil Justice Policy and Programmes Division

Ashleigh Saint, 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

Hala Botros, Project Officer, Marriage Law and Celebrants Section

##### Associations:

Dorothy Harrison, Marriage Celebrants Australia

Judy Brooks, Celebrants Australia Inc

Rona Goold, Civil Celebrations Network and Proxy for Association of Civil Marriage Celebrants of South Australia

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

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

Craig Moran, Australian Marriage Celebrants Inc

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

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

The department circulated an update on the progress of action items from the last meeting out of session. There was no comment from associations on progress of the previous meeting action items.

The Coalition of Celebrant Associations Australian (CoCA) advised that it is important to them that the meeting minutes reflect who raised an issue so that their members were aware that their issues were being brought to the department's attention. The department agreed that associations would be identified, as far as possible, in future meeting minutes.

## **2. Consultation between the department and associations**

CoCA noted it has concerns with the relationship between itself and the department. CoCA considers itself a valuable stakeholder who is able to provide the department with feedback from the 'coal face' and wants to position themselves as the best stakeholder they can be.

CoCA made note of a number of submissions on policy positions it had provided to the department which they considered remained unresolved. CoCA highlighted that on occasion they do not receive a response to their submissions leading to assumptions that they were not being considered. CoCA requested that all submissions provided to the department should be acknowledged and reasons provided where suggestions have not been progressed.

CoCA confirmed they wish to continue meeting with the department twice a year as it provides a valuable opportunity to raise important issues with the department.

The Australian Federation of Civil Celebrants (AFCC) support retaining two face to face meetings each year, and further proposed that a teleconference mid-year would assist in addressing issues which arise between meetings. The AFCC supported the inclusion of workshops in future meetings and advised that BDM participation in workshops would be valued by associations.

The department acknowledged that the way the department engages with celebrant associations can be done more efficiently and effectively. The department confirmed its intention to continue determining the best and most effective way to engage with stakeholders and undertook to report back to associations on areas where their feedback has been considered (i.e., to complete the feedback loop).

CoCA requested the department assist celebrant associations with travel costs to attend meetings noting that stakeholder engagement is an important part of the Government's charging policy. CoCA advised that their office bearer's work on a voluntary basis and funding to travel to Canberra meetings is a strain on their resources. For example, their representative from South Australia was unable to meet travel costs and a proxy was required for representation at the meeting.

The AFCC did not support funding travel to association meetings noting that approximately 5,000 celebrants are not aligned with celebrant associations and it is unreasonable to expect non-aligned celebrants to fund

associations attending meetings from the annual registration charge. The AFCC also noted that should a proposal to fund attendance go ahead that it should be limited to office bearers of the Humanist Celebrant Network, CoCA, the Celebrant Association of Australia, and AFCC only.

The department advised the existing programme budget does not provide for travel to association meetings and any decision on the expenditure of funds needs to be carefully considered. For example, is funding travel to attend face to face meetings an appropriate expenditure compared to holding meetings via teleconference. The department agreed to conduct an assessment of costs for supporting travel to meetings.

**Action Item:** The department to provide associations with an assessment of costs to support association travel to meetings.

CoCA advised that it was difficult to determine from the Cost Recovery Implementation Statement (CRIS) where money was being spent on the programme. The department advised the majority of revenue went towards staffing. The department agreed to provide associations a link to the CRIS in the meeting minutes.

**Action Item:** The department to provide a link to the CRIS in the meeting minutes.

[The CRIS can be viewed via the following link:

<https://www.ag.gov.au/FamiliesAndMarriage/Marriage/Pages/marriagecelebrantsprogramme.aspx>]

The Humanists advised their association had its own discussion forum where members were able to raise and discuss issues with other celebrants. All other associations confirmed they also had their own discussion forums. It was pointed out to the department that these forums are often a first port of call for celebrants with questions on the programme or marriage legislation, and that enquiries which could have been directed to the department were instead addressed by celebrant associations.

The AFCC noted that associations provide valuable services to individual celebrants and asked the department how it could assist with promoting the value of associations to celebrants. The department advised that it had included a reference to its webpage listing celebrant associations in its newsletter of Spring/Summer 2017/18. The department advised it could not promote any one celebrant association but agreed that a reference to the webpage listing celebrant associations could be included in registration letters for new celebrants. The department also agreed that it would consider a message about celebrant associations in the next edition of the celebrant newsletter.

**Action Item:** The department to include reference to the webpage listing celebrant associations in registration letters.

**Action Item:** The department will include information promoting the value of joining an association for inclusion in the next celebrant newsletter.

**Action Item:** The department will seek to consult associations during the development of new Fact Sheets, and when updating Fact Sheets.

### 3. Presentation from the Department of Finance

The Department of Finance was invited to provide a presentation on the Australian Government's Charging Framework. Following the presentation, the Department of Finance representative participated in a question and answer session.

The key theme to the questions asked by associations after the presentation was around consultation. The department commented that the presentation highlighted the need for two way engagement which identified ways that consultation could be improved to be meaningful for all stakeholders.

## 4. Marriage Equality

CoCA raised concerns over a number of issues arising from the introduction of marriage equality legislation in late 2017.

Firstly, the language used in marriage forms and how sex and gender were to be interpreted was concerning people within the LGBTI community. Associations noted the department had provided a Q&A document on issues raised since the introduction of marriage equality and that this document would be useful in moving forward.

Secondly, there was confusion as to how the new category of religious marriage celebrants related to Subdivision C celebrants. The department advised that Religious Marriage Celebrants were able to refuse to solemnise marriages under section 47A of the Marriage Act but were otherwise subject to the same obligations as Subdivision C celebrants. The department further advised that Subdivision C celebrants who were ministers of religion were automatically identified as a religious marriage celebrant when the changes to the Marriage Act commenced in December 2017. Subdivision C celebrants who were registered before the commencement of the marriage equality amendments had three months to notify the Registrar of Marriage Celebrants of their wish to be identified as a religious marriage celebrant. The department advised that just under 900 celebrants are currently identified as a religious marriage celebrant, of which approximately 400 solemnise civil ceremonies.

Thirdly, there was uncertainty about the requirement to identify as a marriage celebrant in all advertising. Celebrants were frustrated they had to include the term 'marriage celebrant' on all of their promotional material when they have been using the term 'civil celebrant' previously. CoCA advised celebrant's roles were not limited to being a marriage celebrant. There was also confusion regarding the language that was to be used to describe themselves. The department confirmed the Marriage Act requires that celebrants solemnising both religious and civil ceremonies were required to use the term marriage celebrant (or religious marriage celebrant if applicable) in their promotional materials and that celebrants that identified as a religious marriage celebrant must identify as such in their promotional material.

The department advised the amendments to the Marriage Act were made by a Private Member's Bill which was passed by the Australian Parliament. The department is required to implement changes to the marriage celebrants programme in line with the Marriage Act. The department further advised that the Government had appointed Phillip Ruddock to lead an expert panel to examine whether Australian law adequately protects the human right to freedom of religion and that associations were able to raise their concerns with changes to the Marriage Act with the expert panel. CoCA advised they had provided a submission to the expert panel and presented to one of the panel hearings.

## 5. Statistics

The department provided associations with statistics on registrations and deregistrations, applications, exemptions, enquiries, OPD compliance, and complaints prior to the meeting.

CoCA asked a number of questions on the statistics.

Firstly, if the department had statistics on whether a celebrant was deregistered for conducting an invalid marriage? The department advised the recorded reasons for deregistration are: resigned; deceased; joined recognised denomination; non-payment of annual registration charge; and other (which includes disciplinary measure).

Secondly, is there a reason as to why there were no applications refused in 2017/18 to date? The department advised that historically only a small number of applications were refused, and since the introduction of cost recovery and the imposition of the application fee of \$600, the department's practice is to seek further information from an applicant before refusing an application. Whereas prior to cost recovery incomplete applications were rejected and aspiring celebrants would need to reapply providing a complete application. The department advised that tools such as the instructions for completing the application form and the disclosable outcomes guidelines were likely deterring people who were unlikely to meet the fit and proper person test from applying to become a marriage celebrant. The department also noted the Certificate IV requirements as relevant to the quality of applications received.

Thirdly, does the department collect information as to why celebrants leave the programme, and if it didn't, CoCA wished to commence dialogue on how this information may be collected. The department advised that information on why celebrants left the programme is limited but it was happy to have discussions with CoCA on how this may be achieved in the future, noting that a link to a third party survey could be considered for inclusion in the letter sent to celebrants when they left the programme.

Fourthly, could the department use trends in enquiries it receives to inform decisions on possible topics for OPD. The department advised that it already looks at common trends in enquiries and has developed a number of new fact sheets to assist celebrants.

## 6. General Discussion

CoCA noted that it has been advised that some celebrants purposefully fail to meet their OPD obligation for one year on the basis that they would only receive a caution. CoCA stated that issuing a caution is unfair to other celebrants who pay money and make time to meet their OPD obligations and that celebrants who fail to meet their obligation should be required to complete additional OPD the following year.

The department advised that a legislative framework is in place to manage noncompliance with OPD obligations. A celebrant who fails to complete their OPD may be subject to a disciplinary measure (caution, additional OPD, suspension, or deregistration) and the Registrar considers each failure to complete OPD on a case by case basis and uses discretion in applying disciplinary measures. The decision regarding the appropriate disciplinary measure (which are graduated in terms of seriousness of consequences) is a matter for the Registrar of Marriage Celebrants depending on the celebrant's history with compliance and their individual circumstances. Considerations can include: the pattern of non-compliance; a failure to undertake the current year's OPD and any additional OPD previously imposed; and, a lack of engagement with the department over the non-compliance. The department advised that this is not a decision that associations will be consulted on.

The department noted the high OPD compliance rate (97%) in 2017.

The department advised that it has recently re-commenced the forms review process and that feedback already provided will be considered, and stakeholders will have another opportunity to provide input later in the year.

The department advised that a revised version of the Guidelines on the Marriage Act 1961 for Marriage Celebrants was nearing completion, and that a period of consultation will be shortly undertaken.

CoCA raised concerns regarding the presentation of the Red Book following changes to the Marriage Act. The department advised that it was aware of the problem and that a new version of the Red Book should be available shortly. Any concerns with the Red Book should be taken up directly with CanPrint.

The AFCC noted that it has become aware that ‘training’ sessions are being offered by third parties for celebrants engaging with same sex couples. Associations agreed that they should show unity in opposing the promotion of, and attendance, at these sessions.

The meeting recognised the passing of Mr Keith Lammond with a minute’s silence.

## Consolidated Action Items

	<b>Action Item</b>	<b>Status</b>
1.	The department to provide associations with an assessment of costs to support association travel to meetings.	Complete – letter from Cameron Gifford sent on 9 August 2018
2.	The department to provide a link to the CRIS in the meeting minutes.	Complete
3.	The department to include reference to the webpage listing celebrant associations in registration letters.	Complete
4.	The department will include information promoting the value of joining an association for inclusion in the next celebrant newsletter.	Complete
5.	The department will seek to consult associations during the development of new Fact Sheets, and when updating Fact Sheets.	Ongoing