

Appendix 1

6. Proposals for change and rationale

Based on the overall findings of the Review, including the public consultation, the following proposals for change are put forward -

Giving notice of marriage

1) There should be only one type of authority, called a licence, as this is the simplest and most straightforward option, as opposed to three types of authority, each with a different set of requirements, as currently, as set out in paragraph 3.5.

2) Notice may be given up to one year in advance of the proposed date of marriage, extended from three months. This will give couples more certainty when planning their marriage and depending on when notice is given could give more time for objections to a marriage to be made should someone wish to.

3) For those in extenuating circumstances to continue to be able to marry at short notice subject to meeting certain requirements. This would include, for example, those who are terminally ill and who have a certified medical certificate confirming that there is a justifiable medical reason to make an exception and to receive an authority to marry as soon as is practically possible from receipt of the notice. This retains the availability of a quick route to accommodate certain circumstances and so is inclusive, whilst ensuring the necessary checks are conducted safeguarding potentially vulnerable individuals.

4) Notice of marriage and submission of the required documents to be given by both parties and to be possible online as well as in person at the Greffe. This will make the process of giving notice simpler, especially for non-resident couples and reduce the time it takes to verify and check the provided documentation, whilst ensuring that sufficient safeguards are in place to validate the identity of each person and confirm that each person is free to marry by the checks made when couples are physically present at the Greffe prior to the marriage (proposal 8).

5) All notices of marriage, (except for instances of extenuating circumstances as in proposal 3), will be published immediately after notice of marriage is given and the information will be made available to the public at the Greffe and online up until the marriage takes place. This could be up to a year in advance of the intended marriage date if proposal 2 is approved and will be for a minimum of 21 days. The information to be published will be sufficient to identify the couple intending to marry and the marriage date and further details will be made available upon request, as currently. This will enable those who have a valid objection to the marriage to be able to access the necessary information to enable them to do so.

6) A caveat (objection) to a marriage will be able to be placed, as currently, by lodging a written, signed declaration with the Greffe, at any point from the publishing of the notice, up until the ceremony. If proposals 2 and 4, to extend the notice period to a year and to publish the notice both at the Greffe and online, are progressed, the required information will be more accessible to a wider audience and a caveat will be able to be placed within 21 days, as presently, and up to a year, giving more time to anyone wishing to place a caveat to do so.

7) Where one or both of the couple requires immigration permission they will be required to provide the necessary immigration documentation, such as a marriage visa, before notice of marriage will be accepted. The proposed change would ensure that the necessary immigration status is confirmed before notice of marriage is given. This would allow time for the other verification checks to be carried out, remove the requirement to prove residency, as in proposal 8, whilst ensuring compliance with immigration requirements, including those UK requirements which apply in Guernsey. The change would reduce any potential delays that might be caused by carrying out immigration checks during the notification period: i.e. if a

similar approach to the UK was taken to seek a 70-day extension of the notice period to carry out sufficient checks this could be a potential barrier for marriage tourism if the numbers of non-EEA nationals wishing to marry here were to increase.

8) Couples will continue to be required to attend the Greffe in person for identity checks and review of freedom to marry documentation, a minimum of the day before the date of marriage. This removes the need to stipulate a residency period, as the couple would need to be present at the Greffe at least one day before the ceremony for the final checks and to collect the licence. The Registrar General will have some discretion in exceptional circumstances, where for example bad weather or illness prevents a couple from attending the Greffe in person the day before the ceremony. However, face to face checks will still be required before the ceremony. This simplifies the process and makes it easier for non-residents to marry here, whilst making sure sufficient safeguards are in place.

This is supported by proposal 7 to confirm immigration status before giving notice.

9) The licence will normally be issued on the first working day after the 21 day notice period has expired, provided that there is no legal impediment to the marriage taking place. The licence will be valid for one year from the date of giving notice to give couples more certainty when planning their marriage.

Ceremony locations and times

10) Allow the marriage ceremony to be conducted in other buildings and locations than those currently, including outdoor locations, such as on a beach, in a garden of a marriage venue or in territorial waters. This recognises the growing demand for the marriage ceremony to be held in different types of buildings or locations and gives Islanders and visitors more choice in where their ceremony could be held. This could improve the 'marriage tourism' offer, which could mean that more marriages are conducted here resulting in possible benefits to the economy.

11) To enable a marriage to take place at any time of the day, subject to agreement by the chosen celebrant prior to giving Notice of Marriage. This will give couples more flexibility and could make it easier for those who are not normally resident in the Bailiwick to marry here.

Location requirements

12) Ceremony locations to be approved by the celebrant with appropriate guidelines to be provided by the Registrar General, as part of the training for new celebrants and guidance on the new formalities and procedures. For example, where an outdoor location is specified it would be helpful for celebrants to advise couples to seek an alternative location to be identified in case of poor weather conditions and for guidance to be provided on health and safety considerations for locations.

13) Marriages must take place in the Bailiwick, whether on land or in the territorial waters or airspace.

14) It is no longer seen as necessary to continue to authorise or register premises, as there are sufficient existing regulations and requirements already in place, such as fire regulations and health and safety legislation. Outdoor locations would equally not be authorised, because it would not be practical to police these effectively.

15) Civil ceremonies including non-religious belief ceremonies cannot be held in places of worship, as currently. Proposal 14 if supported, removes the requirement for premises to be authorised or registered, which ensures that only authorised persons conduct religious ceremonies in specified religious buildings. This proposal provides clarity around particular locations where it would not be considered appropriate for a civil ceremony to be held.

16) Religious organisations would be free to hold their ceremonies in outside locations if they wished if permitted by their own regulations.

Privacy of ceremonies

17) Remove the need to make the location of the ceremony accessible and open to the public enabling couples to hold their ceremony in private should they wish to, except for outdoor locations where the public have free access, for example parks or beaches. The requirement to use public access as a means to prevent illegal, sham or forced marriages is no longer seen as an effective or necessary safeguard. The alternative proposals suggested above (2, 4, 5, 6, 7 & 8), offer greater protection by identifying and acting on any suspected cases before the ceremony.

Ceremony content

18) Provision to be made to allow some limited religious content, in civil and non-religious belief ceremonies, as happens in Scotland and Jersey. The provision is supported by the majority of local religious groups, so long as it is not to the extent that the ceremony is conducted as a religious ceremony. At present, no religious content or parts of any religious service can be included in a civil ceremony. The specifics of this provision will be determined in close consultation with all stakeholders.

19) There is no intention to make changes to the marriage vows other than to modernise the wording for example changing 'thee' to 'you', as suggested in Appendix E.

20) That the wording of the vows will continue to apply to all marriages, as currently, including religious and non-religious ceremonies, but excluding Anglican ceremonies, to ensure a consistent legal basis is maintained. The specific words used cannot be prescribed for Anglican ceremonies, as the vows are set out in the authorised Anglican forms of service, as prescribed under Canon Law and are phrased slightly differently. However, the intention of Anglican vows is the same as those set out in the 1919 law.

21) To provide clarity within the law the marriage will be deemed to be formed once both parties and witnesses sign the registration form. At present, there is no provision identifying the moment when a marriage is formed and it is desirable that this should be clarified to avoid doubt.

Celebrants

22) New celebrants to be authorised by the Registrar General either; on nomination by a recognised religion to conduct a particular ceremony according to that particular religion; or by application to be a civil celebrant. Non-religious belief celebrants, such as Humanists, will be appointed as civil celebrants, similar to the approach taken in Jersey.

23) Grandfather rights will apply to existing religious celebrants, including Anglican celebrants, and they would automatically be regarded as authorised for the purposes of the new Law, as they have previously been authorised under the current legislation. However, it is envisaged that current celebrants would take part in some training to understand the application of the new legislation. The training would be determined by the celebrant's previous experience and training and will be at the discretion of the Registrar General.

24) The Registrar General will establish a suitable recruitment, registration and training approach to ensure that new and existing religious, civil and nonreligious belief celebrants are suitably experienced, qualified and trained in the new approach and legislation. All celebrants would be required to meet certain requirements, including safeguarding and insurance and registration would be for a set period, such as three years, to be determined in consultation with stakeholders.

25) The Registrar General will have the power, in certain circumstances, to suspend or revoke a celebrant's authorisation, subject to provision for the celebrant to appeal against his decision.

Other related matters

26) Any duty of Church of England clergy to solemnise marriages, and any corresponding right of any person to have a marriage solemnised by any such member of the clergy, does not apply to the marriage of a person who is divorced and whose spouse is still living. A similar provision is set out in the Matrimonial Causes Law, (1939) (Art. 63), but it is considered more appropriate for this protection to be incorporated into the new marriage law.

27) The content of marriage certificates will be changed so that should the couples wish both parents, regardless of gender, can be recognised, making the marriage documentation more inclusive. To capture the information, if required, the marriage registers can be updated manually, which removes the need to re-design and print new registers.

28) The form and content of the certificates will not be set out in the new law. As currently, the Registrar General will be empowered to prescribe such matters of procedure to keep the law simple and provide flexibility.

29) Any provisions within the current law not specifically mentioned within this Policy Letter will be captured in the new law, including, but not limited to; persons needing to give consent to marriage of a minor and the requirement for two witnesses to be present.

30) The provisions made for offences will be reviewed and updated to provide appropriate sanctions for the updated Law.

31) Legal provision will be made for the issuing of a certificate of no impediment to residents who wish to marry elsewhere. There is no provision currently and the certificates are required in other jurisdictions as a means of proving that there is no legal impediment why the person should not be married.