

THE STATES OF DELIBERATION
of the
ISLAND OF GUERNSEY

POLICY & RESOURCES COMMITTEE

REFORM OF THE MARRIAGE LAW

The States are asked to decide:-

Whether, after consideration of Policy Letter of the Policy & Resources Committee entitled 'Reform of the Marriage Law', dated 14th January, 2019 they are of the opinion:-

1. To approve the proposals laid out in section 6 of the Policy Letter to reform the marriage law.
2. To direct the Policy & Resources Committee to oversee the preparation of the legislation and supporting policy guidance to implement the reforms as agreed in Proposition 1.
3. To direct the preparation of such legislation as may be necessary to give effect to the above decision.

The above Propositions have been submitted to Her Majesty's Procureur for advice on any legal or constitutional implications in accordance with Rule 4(1) of the Rules of Procedure of the States of Deliberation and their Committees.

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POLICY & RESOURCES COMMITTEE

REFORM OF THE MARRIAGE LAW

The Presiding Officer
States of Guernsey
Royal Court House
St Peter Port

14th January, 2019

Dear Sir

1. Executive Summary

- 1.1 This Policy Letter sets out the findings from the Review into the current law governing how and where couples can marry. It proposes that the current marriage law is repealed and replaced to ensure that it is simpler; fits the needs of a modern society; is inclusive; and maintains sufficient safeguards to prevent illegal, sham or forced marriages.
- 1.2 Amending and modernising the law would bring us in line with jurisdictions such as Scotland and Jersey, and show the Bailiwick as a forward thinking and progressive jurisdiction.
- 1.3 The updated law is intended to cover the whole Bailiwick, bringing greater consistency and clarity to the marriage formalities and requirements across all the islands, making it easier for anyone wishing to hold their marriage ceremony in one of the islands.
- 1.4 A couple's wedding day is often seen as one of the most important days of a person's life that requires a special level of celebration and expenditure by the couple, their friends and family. The ceremony is a solemn undertaking involving a commitment to each other, taken in front of witnesses and in most cases family and friends. It is also a legal transition in which the state has an interest and so it must be clear when it has come into being. Therefore, there must be sufficient scrutiny and steps taken to try to ensure those seeking to marry are legally free to do so and to try and prevent sham and forced marriages.

- 1.5 In December 2015, (Billet d'État XXIII¹) the States directed the then Policy Council to address the issues raised by the work on the Union Civile proposals, which included the need to modernise the formalities of marriage, including procedural ones.
- 1.6 Subsequently, on 27th June, 2017, (Billet d'État XII²) reform of the marriage law was prioritised in the Policy & Resource Plan, to be led by the Policy & Resources Committee, (the Committee) in collaboration with HM Greffier. The Committee approved the Review's terms of reference (Appendix B) in November 2017.
- 1.7 Reform of the marriage law aligns with the Public Service Reform³ agenda by transforming services so that they meet customer expectations.
- 1.8 The stakeholder consultation findings⁴ showed that the community was in the main supportive of the proposals, as set out in section 6.

1.9 **Recommendations:**

The Propositions to which this Policy Letter is attached recommend the States:

1. To approve the proposals set out in section 6 of the Policy Letter to reform the marriage law;
2. To direct the Policy & Resources Committee to oversee the preparation of the legislation and supporting policy guidance; and
3. To direct the preparation of such legislation as may be necessary to give effect to the above decision.

¹ [Billet d'Etat XXIII, 2015 - Same-sex marriage](#)

² [Billet d'Etat XII, 2017 - The Policy & Resource Plan - Phase 2](#)

³ [Public Service Reform](#)

⁴ [Marriage law reform public consultation findings](#)

2. Background

- 2.1 The Guernsey marriage procedures are set out in the “Loi ayant rapport aux Mariages Célébrés dans les Iles de Guernesey, d’Auregny et de Serk”, of 1919, (“the Law”) which replaced a law of 1840. The Law sets out the options available to enter into a marriage today and that HM Greffier is the Registrar General of marriages. Although it has been amended in minor respects, there has been no significant reform of the Law. The Law also applies to Sark although that island has made some amendments in recent years. Alderney has a separate law enacted in 1923, but its terms are similar except for a few differences such as, for example, residency periods (see paragraph 3.12).
- 2.2 The 1840 law introduced the possibility of civil marriages, although Anglican marriages continued, as they do today, governed by a separate set of requirements overseen by ecclesiastical law. Hence, since 1840 there has been provision for civil and religious marriage and a dual system of civil and religious preliminaries.
- 2.3 In most jurisdictions there has been a gradual shift in the past few decades from mainly religious marriages, conducted in religious buildings with significant religious rites, to civil marriages. In Guernsey, civil marriages are conducted at the Office of the Registrar General, the Greffe, in St James’ Assembly Hall or in private residences. In the Bailiwick, the most popular form of religious marriage is Anglican, followed by Roman Catholic and then Methodist ceremonies (Appendix A). Since 2011, around 300 marriages per year have been conducted in the islands of which the majority were civil ceremonies.
- 2.4 The UK’s Marriage Act, 1994 introduced the ability to conduct civil marriages in ‘approved premises’, those being mainly hotels and public buildings. This proved very popular and by 2012, 60% of civil marriages in England and Wales were conducted in approved premises⁵.
- 2.5 In August 1993, (Billet d’État XV) the States resolved to amend the Law to allow one additional building to be licensed for the solemnisation of civil marriages, in addition to the Greffe. St James’ Assembly Hall was licensed on the 3rd October, 1994.

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<https://www.ons.gov.uk/peoplepopulationandcommunity/birthsdeathsandmarriages/marriagecohabitationandcivilpartnerships/bulletins/marriagesinenglandandwalesprovisional/2014-06-11>

- 2.6 Since 1993, some consideration has been given to allowing marriages to take place in other locations, such as Castle Cornet, but this was not progressed until May 2014 when the then Policy Council established a working party called the Union Civile working party, whose work resulted in the Same-Sex Marriage (Guernsey) Law, 2016. During these discussions the current marriage law was reviewed and some proposals for change were set out. In Alderney, more flexibility in terms of location were introduced in 2005, and likewise in Sark in 2013.
- 2.7 In December 2015, the States agreed (Billet d'État XXIII⁶) -'To direct the Policy Council to bring forward, in a timely manner, separate Policy Letters to address the issues raised by the work on Union Civile including those relating to the procedural formalities relating to marriage, which included but were not limited to notice periods and the time and place that a marriage can be solemnized.'
- 2.8 On 27th June, 2017, (Billet d'État XII⁷) reform of the marriage law was prioritised in the Policy & Resource Plan, in support of achieving the "One Community: inclusive and committed to social justice" outcome.
- 2.9 In November 2017, the Committee approved the terms of reference for the review of the Law (Appendix B) and a working group was established including representation from the Law Officers, Marketing & Tourism and Borders & Immigration.

3. Current position and reasons for change

- 3.1 Over the years, the principles underlying the UK marriage legislation have remained the same, with the exception of Scotland which, for example, has for some time had a different minimum legal age and parental consent for those 16 years and above is not required. However, there have been some recent amendments to the UK legislation to reflect cultural and social changes, including first allowing for civil partnerships and then more recently same-sex marriage⁸. The residency requirements for obtaining a marriage certificate or licence have been removed or reduced and today marriages can take place in many different venues in the UK.

⁶ [Billet d'Etat XXIII, 2015 - Same-sex marriage](#)

⁷ [Billet d'Etat XII, 2017 - The Policy & Resource Plan - Phase 2](#)

⁸ [England and Wales marriage law changes](#)

- 3.2 Since the Law was enacted in 1919, there has not been a thorough review or any substantial changes made to it. It is now considered necessary to modernise, simplify and make it more inclusive, while putting in place effective safeguards to prevent illegal, forced or sham marriages. The methods available to meet these objectives are now more effective than those that were available in the past.
- 3.3 Amending and modernising the Law would show that the Bailiwick is a forward thinking and progressive jurisdiction and bring us in line with changes made in other places, such as Scotland and Jersey⁹. It is also desirable to have Bailiwick-wide legislation that provides a consistent approach throughout the islands.
- 3.4 At present, to apply for an authority to marry, for all except Anglican marriages, notice of marriage needs to be given by one of the couple intending to marry, in person, to the Registrar General at the Greffe¹⁰. The Ecclesiastical Court¹¹ issues licences for Anglican marriages.
- 3.5 There are three types of authority for civil marriage: certificate, licence or special licence, and the residency requirements and notice periods differ for each authority.
- 3.6 The notice period (the period between notice being given and the certificate or licence being issued) is used to carry out the necessary checks such as immigration checks and, for a marriage by certificate, to make the details about the planned marriage public, by displaying the Notice on the noticeboard at the Greffe, for 21 days. These requirements are unduly complicated and inconsistent, as set out in paragraph 3.5 and their rationale is uncertain. The requirements to apply for an authority to be married need to be simplified and removed where they no longer serve a purpose.
- 3.7 Any immigration checks are carried out once notice of marriage has been given which, depending on the type of authority, could be between one clear day and one month before the date of the marriage. Non-European Economic Area (EEA) nationals seeking to get married in Guernsey must have the appropriate immigration permission in accordance with the Immigration Act, 1971 as extended to the Bailiwick of Guernsey.

⁹ https://www.jerseylaw.je/laws/enacted/Pages/L-19-2018.aspx#_Toc515632857

¹⁰ [Guernsey Royal Court](#)

¹¹ [Ecclesiastical court website](#)

- 3.8 In the UK, the notice period can be extended from 28 days to 70 days should additional time be needed to carry out immigration checks on non-EEA nationals. In Jersey, immigration checks are now carried out before notice of marriage can be given. The step to ensure appropriate immigration permission has been granted, before issuing an authority to marry, is a recognised measure that provides greater protection against sham¹²¹³ and forced marriages being formed to gain an immigration advantage, which is a particular issue in the UK. There is a need to review Guernsey's approach to these safeguards to ensure alignment with other jurisdictions and in particular the UK legislation.
- 3.9 Notice of marriage can presently be given no more than three months prior to the intended marriage date and the authority, regardless of type, ceases to be valid following three calendar months from the date of giving notice. Many couples arrange their marriage years in advance of the marriage date and therefore the current periods for notice and validity of authority do not give sufficient levels of certainty.
- 3.10 To give notice the couple need to provide specific details and documentation so that their identification can be verified and their legal right to marry checked, such as by producing a Certificate of No Impediment or Decree Absolute (proof of divorce). Currently, only one person in the couple who wishes to be married is required to give notice of marriage and a declaration is signed stating that both parties are free to marry and the appropriate notice fee paid.
- 3.11 The preliminaries required for Anglican marriages are different and opportunities to align the pre marriage requirements have been identified through consultation with the Dean of Guernsey. It is proposed that consultation will continue to seek to align the preliminaries undertaken by the Ecclesiastical Court with those of the Registrar General, and for close cooperation going forward.
- 3.12 Marriage details are kept electronically on a database from which certificates have been printed and certified by a Deputy Registrar for marriages since 2005. The technology exists to allow the process of giving notice and receiving a licence to be carried out digitally, which would be especially beneficial for non-resident couples.

¹² 'where the marriage or civil partnership is contracted for immigration advantage by a couple who are not in a genuine relationship'

¹³

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/256257/Sham_Marriage_and_Civil_Partnerships.pdf

- 3.13 Both Alderney and Sark have reduced the required residency period to three days to make it easier for couples to fulfil the residency requirement and marry. Jersey has never imposed a residency requirement; it currently has approximately 450 to 500 non-Anglican marriages a year of which about a quarter to a third are non-residents. With the introduction of marriages outdoors (July 2018), Jersey is expecting the number of non-resident marriages to increase further.
- 3.14 It is uncertain why residency was specified in the Law for civil marriages, although it might be that this is a historical aspect of the Law relating to when only religious ceremonies were conducted and where evidence of a qualifying connection to the parish church was required, as part of the preliminaries. It is now recognised that provided that there is a sufficient period between couples giving Notice of Marriage and the issue of an authority to be married, any required checks can be conducted whether or not the couple are resident. By reducing or removing the residency period, it may encourage more marriages to take place in Guernsey by non-residents and help to develop a ‘marriage tourism’ offer, as well as potentially align with changes already made in Sark and Alderney to reduce residency periods.
- 3.15 Those who can legally conduct civil marriages, the ‘celebrants’, are either the Registrar General or one of his Deputies, who are sworn in by the Royal Court. The Registrar General recruits the Deputy Registrars and provides training in-house. Church of England clergy licensed by an ecclesiastical authority carry out Anglican ceremonies. For other religions, where the building is licensed by the Royal Court, celebrants must be nominated by the religious organisation and approved by the Registrar General.
- 3.16 Today, there is a growing demand for an alternative to traditional religious and civil marriage ceremonies, with people who do not follow a religion or who have different religious beliefs wanting the option to personalise their ceremony to reflect their beliefs. Humanist and other non-religious marriages have seen a significant increase in popularity and are now legally recognised in some jurisdictions such as Scotland (2005)¹⁴, and more recently in Jersey (July 2018), where non-religious belief celebrants, such as Humanists can conduct legal marriages. However, these ceremonies are not legally recognised in this Bailiwick, which means couples who wish to have a Humanist or non-religious ceremony also have to undergo a separate, legally recognised, civil ceremony.

¹⁴ <https://www.nrscotland.gov.uk/files/statistics/annual-review-2013/html/rgar-2013-marriages-and-civil-partnerships.html>

- 3.17 Many couples who choose to have a civil marriage at the Greffe, which takes about ten minutes, often do so without great ceremony. This is because they have organised a Humanist or other non-religious ceremony to take place on another day, often at a hotel, where they dress up, exchange vows and host a reception for their guests. In Guernsey, feedback received from celebrants and couples is that they would much prefer to be able to have just the one, legally recognised ceremony, combining the legal requirements and non-religious ceremonies together.
- 3.18 While many couples today decide not to marry at all, others decide to travel to jurisdictions that permit a wider range of choice in terms of types, locations and times. For example, the Greffe issues a number of certificates of non-impediment to residents who are going to be married elsewhere.
- 3.19 At present, a civil marriage can be conducted at the Greffe, St James' Assembly Hall, in a private residence (including Sausmarez Manor) or in appropriate cases in a hospital or care home at short notice. There have been enquiries and requests from couples, celebrants and members of the hospitality and tourism industries to increase the number and type of locations where couples can choose to solemnise their civil marriage.
- 3.20 Allowing more locations to be licensed for civil marriages, such as Castle Cornet, Les Cotils, hotels and outdoor locations, such as beaches and parks, would increase the options for Islanders and visitors who may wish to hold their marriage celebrations in the Bailiwick and could mean that more marriages are conducted here. In both Alderney and Sark, changes to the Law have been made allowing marriages by special licence to take place in any location (building or other place) if approved by the Registrar.
- 3.21 Religious ceremonies may be conducted in Anglican churches and buildings licensed for that purpose by the Royal Court, including the buildings of other denominations, such as Methodist and Catholic churches. Marriages in a licensed building conducted by approved persons can take place without the Registrar General or one of his Deputies being present. At this time, there are no licensed buildings or appointed persons authorised to conduct Islamic, Jewish or Hindu ceremonies. Marriages solemnized by these religions are therefore not legally recognised in the Bailiwick, but there is no legal reason to prevent these or other religious organisations making a request for their buildings to be licensed and celebrants approved. It is more difficult for some groups to comply if they do not have a regular place of worship exclusively used by their worshippers or they do not have enough regular worshippers to qualify, since under Article 27 of the 1919 Law, 20 people are required to confirm the building as their 'ordinary place of worship'.

- 3.22 It is anticipated that if more venues become available the number of civil marriages being conducted at the Greffe would reduce, as people choose to marry in other venues and tailor their marriage ceremony and arrangements to suit how they want to be married, as has been the case in Jersey.
- 3.23 Historically, marriage ceremonies were held in daylight hours to discourage secret or forced marriages. Legally no restrictions exist on the days a ceremony can take place, but civil marriages must be conducted between the hours of 8am to 3pm, which can be extended by special licence. If the ceremony is held at the Greffe, it must take place during the hours of 9am to 4pm, Monday to Friday or on a Saturday morning. This does not necessarily offer the flexibility that many couples would like.
- 3.24 At the moment, there is a legal ban on including any religious content during a civil ceremony conducted at the Greffe. In some other jurisdictions, the approach has been relaxed and some content of a religious nature is allowed, such as hymns and readings.
- 3.25 There is a legal requirement for the building where the ceremony is taking place to be open to members of the public to attend on the day should they wish, including in private residences. It is thought that the requirement to enable members of the public to attend was to prevent illegal marriages, as marriages were meant to be public declarations of commitment and not held in secret. Public access allowed objections to the marriage to be made in the days when many people were illiterate. However, in Guernsey, there are no known instances of an objection being made in a ceremony. If an objection were to be made there is no provision in the Law for such an objection to be effective and prevent the marriage proceeding. It is intended that the marriage details will continue to be published and made accessible, so any legal objection to the marriage can be made before the ceremony, by lodging a written, signed 'caveat' with the Greffe, as currently.
- 3.26 In terms of safeguards in place to prevent illegal, forced and sham marriages, the historical means are no longer deemed the most effective or efficient way to prevent these from taking place. Previously, it was believed that allowing ceremonies to be open to the public and in daylight hours would act as a deterrent, with couples often being known to the communities where they were getting married. However, it is no longer felt that these safeguards are sufficient, in either preventing or managing these instances and they should therefore be removed and replaced with more effective measures.

3.27 More effective and efficient means of prevention and identification would include making the information of the intended marriage more accessible to more people before the authority to marry is issued, so that a formal objection to the marriage could be made should a member of the public wish to do so. Currently only the details of a marriage by certificate are published and only on the Greffe noticeboard.

4. Consultation and Review findings

4.1 To inform the Review those who are directly involved in or with the marriage formalities and procedures or representatives of interested groups were consulted (Appendix C). The public consultation¹⁵ was carried out on the outline proposals informed by the earlier work of the Union Civile group and more recent findings.

4.2 In the main, the consultation responses were supportive of the majority of the suggested proposals. The summary findings from the public consultation showed there was strong support for –

- Just one authority type, instead of three, as currently;
- Notice of marriage to be permitted to be given up to a year in advance of the marriage date;
- Giving Notice by email and online;
- Requiring confirmation of immigration status before giving Notice of Marriage;
- That non-religious belief celebrants should be authorised to conduct legally recognised marriages;
- Non-religious belief celebrants should meet certain requirements before being authorised to perform marriages, such as standards or qualifications;
- Marriage ceremonies to be permitted in more locations than currently, including in more venues, outside and in territorial waters;
- Freedom of choice in relation to where couples can choose to marry and that buildings did not need any additional requirements other than the existing legal requirements, such as fire and safety regulations and venue capacity restrictions;
- Allowing some religious content to be included in civil ceremonies if wanted but not conducting the ceremony as a religious ceremony; and

¹⁵ [Marriage law reform public consultation findings](#)

- Couples deciding whether the ceremony location is open to the public.

There was also majority support for -

- Details of a planned marriage continuing to be made available to the public, with a preference for the noticeboard at the Greffe and online, on a dedicated webpage;
- Documents continuing to be verified in person; and
- More flexibility in relation to the time a ceremony can take place.

4.3 Further consideration, in consultation with celebrants and religious groups, was given to the authorisation process for celebrants and what, if any, form of registration or licensing for locations was used. It was suggested that the registration of buildings was no longer necessary if outdoor locations were to be allowed and given that the celebrants would be required to approve the location.

4.4 Both Alderney and Sark were consulted at an early stage and in March 2018 the Bailiwick Council agreed that Bailiwick-wide legislation would be preferable as it provides more consistency.

4.5 Alderney and Sark have responded to the Policy Letter to confirm that they are in agreement with the proposals as set out in section 6 of the Policy Letter.

5. Options appraised

5.1 The options were appraised using the desired changes as criteria -

- Fits the needs of a modern society;
- Is simpler;
- Is more inclusive; and
- Maintains safeguards to protect against illegal, forced or sham marriages.

5.2 The results of the appraisal can be seen in full in Appendix D and the preferred options are proposed in the next section.

6. Proposals for change and rationale

6.1 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 non-religious 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.

7. Resource implications

- 7.1 Resources from St James' Chambers will be required to draft the Projet de Loi and subordinate legislation, subject to prioritisation of the legislation.
- 7.2 The transition arrangements to the new procedures and formalities will be managed through existing Greffe resources.

8. Legislative implications

- 8.1 Primary legislation will be required to implement the recommendations in this Policy Letter, including the revised formalities and procedures of marriage.
- 8.2 The Law Officers have advised that consequential amendments to other enactments may be required, such as to the Matrimonial Causes (1939) Law.
- 8.3 The opportunity will be taken to incorporate and modernise provisions relating to the formation of marriage presently contained in other enactments. No substantive amendments are proposed but it is considered that those provisions could usefully be included in the new law. It is envisaged that this would include, but not be limited to, the following provisions –
- Prohibited degrees of consanguinity;
 - Minimum age a person can marry; and
 - Consent to the marriage of a minor.
- 8.4 Provision will be made for matters of detail to be included in subordinate legislation, such as fees and the form of applications.

9. Operational implications

- 9.1 To implement the proposed changes the office of the Registrar General will draft and prepare the required supporting guidance and documentation and make any necessary changes to processes to align with the legislation drafting work.

10. Timeframe

- 10.1 The date when the new legislation would come into force is dependent on the prioritisation of the drafting of the legislation and is therefore difficult to specify at this time. It would be anticipated that the legislation would be prioritised and drafted in 2019 with a view to being enacted sometime in 2020, at the earliest.
- 10.2 An outline project plan to implement the proposed changes outlined in this document is at Appendix F.

11. Conclusions and recommendations

- 11.1 The findings from the Review were put out to consultation with a range of stakeholders and significant support for the proposed changes was received.
- 11.2 The Committee recommends the States to approve the Propositions to which this Policy Letter is attached.

12. Committee Support for Proposition(s)

- 12.1 In accordance with Rule 4(4) of the Rules of Procedure of the States of Deliberation and their Committees, it is confirmed that the propositions above have the unanimous support of the Committee.

Yours faithfully

G A St Pier
President

L S Trott
Vice-President

J P Le Tocq
T J Stephens
A H Brouard

APPENDIX A – BAILIWICK MARRIAGE STATISTICS 2011 - 2016

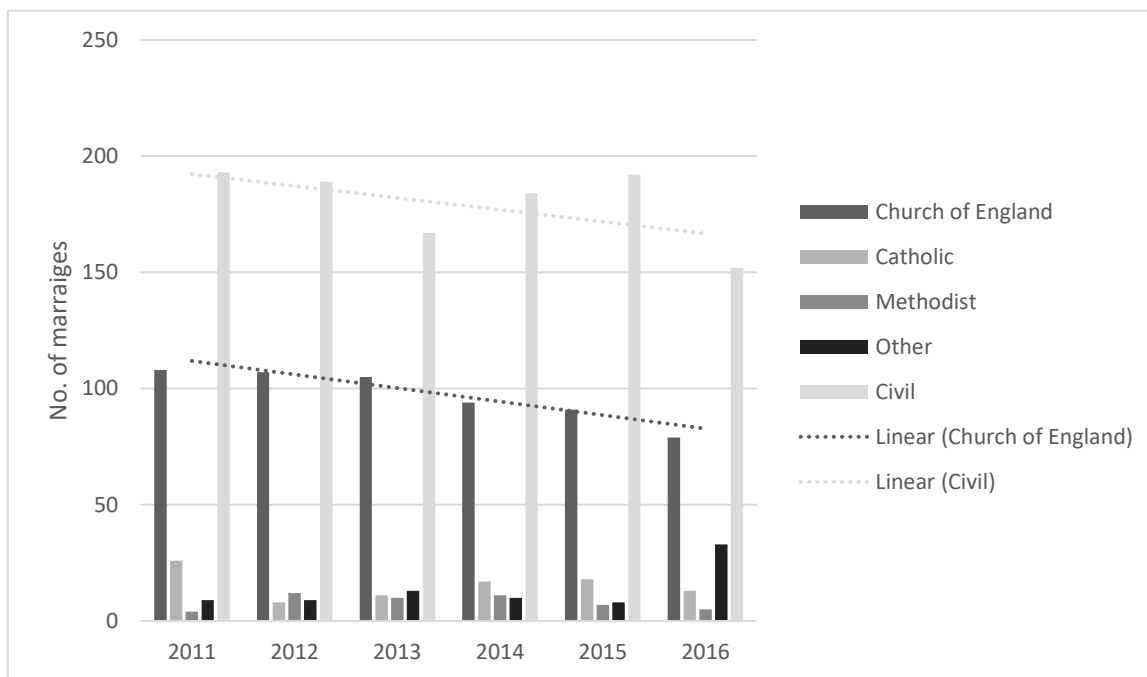


Chart 1. Number of Bailiwick marriages by type, 2011-2016.

	2011	2012	2013	2014	2015	2016
Church of England	108	107	105	94	91	79
Catholic	26	8	11	17	18	13
Methodist	4	12	10	11	7	5
Other ¹⁶	9	9	13	10	8	33
Civil	193	189	167	184	192	152
Total	340	325	306	316	316	282

Table 1. Number of Bailiwick marriages by type, 2011-2016.

¹⁶ Other groups includes all other Christian denominations.

APPENDIX B - TERMS OF REFERENCE

The procedures setting out how couples can be married are set out in the Marriage Law, 1919, (Law). The principal law has been added to and changed over time, but there has been no significant reform of the Law in many years. The Law is based on similar terms to the previous Law of 1840 and has been over complicated in some areas.

Through the work exploring Union Civile and the resulting introduction of Same Sex Marriage, in 2017, it was identified that the procedure for marriages in Guernsey needed to be reviewed in full and updated to meet modern expectations. During this detailed review period, consideration was given to the proposals to change the Law.

In the same sex marriage policy letter, (Billet d'État, XXIII of 2015)¹⁷ it was agreed -

'To direct the Policy Council to bring forward, in a timely manner, separate Policy Letters to address the issues raised by the work on Union Civile including the dissolution of legal partnerships, as set out in section 6 of that Policy Letter; gender recognition, and procedural formalities relating to marriage.'

The Reform of Marriage Law has since been prioritised in the Policy & Resource Plan – Phase Two, in support of achieving the One Community: inclusive and committed to social justice outcome. The Policy & Resources Committee will lead the work stream in collaboration with H M Registrar General. It is expected to be completed by the end of 2018.

The Review will consider:

- The draft changes to policy proposed by the Same Sex Marriage working group including wider options for venues and outdoor locations, times, celebrants, notice and residency periods;
- What other options, not already identified, might be made to modernize and simplify the current civil marriage formalities, whilst ensuring the appropriate controls are in place against illegal, forced and sham marriages;
- Whether to incorporate the elements of who can be married within the revised marriage formalities, such as the age of consent and the restrictions on marrying within prohibited degrees of kinship;
- The impact of the proposed changes on policy, legislation and stakeholders;
- The views of those that will be affected by the changes;
- The legislation changes required to support the proposed policy changes; and
- How the recommended changes will be managed and implemented.

¹⁷ [Billet d'État, XXIII of 2015 Same-Sex Marriage](#)

The following are out of scope of the Review:

- Same sex marriage as this has recently been legislated upon;
- The rights or responsibilities which marriage imparts, such as the financial entitlements of surviving spouses or the consequences of divorce; and
- The grounds on which a marriage may be void or voidable, except in so far as they relate to a failure to comply with the required marriage formalities.

APPENDIX C – MARRIAGE LAW REFORM STAKEHOLDERS

The stakeholders consulted as part of the Review included –

- States Members;
- States of Alderney;
- Sark Chief Pleas;
- Policy & Resources Committee;
- HM Procureur and HM Comptroller;
- Registrar General and Deputy Greffiers;
- Public service areas including; Immigration and Nationality, Marketing & Tourism, Police, Health & Safety, Property Services, Environmental Health & the Greffe;
- Liberate;
- The Ecclesiastical Court (through the Very Reverend Tim Barker, Anglican Dean of Guernsey);
- Religious and belief groups, celebrants and representatives;
- Civil celebrants;
- Chamber of Commerce, Tourism and Hospitality Sub-group members;
- The Citizens' Advice Bureau;
- Wedding planners;
- States of Jersey, social policy team
- Jersey's Superintendent Registrar; and
- The public.

APPENDIX D – OPTIONS APPRAISAL

Area	Option	Targeted consultees majority view	Public consultation views	Decision and reasons why
All	Do nothing – keep as is	Not supported	Not supported	<u>Discounted</u> as it does not achieve the desired changes, to be used for comparison purposes
Authority to marry	One type of authority, which will be called a Licence	There should be consistency in some form or another	Yes 275, 87%	Preferred option as it simplifies the procedures and is supported by most stakeholders
	Maintain a separate authority for extenuating circumstances such as terminal illness	Not supported	Not supported	<u>Discounted</u> as it does not fully simplify the process and a separate authority is not needed for this to continue to happen.
	Maintain special dispensation for those who need and wish to marry quickly to do so, such as in cases of terminally ill persons	Not covered directly but support for retaining dispensation	Not covered directly but support for retaining dispensation	Preferred option as it maintains the ability to grant an authority in particular cases and is therefore inclusive. It also removes the need to have more than one authority type.
Licence – period valid for	The licence will be issued the day after the signing of the Marriage Notice Book and will be valid for one year from the date of issue.	That the licence should be valid for longer	Yes 212, 79.7%	Preferred option as it fits with modern marriage preparations and gives couples more certainty
	The licence will be valid for more than three months (as currently) but less than a year from the date of issue	As above	Not covered	<u>Discounted</u> as it does not give as much flexibility to couples

Area	Option	Targeted consultees majority view	Public consultation views	Decision and reasons why
Giving notice of marriage – notification period	Notification period for giving Notice of Marriage to be a minimum of 28 days before issuing the authority to marry, extended to up to 70 days to allow immigration checks to be conducted, if needed, as in the UK	Mixed responses received on the notice period	Mixed responses received on the notice period	<u>Discounted</u> as it could lengthen the formalities
	The notification period for giving Notice of Marriage to be 21 days before the authority to marry can be issued, with immigration checks carried out before giving notice	As above	As above Yes, 224, 85.17% to immigration checks before giving notice	Preferred option , as it simplifies, modernises and removes any potential delays caused by immigration checks.
Verification of identity and freedom to marry	Remove in-person verification checks and carry out checks digitally	Some support for	Not supported	<u>Discounted</u> , as in-person checks are seen as an essential safeguard.
	Continue with in-person checks a minimum of the day before, alongside digital submission of documentation when giving notice.	As above Supportive of a shorter residency period if at all	Supported Yes, 241, 90.67% to giving notice online and by email	Preferred option , as it maintains safeguards, through in-person checks and review of hard copies, and removes the need for a residency requirement simplifying the process. See Digitalisation below.
Publishing of the notice	Continue to publish the notice on the noticeboard at the Greffe only	Most opted for information to be publicly available to in some form	Not supported	<u>Discounted</u> as limits public access to the information restricting the effectiveness of the safeguard of the enabling the public to place a valid objection

Area	Option	Targeted consultees majority view	Public consultation views	Decision and reasons why
	Change where the notice is published and remove from the Greffe noticeboard	As above	Not supported	<u>Discounted</u> as above
	Do not publish the notice anywhere	Not supported	Not supported	<u>Discounted</u> as above
	Publish in more than one format including the noticeboard at the Greffe and online	To have the information made available to the public in some format	173, 54.92% - publishing details Dedicated webpage (130, 62.8%) and Greffe noticeboard (110, 53.14%)	Preferred option as it ensures that the information is accessible to all and supports the ability for a caveat to be placed.
Digitalisation	Use of digital means for all documentation requirements including giving notice, proof of identification and issuing licence.	Not supported	89.26% supported giving notice by email and online	<u>Discounted</u> for all purposes as in-person checks preferred. See the 'Verification of identity and freedom to marry' section above.
	Use of digital means for giving notice and issuing the marriage certificate only such as via a schedule. The relevant information to be collected and submitted to the Greffe for the digital register.	Supportive in general although through various suggested means for some purposes	Yes - 90.67%	Preferred option at this time. Other means for digitalising the process to be explored once the new legislation and approach is in place. Removes the need to re-design and print new marriage registers.
Locations – types of location	More approved buildings only	Not supported	Not supported – other locations preferred	<u>Discounted</u> as limits the type of location to buildings only and therefore does not modernise the law and include outdoor locations.

Area	Option	Targeted consultees majority view	Public consultation views	Decision and reasons why
	More locations including outdoors, in territorial waters and Bailiwick airspace	Mostly anywhere including outdoors	245, 96.21% for liberalisation Yes, 205, 97.13% - outside locations & Yes, 162, 86.47% in territorial waters	Preferred option as supported by the majority of stakeholders and modernises the law
Locations - registration and requirements	No additional requirement to register for all locations including; public buildings; hotels; and outside locations such as; beaches, fields and at sea. No prior consent required by the celebrant.	Mixed support for some form of licence / registration and no additional requirements needed	1) No other requirements (134, 54.92%). 2) No additional requirements for buildings (129, 52.87%) 3) Celebrants to be able to object to holding a ceremony if they deem it unfit (112, 45.90%)	<u>Discounted</u> as it does not provide a means to ensure safeguards for all locations such as ensuring outside locations are safe and dignified.
	All locations to meet certain, high level, conditions approved by the celebrant. For example, the location is seemly and dignified, safe and secure, or an alternative location to be identified in case of outdoor locations and poor weather conditions	As above	Supported in part - 3) Celebrants to be able to object to holding a ceremony if they deem it unfit (112, 45.90%)	<u>Discounted</u> as all buildings used by the public e.g. hotels and historical buildings would already fulfil any likely criteria e.g. safe and secure. The celebrant will have discretion to object to holding a ceremony if the building is deemed unsuitable.

Area	Option	Targeted consultees majority view	Public consultation views	Decision and reasons why
	Religious buildings only continue to be licensed i.e. no change	As above	Not covered Additional consultation with religious groups	<u>Discounted</u> , as there is no need if outdoor locations are permitted without registration and if the celebrant will have discretion to decline to hold a ceremony if the location is not suitable.
	All buildings should be licensed and should meet certain additional criteria	As above	Not supported	<u>Discounted</u> as it was suggested that the current legal requirements for buildings accessed by the public, such as fire safety, public liability insurance, is sufficient. Logically, why add additional requirements to buildings only when it would not be possible to apply the same requirements to outdoor locations.
	Venue to be agreed with the celebrant in advance of the ceremony and if a building, to be included on the marriage notice. Other locations will be confirmed by the celebrant after the ceremony for inclusion on the certificate	As above	Supported in part - 3) Celebrants to be able to object to holding a ceremony if they deem it unfit (112, 45.90%)	Preferred option as it is the simplest and most effective of options.
Ceremony times	8am to 7pm, when agreed with the celebrant and venue prior to Notice of Marriage being given	Supportive of some form of extension to the current hours	Not supported	<u>Discounted</u> , as the need to restrict times was not justifiable. It does not give couples as much choice and it could prove to be a barrier for couples not normally resident to marry here.

Area	Option	Targeted consultees majority view	Public consultation views	Decision and reasons why
	No constraints on when, but the time to be agreed with the celebrant and venue, if used, prior to giving Notice of Marriage	As above	45.31% agreed 'that people should be allowed to marry at whatever time they wish' 43.67% supported 'no constraints'	Preferred option as it is the simplest of options giving couples greater flexibility, subject to agreement with the celebrant and any venue used.
Ceremony content	No religious content of any sort to be included in civil or other ceremonies, as currently	Not supported	Not supported	<u>Discounted</u> as not supported by most stakeholders and does not modernise this part of the current law.
	Some religious content to be allowed in other ceremonies, but for the ceremony not to be conducted as a religious ceremony	The majority were supportive of religious content being included in civil ceremonies.	Yes, 184, 75.1%	Preferred option as most stakeholders were supportive of some religious content being included
Public access to ceremonies	Marriages to be open to the public unless held in private residences or on private land	There was a fairly even split for and against allowing privacy and ensuring public access	Not supported	<u>Discounted</u> as there is no legal reason to give the public access and there would be different approaches taken depending on the venue or location chosen.
	Marriages to be open to the public, including when held in private residences / private land	As above	Not supported	<u>Discounted</u> , as there is no legal reason to give the public access.

Area	Option	Targeted consultees majority view	Public consultation views	Decision and reasons why
	Ceremonies to remain private regardless of location unless the couple wish for the public to have access. Excludes any outdoor locations where the public have free access	As above	73.88% choose 'couples should decide whether the marriage location is open to the public'	Preferred option as it modernises the approach, giving couples' freedom of choice, while not impinging on any safeguards, as the caveat can be placed before the marriage.
Celebrants – a) additional celebrants	Additional civil celebrants authorised	Supportive of more celebrants being authorised	Not covered	<u>Discounted</u> as not inclusive of non-religious and belief based marriages
	Additional celebrants authorised including Humanist and non-religious, belief celebrants	As above	Yes, 94.09%	<u>Discounted</u> as it does not include all UK recognised religions
	Additional celebrants to be authorised including Humanist and non-religious, belief celebrants and any other celebrants from UK recognised religions ¹⁸ such as Islam.	As above	As above	Preferred option , as most stakeholders were supportive; it is more inclusive and modernises the law.
Celebrants – b) authorisation and controls	Celebrants do not need any form of authorisation or control	Not supported	Not supported	<u>Discounted</u> as it does not support the celebrant led approach being proposed through the other preferred options and it does not provide sufficient safeguards
	New celebrants must pass an interview process and all celebrants	Supportive of some form of	Not supported	<u>Discounted</u> , as without appropriate training and controls it would be difficult

¹⁸ Recognised by the Charity Commission.

Area	Option	Targeted consultees majority view	Public consultation views	Decision and reasons why
	are required to register with Registrar General	standards or accreditation		to support celebrants, ensure consistent service quality and provide safeguards
	New, non-Anglican, celebrants including civil and non-religious celebrants must register and have carried out appropriate training as applicable to previous experience and qualifications.	As above	78.35% supported celebrants meeting certain requirements, such as standards or qualifications	Preferred option as provides sufficient training and support to celebrants to enable them to fulfil their duties, as the suggested proposals enhance the responsibilities of the role to include approval of the ceremony location.

Table 2. Options appraisal table.

APPENDIX E – MARRIAGE VOW CHANGES

“I do solemnly declare that I know not of any lawful impediment why I,, may not be joined in matrimony to”

“I call upon the persons here present to witness that I,, do take you,, to be my lawful wedded wife/husband”.

“I call upon the persons here present to witness that I,, do take you,, to be my lawful wedded wife/husband”.

Previously, ‘you’ was written as ‘thee’.

APPENDIX F – MARRIAGE LAW REFORM TIMEFRAME

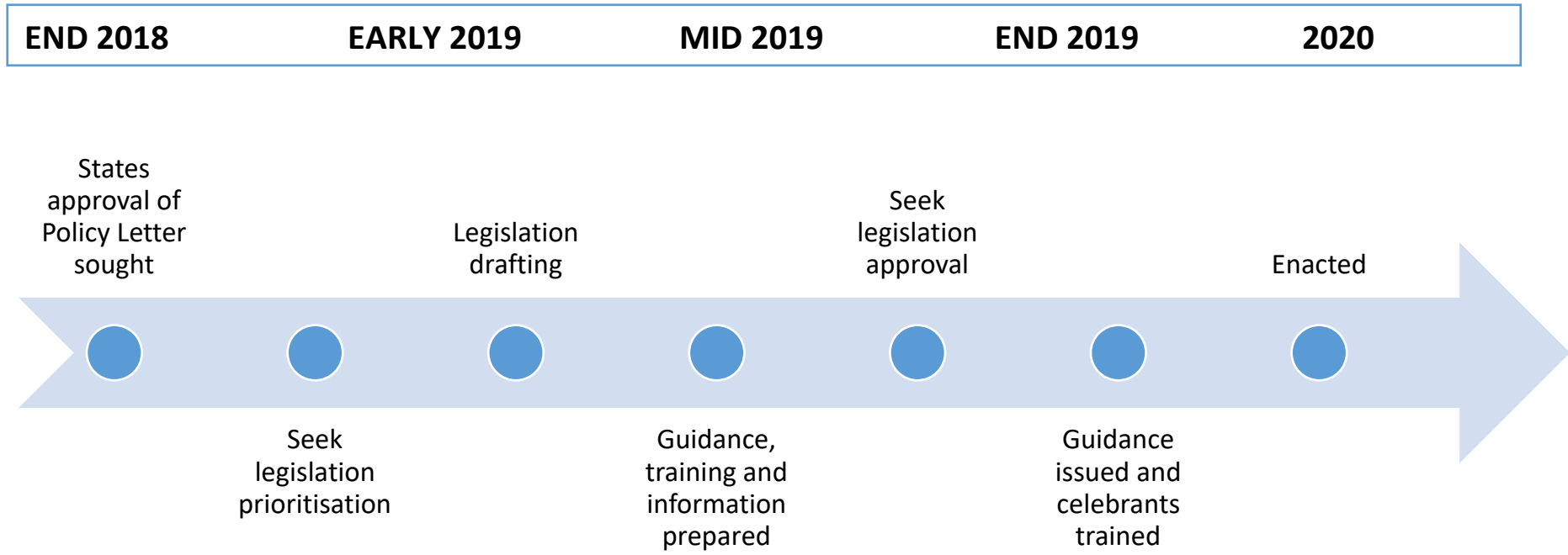


Image 1. Marriage Law Reform timeline