



Corporate Services Scrutiny Panel

Draft Marriage and Civil Status (Jersey) Law Review

Witness: Superintendent Registrar

WEDNESDAY, 6th DECEMBER 2017

Panel:

Deputy J.A.N. Le Fondré of St. Lawrence (Chairman)

Deputy S.M. Brée of St. Clement (Vice-Chairman)

Deputy K.C. Lewis of St. Saviour

Senator S.C. Ferguson

Witnesses:

C. Follain, Superintendent Registrar, Office of the Superintendent Registrar

T. Walker, Chief Officer, Community and Constitutional Affairs

[14:01]

Deputy J.A.N. Le Fondré of St. Lawrence (Chairman):

There is a little notice we have to run through first. We will do the full works because I suspect it is probably one of your first times in front of the panel?

Superintendent Registrar:

First time, yes.

Deputy J.A.N. Le Fondré:

Tom, of course, is highly experienced in all this. Welcome to the first hearing of the Corporate Services Scrutiny Panel into the Draft Marriage Law, that is what we are calling it. First, can you

look at the notice just in front of you? It sets out that you are covered in this hearing by parliamentary privilege and I think, as it is your first time, I will read it out, which is: "The proceedings of the panel are covered by parliamentary privilege through Article 34 of the States of Jersey Law 2005, and the States of Jersey (Powers, Privileges and Immunities) (Scrutiny Panels, P.A.C. and P.P.C.) (Jersey) Regulations 2006. Witnesses are protected from being sued or prosecuted for anything said during hearings unless they say something they know to be untrue. This protection is given to witnesses to ensure they can speak freely and openly to the panel when giving evidence without fear of legal action, although the immunity shall obviously not be abused by making unsubstantiated statements about third parties who have no right of reply." The panel would like you to bear this in mind when answering the questions. To our one member of the public and the media - who know the rules already - please remain quiet at all times. No heckling while the hearing carries on. As we proceed through the questions we may stop you if we feel you have answered the question sufficiently because we do need you to be reasonably concise of the time available. Normally I do that by raising my hand. I would like to make it very clear at the start of the hearing that our review is focused on the detailed Articles of the Draft Marriage Law and our questions hopefully will reflect this. This review is not about the policy decision to implement same sex marriage or any of the other changes. The States has already agreed to introduce same sex marriage and our review does not seek to reopen that debate. Any comments that may be made maybe because we are exploring an argument that has been put to us rather than expressing any view, which should not be interpreted as expressing either a personal view or a view of the panel. The legislative scrutiny we are carrying out is to ensure the law is fit for purpose and to effectively implement the decisions made by the Assembly. That extends beyond the proposal of same sex marriage, to cover open air marriage, obtaining a licence to marry, the role of the Parish Registrar, protection against sham and forced marriages, and the ability of the States to increase the age of marriage by regulations. That is the end of the spiel. For the benefit of the tape, if I start going round. Deputy John Le Fondré, chairman of the panel.

Deputy S.M. Brée of St. Clement (Vice-Chairman):

Deputy Simon Brée, vice-chairman of the panel.

Senator S.C. Ferguson:

Senator Sarah Ferguson, panel member.

Deputy K.C. Lewis of St. Saviour:

Deputy Kevin Lewis, panel member.

Superintendent Registrar:

Claire Follain, Superintendent Registrar.

Chief Officer, Community and Constitutional Affairs:

Tom Walker, Chief Officer for Community and Constitutional Affairs, which includes the Office of the Superintendent Registrar.

Deputy J.A.N. Le Fondré:

Thank you very much for coming today. To open the hearing, please could you briefly outline in perhaps 5 minutes, if you wish, your written submission and the key points you might wish to make? Obviously we want to try and keep it focused on the content of the laws as much as possible.

Superintendent Registrar:

Yes, I would start by saying that my tenure as Superintendent Registrar began in January of this year so I have, to some extent, inherited this law, or the amendments to it. The draft law, as I see it, will have great benefit to my working practices within my department by streamlining the administrative processes and giving me a much clearer framework within which I can work. Additionally it will also improve the experience from a customer perspective by reducing the number of processes that they have to go through in order to manage it. That is probably as succinct as you will want it.

Deputy J.A.N. Le Fondré:

That is pretty good.

Deputy S.M. Brée:

In your submission you stated, and have repeated it, that the Draft Marriage Law will allow for a more streamlined and efficient administration process within the office of the Superintendent Registrar. Why do you think this will happen?

Superintendent Registrar:

Why do I think it will streamline the process?

Deputy S.M. Brée:

Yes.

Superintendent Registrar:

It will streamline the processes internally in the administration of marriages in that the number of steps that are required is drastically reduced. Instead of having a duplication of work, that will be completely removed. The I.T. (information technology) application that will be integrated into the law and used will massively remove the human error element that there is currently within the

process, within the department. It introduces quite a lot of safeguarding measures, as well as I think improving the experience for members of the public.

Deputy S.M. Brée:

Is there any risk that the changes could complicate the system and increase staff costs? For example, training required or new I.T. systems?

Superintendent Registrar:

There is a new I.T. system which is integrated into the Marriage Law or will be rolled out at the same time as the amendments to the Marriage Law. This will allow members of the public to apply online and fulfil several of the administrative processes online instead of in person. That will allow them, if they live abroad particularly, and a third of all those who will marry in Jersey come from abroad, it will improve the processes for them, make it much easier for them while safeguarding the same level of documentary evidence required. The I.T. process will also remove some of the human error that can be involved. So we will know exactly which documents have been seen and approved so couples themselves will not have to return time and time again, as they do now, to show the same documents over and over again potentially to different members of the staff.

Deputy S.M. Brée:

You talk about the I.T. system that is going to be integrated. What is the cost of that?

Superintendent Registrar:

It has been developed with eGov and the eGov have absorbed the cost of their involvement within their budget; so that cost has been nil. There has been a cost with a company externally who have developed the actual application and that will be neutral in the sense that it will be covered by fee accrual in the coming months and years.

Deputy S.M. Brée:

But what is the initial upfront cost?

Superintendent Registrar:

That has not yet been paid over but the quote is £19,012.

Deputy S.M. Brée:

Thank you.

Deputy J.A.N. Le Fondré:

So on the I.T. system: is it basically ready to roll out? It is ready to go?

Superintendent Registrar:

It is almost ready to go. We are testing it at the moment.

Deputy J.A.N. Le Fondré:

What is the planned implementation date?

Superintendent Registrar:

We had had it planned for 1st January as an implementation date. Obviously there may be now some delay but we are still going forward for that date in order to be able to test it further within the department.

Deputy J.A.N. Le Fondré:

So it is separate to the implementation of the law, I assume?

Superintendent Registrar:

It will only begin when the new law begins.

Deputy J.A.N. Le Fondré:

At the moment it is not quite ready to go?

Superintendent Registrar:

It has been built. I believe it is at the user testing where they ask members of the public to come in and voluntarily try it and see what works and what does not work both in terms of terminology and user friendly.

Senator S.C. Ferguson:

I gather that the actual certificates have been processed on the computers for some years now.

Superintendent Registrar:

Marriage certificates?

Senator S.C. Ferguson:

Yes.

Superintendent Registrar:

Marriage certificates are not generated digitally at the moment. They are handwritten by the Registrars.

Senator S.C. Ferguson:

Which are the certificates that are printed?

Superintendent Registrar:

Birth and death certificates are printed now. In terms of costs for training, internal staff training has been and will be rolled out. There are no additional costs from within my department. The only additional cost will be from independent celebrants and there will be a cost of training those and that will be covered again. It will be cost neutral because those candidates who are successful and are appointed will pay for the training cost and then annually there will be a licence fee for the celebrants, which will cover the cost of any continual professional development or any other action I have to take in relation to that.

Senator S.C. Ferguson:

Is this putting up the price of births, marriages and deaths?

Superintendent Registrar:

Births and deaths are separate. They are not being amended within this law so that is not altering at all.

Senator S.C. Ferguson:

For your I.T. programme?

Superintendent Registrar:

The I.T. programme?

Senator S.C. Ferguson:

We were talking about that. Has this put up the cost of registering births, deaths and marriages?

Superintendent Registrar:

The I.T. programme that is involved in registering births and deaths has not altered the price for the general public at all, no. The I.T. programme for marriages, as I said, is a one off cost for an external company of £19,012, which will be accrued back by fees generated. There will be a fee increase for the cost of marriage for members of the public and that represents the fact that at the end of this M.T.F.P. (Medium Term Financial Plan) my department has to be cost neutral.

Deputy J.A.N. Le Fondré:

Say somebody getting married 3 years ago versus at the end of this M.T.F.P., what are the fees likely to look like?

Superintendent Registrar:

The fees, as I understand it - I am not sure when they last went up because it was before my tenure - but the current fees it is quite a complicated fee structure. So we will end that complication of fee structure. I have brought this paper, that probably goes some way to explain how complicated it is. It is very dependent on what time you marry on what day and where. It is overly complicated and the customer feedback we get is it is too complicated. The average cost is around about £250 for a wedding.

Deputy J.A.N. Le Fondré:

Where is that going to go to?

Superintendent Registrar:

At the moment, because my department is subsidised by the States of Jersey, by taxpayers, to the extent that approximately 50 per cent of what it costs to marry is subsidised by taxpayers. At the end of the next M.T.F.P. I must be cost neutral.

Deputy J.A.N. Le Fondré:

So it is going to go up by £125, £150; something along those lines?

Superintendent Registrar:

I am still calculating the fees at the moment and I am being very careful to, along with the new I.T. system, which does shorten the process massively, to work out the time period it will take for us to accomplish each task and then translate that into a cost at the end. I am mindful that marriage is open to everybody on the Island and off-Island and therefore must be accessible to everybody financially. I need to cover my costs, clearly not make profit out of delivering marriage. The fees are obviously set within the statute so if I wish to put them up in the future because they are insufficient to cover my costs then that will involve some work. So I need to make sure that I am insulated.

Deputy J.A.N. Le Fondré:

Follow-up to that, the fees for the celebrants themselves; what are they now and what are they likely to go up to?

Superintendent Registrar:

At the moment we have delegates who are employed by myself and they are paid £80 for each wedding except for after 4.00 p.m., when they are paid £100 on any given day. That is covered by the couple who pay £80 or £100. None of that fee comes to me; it is brought in and accrued elsewhere to the delegate. Essentially they are cost neutral to me currently. Celebrants in future will be independently employed, so they will be able to market themselves and charge what fee they wish. Then I will charge an annual licence fee to them, which will cover the cost of an annual professional development course or update and indeed cut the cost of maintaining their register.

Deputy J.A.N. Le Fondré:

Do you have an indication of what that might look like?

Superintendent Registrar:

Forgive me, but I am still working on the fees.

Deputy J.A.N. Le Fondré:

Are you able to say whether it is like £100 or £500 or £1,000?

Superintendent Registrar:

I think it is likely to be in the region of £250, going by the number of hours I will have to devote to maintaining the register and potentially to dealing with any complaints or investigations.

Deputy K.C. Lewis:

On powers. What new or additional powers, if any, does the draft law confer to the Superintendent Registrar?

Superintendent Registrar:

The majority of the powers are carried through. But there are new powers mostly in relation to celebrants, in fact. The move away from having delegates to celebrants means that celebrants will be employed and running their own businesses, so there must be a level of control over them in order to ensure that they are primarily adhering to the requirements of the law versus their commercial desires. There are inevitably some powers that run through celebrants.

Deputy K.C. Lewis:

Do you think these powers are appropriate and proportionate?

Superintendent Registrar:

The powers, I think you might be unsurprised to hear that I think they are proportionate and appropriate. I am head of the service so one would expect certain responsibilities to fall on my

shoulders alone. I certainly have good governance from Home Affairs and from the chief executive, so I do not act entirely alone. But I think an important thing to add is that quite unusually in my role I hold personal liabilities for what I do professionally. There are a number of statutory offences that I can be liable to personally. They do not flow through me to the Minister, unlike in some other roles. There are a myriad of different offences that I might commit. If I commit a criminal offence I might find myself in the Royal Court. So that to me is a good check and balance. Yes, I do have powers but I also have personal responsibility and that sharpens the mind.

Deputy J.A.N. Le Fondré:

Can you give one brief example?

Superintendent Registrar:

There are many ways in which I can end up. For example, in the maintaining of my registers that I hold. I hold all the copy registers for the records of the Island of Jersey from 1842 to present for births, deaths, marriages and adoptions. I have to keep them safe. I have to keep them in order. They cannot be defaced or altered in any way, which does not comply with the law. That includes keeping them fireproof. It includes ensuring that access to the registers is given in compliance with the law. Those records which are highly classified cannot be shown to anybody and there is one specific provision that if I show certain records to members of the public that is absolutely immediately an offence.

Deputy K.C. Lewis:

What is the mechanism for making an appeal against your decision on matters such as the grant of the licence for marriage?

Superintendent Registrar:

The appeal will be for the granting of a marriage licence, I think I would say at the moment, under the current law, I have very little statutory powers to refuse to marry anybody, and that has caused problems in terms of capacity to marry. So the new statutory provisions give me the ability to use the law to decide when someone has the capacity to marry or not. Marriage being very important, as you well understand. Obligation and responsibility brings with it certain legal duties. Sorry, will you repeat your question again?

Deputy K.C. Lewis:

What is the mechanism basically for making an appeal against your decision on a matter such as the grant of a licence for marriage?

Superintendent Registrar:

We have not in my tenure had anyone appeal any of my decisions but the appeal that I would naturally encourage would be to the Minister.

Deputy K.C. Lewis:

If somebody was unhappy with your decision then that would be referred to the Minister?

Superintendent Registrar:

Indeed.

Deputy J.A.N. Le Fondré:

So if you are exploring ... if you decided that somebody should not be granted a licence to get married the appeal mechanism, the initial appeal is for them to appeal to the Minister?

Superintendent Registrar:

That is what I understand.

Deputy J.A.N. Le Fondré:

Under the proposed law?

Superintendent Registrar:

I think I will have to get back to you, if that is okay, just to clarify?

Deputy J.A.N. Le Fondré:

Okay.

Senator S.C. Ferguson:

If the appeal is turned down by the Minister what is the next ...

Superintendent Registrar:

I think I will have to revert to you, if that is okay? I do not want to give you an answer I am not sure of.

Deputy K.C. Lewis:

Fair enough.

Deputy S.M. Brée:

That is fair, yes.

Deputy J.A.N. Le Fondré:

I suppose the other query of course is if you, in terms of the licence - I will use "licence", I cannot remember the right word now - of the celebrants, again you can effectively refuse to licence a celebrant to perform that role?

Superintendent Registrar:

Yes.

Deputy J.A.N. Le Fondré:

So what is the appeal mechanism there under the proposed law?

Superintendent Registrar:

Those regulations are being written at the moment. It is envisaged that ...

Deputy J.A.N. Le Fondré:

Sorry, to interrupt. Is it guidelines or these regulations that are coming back to the States?

Superintendent Registrar:

These are guidelines, beg your pardon. It is envisaged that there will be a recruitment process for celebrants, which will involve an interview as there would be for any job. Subsequent to that, those who pass that stage will go through a training process where they will be obviously informed of the law and their requirements. Those who, at the end of that training process I consider will be able to act as celebrants, in a way I think they will be able to follow the processes required, will then be licensed. Once licensed there is a provision, as there are in many other jurisdictions around the world, for complaints, investigations to be launched against any celebrants who may not be complying with their statutory obligations or the terms of their licence. That investigation will be carried out by myself and the appeal will be to the Minister. Does that answer everything for you?

Deputy J.A.N. Le Fondré:

I think so at this stage. Let us keep going.

Senator S.C. Ferguson:

How will the changes to the law impact on the roles and duties of the Parish Registrars?

Superintendent Registrar:

The Parish Registrars' roles and duties will change substantially and they will be diminished. At the moment under the current law the Parish Registrar is contacted by a member of the public once they have given notice with me, which is the first formal stage of marrying. They then have to make an

appointment with the Parish Registrar to visit them in their own home to drop off their paperwork for the purposes of writing out the marriage certificate. They then come to myself to get their marriage licence. I give them their paperwork and members of the public go then to the Registrar's home. That practice is ending so that the Registrar will no longer have personal interaction with members of the public, who are about to marry, in the Registrar's homes. Additionally, the Registrar will no longer be handwriting the marriage certificates. They will now be digitally printed by myself. That results in a shorter administrative period for the public. It also addresses a significant amount of feedback that we get from members of the public, particularly those who come from abroad, who have some confusion as to why they are completing a civil administration process within the home of a member of the public - as they are volunteers - 48 hours before their wedding. It adds an extra layer of complication to an already stressful time in their lives. Also the handwriting of the certificate will end, primarily for the purposes of fraud protection. I have not been able to find another jurisdiction that still handwrites out their marriage certificates and I do receive a large amount of queries from administrative authorities around the world who query the validity of Jersey marriage certificates because they are handwritten and so subject to fraud. The result of removing those 2 actions - visiting the Registrar in their own home and the handwriting - does mean that the role of the Registrar is diminished and that is unfortunate for the Registrars, but I think that in my role as Superintendent one of the primary focuses must be customers and the members of the public who wish to marry, as well as the protection of civil registration in the Island.

Senator S.C. Ferguson:

Have you had a lot of protests from the Parish Registrars?

Superintendent Registrar:

I think it has been a mixed reaction. I think the majority greatly understands, certainly the fraud protection aspect. They are sad, and I understand why, at the ending of a tradition of handwriting out certificates. It is sad when these traditions end. But there are very fundamental important reasons why that must happen. I would say that all of them agree that is necessary. There equally are some who absolutely accept that members of the public coming into someone's home for the purposes of registration of a marriage is now somewhat outdated in the 21st century. There are potential issues of security of both parties and, as I say, they are sad they no longer will meet the bride and groom and wish them well. From my perspective, I know from the members of the public who I see when I give them their licence are greatly confused as to why they must do that process.

Deputy K.C. Lewis:

What is the role now or will be the role of the Parish ... they will be Parish clerks now?

Superintendent Registrar:

The Registrar will remain the holder of the master register of marriages in their Parish, and that is an important note to make. They will hold the original signed marriage schedule, which they will place into a marriage register and I, as I do now, will only hold a copy, so they will have the original. I think that is quite an important role for them to maintain.

Deputy J.A.N. Le Fondré:

I have a couple of queries. You referred to it as interaction with members of the public. The Registrars are not members of the public; they are individuals performing a public service role.

Superintendent Registrar:

Indeed. I apologise if I ... they are volunteers. I think that is to clarify. They are volunteers within a Parish as a Parish official.

Deputy K.C. Lewis:

Honorary.

Superintendent Registrar:

Yes, honorary.

Deputy J.A.N. Le Fondré:

They are Parish officials. The Honorary Police are honorary police and they can arrest you.

Superintendent Registrar:

Absolutely.

Deputy J.A.N. Le Fondré:

So the point is it is not a volunteer ... you know, yes, they are honorary but they are in a formal Parish role, and the Parish Registrar is the same tradition, I suggest.

Superintendent Registrar:

I agree. They volunteer for the role so that is probably ...

Deputy J.A.N. Le Fondré:

Do you think members of the public, particularly from outside, recognise that?

Superintendent Registrar:

It is something I explain and on every occasion when they query why they are going to a Parish Registrar's home usually they ask why is it not in the Parish Hall.

Deputy J.A.N. Le Fondré:

That is an automatic follow-on, I would have thought is that: if that had been shifted to the Parish Hall would that perception issue change, do you think?

Superintendent Registrar:

In some instances for birth that is what happens, that they go to the Parish Hall. I think there are 2 Parish Registrars now for reasons ... one Registrar, who has small children and is not comfortable having members of the public to her own home, administers marriages from the Parish Hall. The other because he prefers to operate from the Parish Hall. I do try to make it clear to every couple that marry that they are visiting a Parish official and that is the purpose of what they are doing.

Deputy J.A.N. Le Fondré:

Final query, before I move on to my next one which is linked into what you just said. You talked about you had a large amount of queries from overseas registrars or bodies; can you try and quantify that? Bearing in mind you have only been in since January.

Superintendent Registrar:

We do have quite a few. We have queries from ...

Deputy J.A.N. Le Fondré:

Like a dozen a month, is it ...?

Superintendent Registrar:

In terms of numbers?

Deputy J.A.N. Le Fondré:

Yes.

Superintendent Registrar:

It depends. I apologise if I cannot be more specific. During the summer months, which is obviously peak months for marriages, we will get queries in ... actually probably more accurately in relation to christenings of children and those who have been born here potentially. We have had the handwritten birth certificates, particularly those who are going back to Portugal or Poland, and the authority will ring up and say: "Is this a genuine certificate?" because obviously they are used to a printed certificate.

Deputy J.A.N. Le Fondré:

Is that for marriage certificates?

Superintendent Registrar:

For marriage certificates that can be passport authorities in other jurisdictions.

Deputy J.A.N. Le Fondré:

Roughly how many? It is only because you said “large numbers” and I was just curious.

Superintendent Registrar:

It is difficult because I do not take every call.

Deputy J.A.N. Le Fondré:

Do you want to go back, just to give us an indication?

Superintendent Registrar:

Okay, I will come back to you.

Deputy J.A.N. Le Fondré:

Roughly, you said about a third of people getting married get married from overseas. Roughly how many people in a year get married in total?

Superintendent Registrar:

About 500 couples; 1,000 people.

Deputy J.A.N. Le Fondré:

Question 5, this is a detailed point and you may want to come back to us on this. In the current law, which has been rolled over into the proposed law, there is a requirement for anyone present at a birth to inform the Registrar if the father or mother does not. Essentially if you do not, and we were kind of thinking of the hypothetical taxi driver who has a sudden urgent fare who does not quite make it to the hospital and participates in the birth effectively, that sort of scenario. The law seems to place a provision on such a person to make sure that the birth has been registered. I am wondering why.

Superintendent Registrar:

That is, I believe, a ... this is not an amendment to the law.

Deputy J.A.N. Le Fondré:

No, it is the present law. The present law says: "In default of the father and mother every person who assisted at the birth and the person who was carrying the child inform the Registrar within 21 days of the particulars of the birth."

Superintendent Registrar:

It used to be that the midwife, I know this from reading the old registers, was the informant. Then it passed to the father or mother.

Deputy J.A.N. Le Fondré:

It is just the fact it says that "every" person is quite a ... you capture a lot and there is a penalty under it.

[14:30]

It is level 2, I think it is, under the fines and things. Is that the appropriate wording these days? Would you like to go and have a look at it perhaps?

Superintendent Registrar:

I know that area of the law, absolutely. I know that very well. In practice, it is always the mother or the father that can. We have had 2 instances this year where it was the grandmother of a child, so the mother of the mother, who attended.

Deputy J.A.N. Le Fondré:

But this captures paramedics, taxi drivers, passers-by, you name it.

Superintendent Registrar:

It may be that when ... I know births and deaths are something that the law will be amended on hopefully in the coming future.

Deputy J.A.N. Le Fondré:

This is the present law obviously, and this is the proposed law as well. Can you just come back to us and let us have your thoughts on that as to why you are capturing such a wide audience, if that makes sense.

Deputy S.M. Brée:

The draft law will abolish the law of the current delegate and establish the role of what will be a called a civil celebrant. Why is this change being made?

Superintendent Registrar:

That is as a result, I believe, of consultation; it may be more of a policy issue. It is my understanding that the - and I know from feedback we have had this year - that at the moment when a couple are married they have no choice about the person who conducts their ceremony. That does cause complaint at the moment with couples who would like to have some input to the person that married them and be it they would like a gentleman to do it or they would like a lady to do it or a younger person or an older person or a specific person. At the moment it is me who assigns a delegate to a wedding and that will be according to, potentially, where that delegate has just been previously. Where possible I do accommodate people's requests, it is not always possible and also the couple are not permitted to meet their delegate before because it is not included in the fee. They meet the delegate on the day they marry, an hour or half an hour before they marry, that is why celebrants will be able to meet with the couple, they will be able to help them plan the wedding, give them advice on the content of the ceremony and play a much more personal role, so the couple will have all the control over the person who marries them.

Deputy S.M. Brée:

What is the difference, aside from what you have just explained, between the 2, i.e. the delegate we currently have and the civil celebrant we will have, in the terms of how they are appointed and governed by your office with regards to how they perform and carry out a service? What is the difference between the 2?

Superintendent Registrar:

Under the amended law there will be greater governance and inspection of those celebrants. Currently the delegates were appointed by my predecessor and in fact I was one of them; I did used to be a delegate and that was through an interview process. There was some training but never any governance or inspection of delegates. They have largely been doing this role as delegate for many, many years and are very experienced and are very cognisant of their requirements under the law. The celebrants will be inspected and there will be more control, I suspect, over them to ensure that they are complying with their statutory requirements because many of them will never have any experience of having done this before, on conducting marriages or, potentially, not conducting any marriages in Jersey.

Deputy S.M. Brée:

Okay. If you like, the relationship or interaction between the Office of the Superintendent Registrar and the new civil celebrants, how will that work in practice?

Superintendent Registrar:

There will be, as I said, an initial training period, then they will be licensed for 5 years. When they are conducting marriages some of the current delegates, who do not wish to become celebrants, will then become Assistant Deputy Superintendent Registrars in order to fulfil any gap in service provision if there are not sufficient celebrants to perform a wedding on a very busy day, for example, the August Bank Holiday weekend is, always extremely busy. We always want to be able to marry people and we do not want to get to a point where there are not sufficient celebrants or capacity to perform a wedding, that those Assistant Deputy Superintendents will also have a role of inspecting and doing spot-checks on the celebrants performing weddings and then report to me if there are any things we need to investigate. It is, in my view, inappropriate for me to do that, those spot-checks and investigate, it includes them, that separate link.

Deputy S.M. Brée:

Sorry, the spot-checks will be carried out by ...

Superintendent Registrar:

The Assistant Deputy Superintendent Registrars who were the delegates.

Deputy S.M. Brée:

At the moment a delegate, when they move to become Deputy Superintendent ...

Superintendent Registrar:

Assistant Deputy Superintendents, yes.

Deputy S.M. Brée:

... will they then become an employee of your office?

Superintendent Registrar:

They will remain in the position where they are, essentially, on a zero-hours contract and I employ them to perform weddings where there is not capacity ...

Deputy S.M. Brée:

Delegates at the moment are on zero-hours contracts.

Superintendent Registrar:

They are not on zero-hours contracts, as I understand.

Deputy S.M. Brée:

But they will move to become ...

Superintendent Registrar:

They will move to, that is correct.

Deputy S.M. Brée:

What is the relationship between the Office of the Superintendent Registrar and a delegate at the moment?

Superintendent Registrar:

Essentially, the delegates are freelancers who are sworn in at the Royal Court in order to perform marriages.

Deputy S.M. Brée:

They get fees per marriage at the moment.

Superintendent Registrar:

Yes, £80 per marriage if it is before 4.00 p.m. or £100 if it is after 4.00 p.m.

Deputy S.M. Brée:

Right, okay. Deputy Assistant Superintendent Registrar, so they will get a prescribed salary, effectively, under ...

Superintendent Registrar:

It will be a fee for either performing a wedding, which I do not anticipate to go up; I anticipate it will be the same fee and a similar fee for an inspection to attend and ...

Deputy S.M. Brée:

But they will move on to a financial zero-hours contract basis, as opposed to freelancers.

Superintendent Registrar:

Yes.

Deputy S.M. Brée:

Okay. No, I was just trying to understand what the differences are.

Deputy J.A.N. Le Fondré:

You have prompted a little query I had from when I was going through the law, and I do not want do it too long because I think we have got a time for it, in theory. Number one is previously, not under

the law but certainly in the previous draft, you were down as employed by the States Employment Board and now you are going to be deemed to be: “The Superintendent Registrar and the Deputy Superintendent Registrar shall be States employees within the meaning of the Employment States of Jersey Law.” You may not know but do you why that has been changed?

Superintendent Registrar:

I am afraid ...

Deputy J.A.N. Le Fondré:

That is okay and we will just raise it for ...

Chief Officer, Community and Constitutional Affairs:

I seem to recall that that was a recommendation of the law draftsman, it was a technical drafting point ...

Deputy J.A.N. Le Fondré:

Just the way it has come from, okay.

Chief Officer, Community and Constitutional Affairs:

... in that that is the way they draft it in modern law, as opposed to the way it was drafted in older law.

Deputy J.A.N. Le Fondré:

Okay, that is fine. The bit that prompted the question mark was your reference to Assistant Deputy Superintendent Registrar, which I have now found, thank goodness. Just to be clear, anybody who is a delegate before the law is in place is now going to be deemed to be an Assistant Deputy Superintendent Registrar.

Superintendent Registrar:

Should they wish to continue performing that role, yes.

Deputy J.A.N. Le Fondré:

Yes. What role; the role of what is now going to be a civil celebrant?

Superintendent Registrar:

They have a choice to use their experience to become self-employed civil celebrants where they can run their own business or they can choose no longer to perform that role at all or they can choose to become Assistant Deputy Superintendent Registrars.

Deputy J.A.N. Le Fondré:

What does becoming an Assistant Deputy Superintendent Registrar mean in terms of the difference between that and being a civil celebrant because presumably are they still going to have to go through the same training regime?

Superintendent Registrar:

They will, they will have to be re-trained in ...

Deputy J.A.N. Le Fondré:

Will you have to approve them?

Superintendent Registrar:

I will have to approve them, they will have to be sworn in again, I would imagine, under the new law.

Deputy J.A.N. Le Fondré:

Because this makes them Assistant Deputy Superintendent Registrars without any approval, does it not?

Superintendent Registrar:

They will still need to go through a training in exactly the same way as the celebrants will be, so that I can be satisfied that they understand the mechanism and the terms of the amended law, so they will still need to be approved by myself.

Deputy J.A.N. Le Fondré:

Okay. I am just conscious of the time, can you go away and have a look and just identify where that says it in the law? Because the way it is written and I am talking about 41(1)(c), I think, it implies that they automatically become Assistant Deputy Superintendent Registrars and, therefore, they do have the ability then or is it a case of you have got the ability to remove them somewhere in there? I am just curious, I do not know, is there anybody who might turn around and say: "For whatever reason, they have not passed the training" or whatever it is and, therefore, they have either got to retrain but you cannot support them at this stage carrying on in their role and be very hard for this because I do not know. But, in theory, under the law they are automatically in place or is it just that they have been approved and, therefore, that this is a grandfathering exercise, essentially, to allow them to carry on as they were?

Superintendent Registrar:

I will have to get back to you on that.

Deputy J.A.N. Le Fondré:

Okay, right.

Deputy K.C. Lewis:

You have stated in your submission that: “The draft law will significantly reduce the possibility of sham, fraudulent or coerced marriage by introducing certain safeguarding provisions.” Can you explain what these provisions are and how they will increase the level of protection in the existing law?

Superintendent Registrar:

Yes, that can be divided into several areas, so in relation to sham marriage, certainly in relation to immigration fraud in relation to sham marriage. There are consistent attempts currently by individuals that are not resident on the Island to have a marriage in Jersey, which would then allow them to acquire British or E.U. (European Union) nationality. The current law does not greatly assist me in rebutting those attempts. The new amended law will allow me, with the assistance of the I.T. application, to have greater input with and relationship with Customs and Immigration so that these can be identified at an early stage and those attempts blocked and that is very welcome, from my perspective. In relation to forced or coerced marriage, at the moment the current law allows only one of the 2 parties to attend at my office throughout the process. It allows, therefore, that essentially we may not have met one of the 2 parties until the day of the wedding and at that stage it is very difficult to have built any relationship or have any understanding whether that person is being forced or coerced into a marriage. Now, under the amended law, this is equally very, very welcome, from my perspective. It will require both parties to attend to sign their declarations and so I can be satisfied that they are both there willingly and wish genuinely to marry; that is a very fundamental requirement, in my view. Also from a sham marriage perspective, currently those who have not been born and brought up or lived in Jersey for long periods of time are able to marry here without having to prove that they are free to marry, other than signing a declaration. Other jurisdictions around the world require something called a Certificate of No Impediment or something similar where their home jurisdiction must provide comfort to the jurisdiction they are marrying in that they are not currently married or there is no reason why they cannot be married at all. We never required that, so frequently there are 200-odd people that we marry are here from abroad; I have no confidence that they are not already married or there is no reason in law they cannot marry. Equally, at the moment under the current law there are no consistent checks as to identity the whole way through the process and, again, this is quite fundamental and it will give me great comfort to have the law in or the amended law in that my staff or myself may meet one of the couples or both all the way through but it might be a delegate or another member of staff who performs the marriage. We have no way of checking that the people who have attended at my office are those actually getting

married on the day and that is quite a fundamental flaw. The amended law is very, very welcome, from my perspective, in that sense. In terms of visa requirements, as soon as those applying online or my members of staff typing in an application, as soon as we state on that application that a person is not a national of Britain or Jersey or the European Union or E.E.A. (European Economic Area), it will immediately fire an email over to Immigration for them to check the details of those individuals to see what their immigration status is. At the moment we do not have that facility and, therefore, there is much more capacity for immigration fraud to take place in Jersey.

Deputy S.M. Brée:

Sorry, can I just pick you up on that? When you say you do not have that capacity at the moment, is that because of the law or because of the lack of an integrated system?

Superintendent Registrar:

It is the lack of an integrated system, so it relies on whoever is taking that application at the time to telephone Immigration and ask them if there is a problem with this particular individual or whether they have the immigration status to be allowed to marry.

[14:45]

Deputy S.M. Brée:

Do you believe that at the moment under the current system there are failings in your department in that area?

Superintendent Registrar:

I do not believe under my tenure there is. I am very, very strict on all of these issues because I am very aware that they are possible ...

Deputy S.M. Brée:

But you believe there may have been problems in the past.

Superintendent Registrar:

I cannot comment on that because it was not during my tenure. But I know that it gives me enormous comfort to know that the amended law will allow for much less capacity for these things to occur. It will mean that there is an automated process that will immediately enable Immigration to be aware of anyone who is not an E.U. citizen or E.E.A. citizen to ...

Deputy S.M. Brée:

But why will the draft law give you that? What you are talking about surely is a systems integration issue, not a legal issue.

Superintendent Registrar:

No, the law will also have a ... one of the Articles allows me to have greater communication with several authorities, one of which is Customs and Immigration Authority and that is a provision that has been added for data protection reasons, but also to put into statute my ability to speak to whichever authority I need to, to satisfy myself that one or both of the parties are legally allowed to enter Jersey for a marriage or able to marry.

Senator S.C. Ferguson:

Do you feel that there have been any cases that have slipped through or are there any cases that you have nipped in the bud?

Superintendent Registrar:

There are several that I have nipped in the bud this year, yes. It is a constant and a real problem that I face, yes.

Deputy J.A.N. Le Fondré:

Before that question, unfortunately as well, is that you talked about the risk of coerced marriages and, therefore, the fact that you are requiring couples to attend in order to assist matters, it is more an issue if you have got both people attending at the same time. Is there any opportunity that if there is a party to the marriage who is not comfortable for them being in the room with you by themselves?

Superintendent Registrar:

Yes, the law allows them to ... they both have to attend the office to meet myself or my staff at some point during the process. They do not have to attend together, they can attend individually or separately. I have - and I do at the moment - request that I can meet people separately.

Deputy J.A.N. Le Fondré:

Right, okay, so that is a procedural issue. Even if 2 people are coming into the office at the same time you will say: "Can you wait there? I will deal with ..."

Superintendent Registrar:

Yes, and I have done that, yes.

Deputy J.A.N. Le Fondré:

Okay, thank you. Right, Sarah. Funnily, I think we are going to overrun on time if we are going to keep questioning. Question 8.

Senator S.C. Ferguson:

I was so intrigued with the ... Your submission states that the draft law will address the suitable customer demand for greater choice in the location of their marriage. Do you think the right balance has been struck between flexibility of location on the one hand and maintaining the solemnity and dignity of the occasion on the other?

Superintendent Registrar:

I do. There is considerable demand for marriages outside of a roofed structure, which is currently the restrictions imposed. They are required and it is, yes, to have the wedding in a garden or open-air. The law is not going to be changed in the sense that the basic tenet of marriage will remain that I must consider whether the marriage is a solemn and dignified occasion, and that is a core principle that will remain unchanged. Therefore, that is a very subjective consideration but it is open for me to interpret what solemn and dignified is. If there are marriages in the open-air I will take consideration of or I will ask the celebrants to consider what the couples will be wearing, for example, and to ensure that they are not attired in something that is not solemn and dignified and representative of the dignity of the occasion. The venues themselves, certainly we now have 138 weddings booked in for next year that would be during the time of, potentially, the amended law coming into force. So far, all of those, apart from very few, appear to be in locations where marriages take place now, so hotels or castles but in the gardens thereof. There is an increase in couples wanting to marry in their own gardens or their parents' gardens and more unusual open-air locations, their grandparents, Cotil for example, that would have nice views. For me in considering whether those locations are solemn and dignified, that is something that the Connétables themselves will decide because the application goes to them. They will consult with me and various other bodies where they require any further information. But solemn and dignified is, in itself, quite a useful central tenet to have and it is quite clear when something is not solemn and dignified.

Senator S.C. Ferguson:

What do you do then with the people who want to be married water skiing or something like that?

Superintendent Registrar:

The requirements for marriage in Jersey will not change in the sense that it must be a publicly-accessible location, so they would not be able to marry water skiing because any member of the public must be able to attend the weddings, unless others are going to water ski with them.

Senator S.C. Ferguson:

The mind boggles ...

Superintendent Registrar:

For example, if they wish to marry on a boat it must be anchored in a marina, not leave the marina for one hour before the wedding or during the wedding itself, so that everybody would be able to access the wedding. Similarly, marriages at the moment take place in people's homes already, just in their lounges. I already make it clear when I am consulting with the Constables, as to whether to approve a licence, that the notice on the front door must state that it is a public event and anyone may enter. Homeowners must always be aware, whether they are using their garden or their lounge or their garden room, that a wedding in their home is a public event and they cannot refuse entry to anybody. In that sense, that will not change.

Senator S.C. Ferguson:

Need to be a bit careful about the reception.

Superintendent Registrar:

Could be overgenerous.

Senator S.C. Ferguson:

Yes. Do you think that the draft law is going to be adequate to ensure that the general public, including potential objectors, will have knowledge of them and obviously be able to access marriage ceremonies in unusual occasions or locations?

Superintendent Registrar:

The draft law will allow greater public knowledge of weddings. At the moment, when we publish the Notices to Marry, they are published on a notice board within the foyer of my office, which is only open to the public from 9.00 a.m. to 12.30 p.m. Monday to Friday. It is arguable that very few people call into my office to look at that public notice board. The amended law will allow me to publish notices electronically or, I believe, it is in any other way I see fit. I will be installing a television screen to have a rolling and up-to-date notice board in my foyer but, more importantly, on my website, on the gov.je, there will be an up-to-date notice board of everybody, all of the marriage notices will be on there and continually updated. More people will be able to see who is getting married and where and when if they wish to object.

Senator S.C. Ferguson:

What about the people with no computers?

Superintendent Registrar:

They can come into my office, as they would have before.

Senator S.C. Ferguson:

I am thinking about a certain section of the population, like my clients at Aged Concern who would not always think of coming into the Registrar's office. Will you be putting it in the *Gazette* or something like that?

Superintendent Registrar:

My understanding is it is not going in the *Gazette*. At the moment, the majority of any queries we have as to where or when a wedding is taking place will come by phone. We do take a significant number of those calls and obviously we will continue to be happy to give out such information over the telephone. We obviously staff the office during opening hours and that will continue.

Senator S.C. Ferguson:

Does the draft law adequately protect persons of religious significance, including places or buildings, other than churches, that are regularly used for worship?

Superintendent Registrar:

The church hall, for example, or where are you thinking of other ...

Senator S.C. Ferguson:

I suppose this is really we are looking at synagogues or the mosque.

Superintendent Registrar:

Primary places of worship will be registered buildings in the way that they are now, so they will be subject to the quadruple lock, as you know. Do I need to explain? Therefore, a religious organisation or location or individual minister will have the ability to opt out or opt in of a same-sex marriage. If the primary purpose of that building is not for religious worship, they would not be able to licence that building as a registered building for religious marriages. It would become a building that you would register under the alternative law, therefore, you would not have a choice; you either licence it for marriages and marry everybody or you do not, if the primary purpose of the building is not religious worship.

Deputy J.A.N. Le Fondré:

Is that covering church halls then or not?

Superintendent Registrar:

I think it depends on each church hall. Yes, the law as it states, is it the primary purpose of the location? I think it would depend on each ...

Deputy J.A.N. Le Fondré:

It depends on the individual circumstances, potentially.

Superintendent Registrar:

Indeed.

Deputy J.A.N. Le Fondré:

Okay. Because there is something about the curtilage of the church, so we are assuming something like the Glass Church, which has a got a church hall right next door to it but probably within the curtilage of the church. But we were unclear and I do not know if you are able to expand or somebody else can, at St. Brelade's church where the church hall is across the road might be different.

Superintendent Registrar:

In each occasion I think I would have to inquire with whoever wishes to licence that venue, whether the primary function of that venue is religious worship or if it is used for other events on social occasions.

Deputy J.A.N. Le Fondré:

Other events, yes, okay.

Superintendent Registrar:

I think it would depend.

Deputy J.A.N. Le Fondré:

Sarah, are you okay? Yes, all done, great. Kevin, number 9.

Deputy K.C. Lewis:

Yes. I think you have partially answered this one already but are there satisfactory transitional arrangements for premises that are currently licensed to hold weddings?

Superintendent Registrar:

The transitional arrangements generally, marriage is a process that takes some time, as is the licensing of premises, so we have to be very careful with transitional arrangements. Obviously at the moment I do not know when the amended law will come into force and so that is causing some

difficulty in my office with planning for couples. In terms of the licences for venues, those licences can be one-off licences, they can be one year or 3 years. The arrangements are that those licences, for those who have a licence, for example, that they begin today, that will carry through for 3 years, so that is not going to come to an end; they will not have to get a brand new 3-year licence and pay again on the day the law comes into force. But what we have transmitted is that where currently venues must licence themselves for marriages and civil partnerships and/or, you get a choice, going forward they will have to be licensed for marriages, which includes same-sex marriages and civil partnerships, so there is no longer those 2 provisions. It will be that those who wish to add an outdoor venue to their licence will add on that area to their current licence. Any hotel, for instance, who has several lounges licensed will add on a supplementary outdoor room, which may be their garden, for example, or on part of their ...

Deputy S.M. Brée:

Will they have to specifically apply to add an area or will it automatically ...

Superintendent Registrar:

They will have to specifically apply to the Connétable for that additional area within their licence. The licence fee is likely also to increase to reflect that. At the moment the licence fee goes entirely to the Parish and I hold obviously the register and I maintain the register and, where necessary, if it is a Parish application I do the Ministerial Decision required to obtain that. I currently get no income from any of those acts I perform or official ones I perform. Again, moving forward to the end of this M.T.F.P., I do need to be able to have accrual of fees in order to be able to pay for my office, so there will be a small amount of fee added to the licence fee in order for that small amount to come to me to cover the costs of administering the register.

Deputy S.M. Brée:

Can I just ask a question here, if you do not mind? The question of fees, who determines the level of fees moving forwards?

Superintendent Registrar:

That is myself.

Deputy S.M. Brée:

It is entirely your decision as to what fees your office will charge for providing services.

Superintendent Registrar:

The fees, because they are going to increase by such a significant amount, will go through the Minister for Treasury and Resource, as I understand it, under the financial regulations that dictate

that as what must occur. I obviously will have to justify all of the fee increases. There is an enormous amount of work that I am doing on that at the moment, as I said earlier, to ensure that I am literally counting it by the minute that it takes me to do certain tasks, so that I can ensure I am covering my costs without making any profit. That will go through the Minister for Treasury and Resources forthwith so that it can be included into ...

Deputy S.M. Brée:

You will become totally self-funding, effectively.

Superintendent Registrar:

My funding is being withdrawn at the end of 2019, so I must be self-funding, yes.

[15:00]

Senator S.C. Ferguson:

Have you got a rough idea of how much it is going to put on the cost of getting married?

Superintendent Registrar:

I have a rough idea but I am not sure whether I wish to impart that currently. I am not quite at the end of that process, I have got about another fortnight left, I think, before I have really got to the end of the process of putting down exactly how much that will be. But, as I said, my overriding focus is customer-focused and ensuring that it is a fair fee that represents exactly what it costs and no more and that will enable everybody to marry.

Deputy S.M. Brée:

There is obviously a concern that if you increase the fees too high you will put marriage outside of the range of a certain group of people.

Superintendent Registrar:

I would add that the feedback that we get currently is that it is very, very cheap and in consideration of how much it costs to marry, with all of the other; flowers, dress, lunch, et cetera, it is a very small proportion of what they would pay. Arguably, there is capacity within budgets of individual couples to absorb an increase in fee.

Deputy J.A.N. Le Fondré:

Okay, and, of course, you will be paying rates ... Right, moving forward, your submission also refers to the fact: "The draft will allow for the introduction of spiritual and religious content to reflect changing demands of the general public." I have to say I am still delving into this a little bit, so the

law-drafting instructions are slightly intriguing, I suppose, and it suggests the original, I think, no religious content at all could be used in civil ceremonies. We are not too sure if there is a conflict between what the States really intended and what was in the original law or not or how things are being applied. Number one is, I suppose on this basis, do you think a change in the law is necessary and, if so, why?

Superintendent Registrar:

I receive customer feedback from our couples, is that they would like to have a spiritual element to their marriage.

Deputy J.A.N. Le Fondré:

This is to their civil marriage presumably, yes.

Superintendent Registrar:

To their civil marriage, indeed. There are regular requests for hymns and songs of a religious nature that may have a personal significance to them and, potentially, using readings; we have very few requests for religious readings but it is mostly in the song choice, I would say. There are sometimes requests for traditional hand-fasting ceremonies where there are ribbons tied around wrists, which is quite an ancient marriage ritual. I know that, at the moment, is not permitted under the law. The law will allow some element of spirituality but, very importantly, my overriding principle with that provision in the law is that it should not in any way mimic a religious marriage, so allowing some element of spirituality or religious content to give expression to people's personal religious beliefs but not in any way mimicking a religious service.

Deputy J.A.N. Le Fondré:

I suppose just to be clear then, we are talking the service as a whole, I think it is the ceremony is almost the 3 minutes of the wording, if that makes sense.

Superintendent Registrar:

Yes, exchange of vows.

Deputy J.A.N. Le Fondré:

Yes, you are expanding it to the actual marriage service as a whole.

Superintendent Registrar:

That is right. There is a core part of the marriage that is, essentially, the exchanging of the 2 legal vows and, aside from that and the signing of the certificate, each individual couple can tailor their marriage to whatever they wish. They can add or not add, whatever they like.

Deputy J.A.N. Le Fondré:

But any religious content in that applies to the wider definition of the whole service, is that correct?

Superintendent Registrar:

Exactly, yes.

Deputy J.A.N. Le Fondré:

Right, okay. The query we are just exploring, so some religious organisations expressed concern about the use of religious content in civil ceremonies, do you think the draft law provides enough clarity in what religious content should or should not be used in civil ceremonies?

Superintendent Registrar:

I think it provides the ability to have religious content, which I welcome and I think it is very prescriptive. It very clearly says you can have hymns, you can have ... I have got to remember this now off the top of my head, sorry, you can have hymns, you can have Bible readings but you cannot have prayers or indeed any religious ritual that mimics or recreates any of the rites of any religious organisation. You can have candles, you can have ribbons, so it allows the expansion of the service to include spiritualising or religion but without copying or recreating. It maintains each church wedding to be a church wedding and a civil wedding to be a civil wedding.

Deputy J.A.N. Le Fondré:

Who is going to determine what is religious content?

Superintendent Registrar:

When I am writing my guidelines for my staff and the celebrants and the Assistant Deputy Superintendent Registrars, that is something that I will be giving a great deal of care and attention to, with the policy director and with the law officers as well, to ensure that there is a very prescribed understanding of what is and is not permitted, so that there is consistency for the general public, that there will not be an occasion where one couple are permitted one thing and another couple are not permitted ...

Deputy J.A.N. Le Fondré:

Essentially, guidance and training is in the guidance notes that you are going to be putting together.

Superintendent Registrar:

Yes.

Deputy J.A.N. Le Fondré:

Right, so at the moment that is still being developed, yes, okay.

Superintendent Registrar:

It is still being developed, yes, I am very mindful of that.

Deputy J.A.N. Le Fondré:

That is, essentially, how the law will be implemented in practice.

Superintendent Registrar:

Yes.

Deputy J.A.N. Le Fondré:

Okay. There are 2 questions that have come out of that: one is how are you likely to deal with any issues that might arise? In other words, are you satisfied that the draft law enables you to resolve any issues? I am guessing, from that point of view, is somebody wants to come along and have X in their wedding and other people saying: "No, that is very clearly a religious aspect." Who determines it?

Superintendent Registrar:

I think it has to be myself initially. The celebrants, no doubt, will come to me with a ceremony that the couple wish to have and ask for approval. I hope that the guidelines will cover most eventualities. Certainly, every single couple are very individual and so there will always be instances where somebody will query something or request something that may be out of the ordinary. In those circumstances I will have to make a judgment call based on the advice that I have been given, both from the policy director and the Law Officer's Department. In those instances, if somebody disagrees with me, I think that is where there will have to be an appeal to, potentially, the Minister or potentially the Minister, that is where we get back to appeals.

Deputy S.M. Brée:

Can I just ask a question?

Deputy J.A.N. Le Fondré:

Yes, you can. I have got 2 queries at the moment.

Deputy S.M. Brée:

You have mentioned now twice the policy director as being you would seek guidance from, who is the policy director?

Superintendent Registrar:

That is Ruth Johnson who has been the policy director on this law.

Deputy S.M. Brée:

Right. Why should she be the consultant you go to and not, say, for example, the Dean?

Superintendent Registrar:

On a theological matter. I would ...

Deputy S.M. Brée:

On a religious matter, I will give you an idea of an example, the song to some, the hymn to others, Jerusalem, is that religious or is it the English National Anthem?

Superintendent Registrar:

I would be very happy to take advice from any stakeholder on this subject. It is obviously a sensitive subject. It is something that I am very mindful of. I know that at the moment having the absolute bar on any spirituality has caused upset to some couples who would like that implemented. Equally, removing that barrier will create different and separate problems in that some may see it ...

Deputy S.M. Brée:

Yes, but I think it is going back to the chairman's question of who determines what is religious or spiritual? As I said, Jerusalem is a minefield example; some would deem it to be a hymn and I think most of the English rugby supporters would deem it to be a song.

Superintendent Registrar:

A hymn, be it a song or a hymn, is going to be allowed, so Jerusalem will be allowed because it is a hymn but that ...

Deputy S.M. Brée:

You heard it here.

Superintendent Registrar:

The law allows for hymns.

Senator S.C. Ferguson:

The English rugby is Swing Low, Sweet Chariot. This is almost a kind of personal thing when you are looking at it, should the Government be dictating on something that is a very personal individual matter?

Superintendent Registrar:

At the moment we are because we are not allowing any religious ...

Senator S.C. Ferguson:

Yes, but should we be continuing to do it?

Superintendent Registrar:

Either way we will be continuing to deny somebody some, I suppose, be it bringing in any religious nature to their wedding at all or allowing some. But I am absolutely very happy to speak with the new Dean on his input into what he considers to be acts of religious worship or not or what is a ...

Senator S.C. Ferguson:

No, my question is broader than that. My question is questioning on whether we should be even doing this law.

Deputy S.M. Brée:

That is a policy question perhaps, rather than a ...

Senator S.C. Ferguson:

No, I think perhaps it is something that does need looking at.

Deputy J.A.N. Le Fondré:

The question I want to ask, and I think we will probably be asking it in other directions as well, only because it is the law and the way the law is phrased, because it does talk about ribbons and candles separately, and the issue is around 17(8) and 17(9), which says that: "Any marriage solemnised by a civil celebrant must not basically include any religious ritual or symbol." Then it says: "If the celebrant is so satisfied" separately that is what I have just read out: "Is not contravened, they must permit it to contain any of the following." Obviously we have had hymns is one area but then it says, for example, 9(b): "Readings from the Bible or other holy books or any other reading that contains any references of a religious nature." Just standing back from a logical point of view, I am unclear how a reading from the Bible cannot be deemed to be religious. That is kind of one of the arguments that certainly we have received from some of the submissions we have had.

Superintendent Registrar:

Readings from the Bible will be permitted.

Deputy J.A.N. Le Fondré:

Yes, but we are trying to work out, is there not a conflict between 17(8), which says you must not include any religious ritual or prayers or religious worship or service in the marriage ceremony, in a civil ceremony versus they can be permitted because it says that a Bible reading would not be considered if the celebrant does not consider that to be in conflict with not be religious.

Superintendent Registrar:

I am not quite sure how to answer that, in the sense that it has been added to the law following consultation. Obviously my role, if that law is to be ...

Deputy J.A.N. Le Fondré:

You are going to be the one who going to be determining that, yes?

Superintendent Registrar:

Exactly.

Deputy J.A.N. Le Fondré:

We are just wondering how that works.

Superintendent Registrar:

I think in consultation, very happy to take guidance and then formulate guidance from that.

Deputy J.A.N. Le Fondré:

Just pushing that slightly, for the sake of argument, it does not have to be the Dean, it could be one of the other churches sort of comes along and says: "You are reading from ..." I am going to say Koran, I do not know, okay? Would be ... cannot be not deemed to be religious. In other words any reason ...

Superintendent Registrar:

An act of religious worship.

Deputy J.A.N. Le Fondré:

... would have to be something religious and yet here the law expressly permits it. So, how would you, in writing your guidance? Because somebody say: "I want a reading from the Koran because it means this to me", say.

Superintendent Registrar:

Which is permitted.

Deputy J.A.N. Le Fondré:

Which is permitted, but then you have potentially the head of that religion saying: “No, that is a religious nature and should not be included.”

Superintendent Registrar:

I think in that occasion, as with many occasions I have had this year, where the law may be unclear or contradictory or somebody may have a valid point, I would make a request for legal advice to the law officers.

Deputy J.A.N. Le Fondré:

Yes. So, that is where the advice is going to be?

Superintendent Registrar:

Yes, absolutely.

Deputy J.A.N. Le Fondré:

Right. That is good.

Deputy S.M. Brée:

Can I just ask one question on that? Going back to that particular Article 17, clause 8 and 9; is there a distinction between the marriage ceremony and the marriage solemnised by a civil marriage celebrant. What we are trying to work out is: what is the difference between the marriage ceremony and overall marriage service, if you want to call it that?

Superintendent Registrar:

It is one and the same. The ceremony is a marriage ...

Deputy J.A.N. Le Fondré:

As far as you are concerned?

Superintendent Registrar:

Yes.

Deputy S.M. Brée:

Okay. Therefore, then, yes, clause 8 and 9 contradict each other.

Superintendent Registrar:

In what sense?

Deputy S.M. Brée:

Well, going back to what the chairman was saying, it says quite clearly: "A civil marriage celebrant must not permit any marriage solemnised by him or her to include any religious ritual, symbol or commit prayers or any religious worship or service to be conducted during the marriage ceremony." Fine, if you are you as saying the whole thing is the marriage ceremony. Then it says: "If the celebrant is satisfied the content of a marriage ceremony does not contravene paragraph 8 [we are looking at paragraph 8] must permit any marriage solemnised by him or her to contain any of the following: hymns, songs or chants, whether or not they contain reference to a religious nature, readings from the Bible or other holy books or any other reading that contains any reference of a religious nature, vows or statements of commitments by the persons to each other that make any reference of a religious nature." So, if he is satisfied in the one clause that the law is saying that you are not allowed to have it and in the following clause it is saying you cannot refuse it. I am just merely seeking clarification as: what is the difference?

[15:15]

Chief Officer, Community and Constitutional Affairs:

My lay understanding of that is that clause 8 is the general prohibition and then clause 9 introduces what is permitted.

Deputy S.M. Brée:

No. Clause 9 says: "If satisfied the content of the marriage ceremony does not contravene paragraph 8." Paragraph 8 says you are not allowed anything. Whereas paragraph 9 is saying ...

Deputy J.A.N. Le Fondré:

You can have everything.

Deputy S.M. Brée:

They must permit, i.e. cannot refuse. There seems to be a contraction there. We were just hoping you might ... because you are going to be issuing the guidelines ...

Deputy J.A.N. Le Fondré:

Perhaps you could come back to us on this. We would be very interested, particularly from the view, as you are going to be the one that is administering this. Perhaps it may be something that we will be inquiring into elsewhere as well.

Deputy S.M. Brée:

Yes.

Deputy J.A.N. Le Fondré:

Just 2 questions ... apologies on time here; we will apologise to our next people who are coming in 15 minutes. First, in terms of the consultation process on this law, and the whole law has been taking a couple of years, say, what consultation have you participated in over the last 2 years as the law has evolved?

Superintendent Registrar:

Well, my tenure began on the 3rd January 2017.

Deputy J.A.N. Le Fondré:

Are you able to speak for your predecessor at all or not?

Superintendent Registrar:

I am unable to speak for my predecessor, I am afraid.

Deputy J.A.N. Le Fondré:

Okay. So, this year then.

Superintendent Registrar:

So, this year, when I began, the law was just about to be drafted. So, there has been a small amount of consultation with me in relation to the process of marriage, to ensure that the law allows me to administer marriage in a manner which is streamlined and improved. In particular, the input I have had is moving to more digital online applications to help reduce staff costs and the time that is spent in duplication of work. That, I would say, is the primary input that I have had. Because, as I said, the policy document had already been produced before my tenure began. So, it is more of a practical input.

Deputy J.A.N. Le Fondré:

Okay. Yes. Over the last 11 months or so has there been follow-up and feedback and iterative processes or has it been kind of a bit at the beginning and a bit at the end?

Superintendent Registrar:

It has been constant. It has been constantly on my desk.

Deputy J.A.N. Le Fondré:

From your point of view, you have had good input into the law and how it has been drafted.

Superintendent Registrar:

From my tenure, yes.

Deputy J.A.N. Le Fondré:

Yes. Okay. Have you been through the law?

Superintendent Registrar:

Yes.

Deputy J.A.N. Le Fondré:

You have read it, you are happy with it and you understand it?

Superintendent Registrar:

Yes. Yes, definitely. Although there are many things that I greatly, greatly welcome.

Deputy J.A.N. Le Fondré:

Okay. In relation to the existing delegates, have they been involved in the consultation process at all?

Superintendent Registrar:

I have met with the Registrars on at least one, maybe 2, occasions in relation to how this will affect them. Also, I have met with the delegates and then had subsequent follow-up meetings with them.

Deputy J.A.N. Le Fondré:

The feedback from the delegates, did that have an impact on the law or was it more explaining: "This is what is going to happen"? Did they have an opinion?

Superintendent Registrar:

Yes, it was more of a feedback to them of what is going to happen, but obviously it is up to them whether they wish to choose to become celebrants. Whether they wish to cease performing any marriage roles or whether they would like to become Deputy Superintendents.

Deputy J.A.N. Le Fondré:

Thank you. I have a couple of wrap up questions. Does anyone have any other questions? No. Okay. Very, hopefully swiftly, the query around the appeals process is ultimately that somewhere I have seen references to under the Royal Court or something along those lines. We are to under the Royal Court or something along those lines. We are just curious ... it is about the ability that if there is a decision made, the ability of someone to appeal that without having lawyers involved initially.

Superintendent Registrar:

I know there are appeals relating to caveats. So, if somebody wishes to place a caveat on a marriage then that goes to the ...

Deputy J.A.N. Le Fondré:

No, it was more about appealing a decision made by you, either to refuse a licence for somebody to get marriage or to licence a celebrant or whatever it is, is what the process is in that site.

Chief Officer, Community and Constitutional Affairs:

You are interested in appeal mechanisms that do not involve judicial review?

Deputy J.A.N. Le Fondré:

Initially, yes. That is always the ultimate one, but you do not want to go from here to there ... well, we do not tend to think, anyway. Very quickly, final one is: you talked about the assignment of the celebrant and the issue that in the past couples did not have any choice. Joe Bloggs will stand up on the day, an authorised Joe Bloggs, but they have never met them. How is that going to improve? Was that a combination of capacity or just the way the law was phrased? If you do not have the capacity you are still going to have this constraint as to who is there to do it. Or was that just the matter, because they are now self-employed and it is an end to manage their time?

Superintendent Registrar:

It is not necessarily capacity. It is the fact that the delegates are paid only £80 per wedding, which already involves about 3 hours work and a certain amount of travel for them to collect documents from certain locations as well as performing the marriages themselves. That is why there has not been the opportunity before to pass the details of the delegate to the couples to meet with them beforehand and help them plan their wedding. It is simply not a part of the role.

Deputy J.A.N. Le Fondré:

Okay.

Superintendent Registrar:

The couples will now be able to ... there will be on my website a register and a short biography of every single celebrant. They can then look at the biographies, see which of them they wish to use. They can follow that to the celebrant's website or Facebook page, to see how much they charge and what services they offer and make their choice freely that way.

Deputy J.A.N. Le Fondré:

Thank you. That concludes the hearing. Thank you very much. Apologies it has overrun slightly. I think this is going to be the nature of the thing. Thank you for your time. Obviously, come back to us on the bits that we have raised.

Deputy S.M. Brée:

Thank you.

Deputy J.A.N. Le Fondré:

That concludes the hearing.

[13:21]