Law Council
OF AUSTRALIA

Office of the President

10 September 2025

Ms Karla Wass
Acting Assistant Secretary
Family Law Branch
Attorney-General's Department
3–5 National Circuit
BARTON ACT 2600

By email: marriageconsultation@ag.gov.au

Dear Ms Wass

Consultation on the 'Happily Ever (before and) After' brochure for marrying couples

1. The Law Council of Australia appreciates the opportunity to provide feedback to the Attorney-General's **Department** on the draft 'Happily Ever (before and) After' brochure for marrying couples (**draft brochure**).

2. I gratefully acknowledge the assistance of the Law Council's Family Law Section, the Law Institute of Victoria, and the Law Society of South Australia in the preparation of this submission.

3. Pursuant to the *Marriage Act 1961* (Cth), a marriage celebrant must provide couples with information that outlines the obligations and consequences of marriage, and indicates the availability of marriage education and counselling.[1] To achieve this, the Department has updated the existing brochure that celebrants are required to provide to couples,[2] with the aim of clarifying the information presented and reflecting recent legislative changes.

4. Subject to the feedback below, the Law Council endorses the draft brochure and considers that this document appropriately encapsulates the legislative intent.

General feedback

Language and accessibility

5. The language in the draft brochure may be inaccessible for some readers, given that the audience will likely include individuals from culturally and linguistically diverse (**CALD**) backgrounds, diverse professions, and differing literacy and comprehension levels.

6. Considering this breadth of readership, the language in the draft brochure would benefit from a more straightforward approach, including the use of plain English to the greatest extent possible.

[1] *Marriage Act 1961* (Cth) s 45(5A).
[2] Attorney General's Department, *Happily Ever…Before and After: Information for couples planning to marry* (2020).

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7. To the extent that this is not already occurring, we encourage the Department to consult with CALD communities to obtain their views on the accessibility of the language in the draft brochure.

Layout and graphics

8. The layout of the draft brochure is straightforward and allows the reader to easily identify relevant topics. However, the formatting is currently very basic, and it is unclear whether the Department intends to update the design once the brochure's content is finalised.

9. The typeface and graphic layout of the draft brochure should be modernised where possible, using colour and engaging graphics (similar to the existing brochure), to promote reader engagement and interest.

References to property settlement

10. The reference to property settlement from the existing brochure has been omitted in the draft brochure. As a public policy consideration, the Law Council supports the inclusion of such a reference. We query the basis for its removal.

11. To make a fully informed decision to enter marriage, the draft brochure should refer prospective parties to resources that provide guidance on what may occur in the event of a marriage breakdown with respect to their assets and liabilities.

Specific feedback

12. Feedback about material under specific headings and subheadings in the draft brochure is outlined below.

Getting married in Australia

13. The draft brochure states that:

> *Each person getting married in Australia must provide real consent to the marriage and understand the nature and effect of the marriage ceremony.*

The term 'real consent' appears several other times in the draft brochure.

14. A reader will likely not be able to recognise that 'real consent' is a specific term used in the Marriage Act,[3] and may instead interpret it in lay terms as 'consent'. It may, therefore, be beneficial if the draft brochure included a short explanation of 'real consent', noting that the Marriage Act provides that consent of either of the parties is not 'real consent' if:

(a) it was obtained by duress or fraud;

(b) the party is mistaken as to the identity of the other party, or as to the nature of the ceremony performed; or

(c) the party did not understand the nature and effect of the marriage ceremony.[4]

[3] *Marriage Act 1961* (Cth) s 23B(1)(d).
[4] Ibid.

15. Clarifying what ‘real consent’ means in the draft brochure would promote readers’ understanding of the rights and obligations associated with their intent to marry.

Steps to marrying in Australia

Meet notice requirements

16. The draft brochure refers to the requirement to ‘complete a Notice of Intended Marriage (**NOIM**)’ and refers to the defined term ‘NOIM’ several times. A reader would likely benefit from changing the defined term from ‘NOIM’ to ‘Notice’ to improve readability and certainty for readers to understand their obligations under section 42 of the Marriage Act.

17. The draft brochure requires that the Notice be signed by an ‘authorised witness’. In this respect, the draft brochure should include:

    (a) an explanation of who constitutes an ‘authorised witness’ for the purposes of the Act, as outlined in paragraph 42(2)(c) of the Marriage Act;

    (b) who would constitute an authorised witness if the Notice is signed outside of Australia, as provided in paragraph 42(2)(d) of the Marriage Act; and

    (c) a note that an authorised witness may observe the signing of the Notice via audiovisual communication under subsection 42(2) of the Marriage Act.

Provide Evidence & Declaration

18. The draft brochure states that:

> *Your celebrant cannot solemnise your marriage if they are not satisfied by the evidence you have provided.*

19. The draft brochure should clarify the specific forms of acceptable evidence to be provided to the celebrant to ensure the prospective parties are aware of the identification documentation they are required to produce.

20. The draft brochure provides that confirmation must be provided by the parties to the effect that they are not in a ‘relationship that is prohibited under the Act’. It may be beneficial to include an explanation that relationships prohibited under subsection 23B(2) of the Marriage Act include those:

    (a) between a person and an ancestor or descendant of the person; or

    (b) between two siblings (whether of the whole blood or the half-blood).

21. Furthermore, the words ‘are of marriageable age’ are unnecessarily legalistic and should be replaced with ‘at least 18 years of age’ to clarify the requirement.

22. The draft brochure should also provide guidance or examples as to what circumstances would be considered a ‘legal impediment to the marriage’. This is particularly important to encourage parties’ understanding and compliance with their obligations, given that the Marriage Act does not define this phrase.

Changing your name

23. For completeness, the Department should clarify in the brochure whether it is an option to adopt a wholly different family name from that of the two prospective parties.

Citizenship and visas

24. The Department should consider including additional information in this section to address how a change in marital status could affect a person's visa status. For example, the draft brochure should emphasise that the implications of a change in marital status can vary based on the type of visa held (or applied for), and direct readers to the 'Changes in your situation' webpage on the Department of Home Affairs website.[5]

Marriage education and counselling services

25. The Law Council supports the inclusion of the list of support services in the draft brochure that are relevant to counselling and education for a marriage. However, it would be of more utility if the draft brochure provided further detail about the protective steps that can be taken to support a successful marriage, including details about resources to support relationships, including before and during marriage and after separation, such as the steps outlined in the existing brochure.

Forced marriage

26. The Law Council recognises the complexities and nuances of forced marriage, which occurs on a continuum of coercive practices and can intersect with various factors such as family dynamics, culture, tradition, economic status, social pressure, and migration.[6]

27. We support the inclusion of a list of support services in the draft brochure that are relevant to forced marriage, noting that these do not appear in the existing brochure. However, the content could be strengthened by including an introductory paragraph that provides context and enhances readers' understanding of what constitutes forced marriage.

28. For this purpose, the Department could consider adapting the content that appears on its 'Forced marriage' webpage,[7] or, at a minimum, include a link to access that webpage in the draft brochure.

Contact

29. If the Law Council can be of further assistance to the Department during its consultation process, please contact Natalie Cooper, Senior Policy Lawyer, [redacted]

Yours sincerely



Juliana Warner
President

[5] Department of Home Affairs, *Changes in your situation* (Web Page, December 2024).
[6] See Law Council of Australia, *Enhancing Civil Protection and Remedies for Forced Marriage – Consultation Paper* (Submission to the Attorney-General's Department, 31 October 2024)
[7] Attorney-General's Department, *Forced marriage* (Web Page, 2025).