

## **EAST AYRSHIRE COUNCIL**

### **COMMUNITY SERVICES COMMITTEE – 19<sup>TH</sup> SEPTEMBER 2001**

#### **CIVIL MARRIAGES OUTWITH REGISTRATION OFFICES**

##### **Report by the Director of Community Services**

## **1 PURPOSE OF REPORT**

- 1.1 To outline the Council's response to the White Paper issued by the Scottish Executive setting out proposed changes in the law to allow Civil Marriages outwith Registration Offices and to consider issues around implementing the changes to the law.

## **2 BACKGROUND**

- 2.1 In terms of the Marriage (Scotland) Act 1977 Registrars may only conduct marriages within registration offices unless in exceptional circumstances. In England the Marriage Act 1994 permits civil marriages to take place outwith registration offices such as in hotels and stately homes. Scottish Borders Council raised the issue with CoSLA because their residents wishing a civil marriage could only be married in a Registration office were therefore being tempted to be married across the border in England where the choice of venue was more varied.
- 2.2 CoSLA wrote to Councils in March 1997 seeking their views regarding a proposal to change the law in Scotland to allow civil marriages outwith registration offices. Council registration staff were consulted and a report was submitted to the Community Services Committee of 16<sup>th</sup> April 1997 outlining the issues involved. The Community Services Committee agreed to remit to the Director of Community Services to respond favourably to CoSLA.
- 2.3 A public consultation paper was issued by the General Register Office (GRO) through CoSLA in February 1998.
- 2.4 The Scottish Executive published the White Paper mentioned in 1.1 above and sought a response by 17<sup>th</sup> August 2001. The proposed response set out in Appendix 1 has was forwarded to the GRO after consultation with the chair of the Community Services Committee and included a letter expressing concern at the timing of the consultation exercise being at the holiday recess period.

### **3 THE WHITE PAPER**

- 3.1 The White Paper outlines a proposed power for Councils to issue either a 3 year license or a one-off temporary license to applicants after their premises or places have been inspected by the Council.
- 3.2 Regulations and standard conditions are appended to the amendments to the Marriage (Scotland) Act 1977 and offer clear guidance for Councils.
- 3.3 Councils are expected to be reasonable with fee charges and should only recover additional costs associated with the process.
- 3.4 Applicants must designate a responsible person to ensure compliance with conditions and they would act as a contact person for the Registrar, thus requiring only one Registrar to attend the marriage venue, whereas two attend the Register office venue on a Saturday for security reasons.
- 3.5 Applicants who are refused have the right to appeal to a Sheriff

### **4 ISSUES TO CONSIDER**

- 4.1 The Local Office and Registration Manager and the Senior Registrar met a local hotelier, who had already enquired about the process, to gauge the views of a possible applicant and this informed some of the points outlined below.
- 4.2 While there is a possibility that marriages will reduce in Registration offices, the number of civil weddings may increase as people currently being married at venues such as hotels, by ministers, are married instead by a Registrar. (It should be noted however that the long term trend in Scotland shows a reduction in the overall number of marriages).
- 4.3 Meeting the demand for Registrars could prove difficult especially if the marriage takes place during the week. Some hotels host as many marriages on a Friday as on a Saturday. The Council's Registrars work within the local office system and apart from the Kilmarnock and Cumnock offices, have only two staff on duty. One member of staff could not leave the office to conduct a civil marriage as two staff are required for security reasons. Additional staffing may therefore be required in order to operate the proposed new system.
- 4.4 Saturday marriages may be able to be covered on a rota system with one Registrar and one standby Registrar for the North and similarly for the South of the Council area. This would mean staff would have to work at least one Saturday a month and may have to conduct more than one ceremony. Remuneration and travelling costs for staff and their conditions of service would have to be reviewed.

- 4.5 The Council would want to recover costs, which would reflect on the licence fee to the applicant. Costs would include inspection and administration in addition to the Registrar's costs. If the Council charges applicants such as local hoteliers a large fee, the applicant would legitimately expect a Registrar to be readily available. Should East Ayrshire Council not have a Registrar the marriage could move to another council area with greater availability of Registrars. This would have a negative impact on the business of the licence holder and on the Registration Service income stream.
- 4.6 A meeting between the three Ayrshire Councils could set out agreements on how we deal with demand from a neighbouring Council area and any other common issues that may arise.
- 4.7 The Council will have to decide what criteria it would put in place to decide who can apply for a licence. Apart from hoteliers, Community Centre management committees, bowling clubs and other social organisations may wish to apply, although the one off licence may be more suitable for organisations hosting occasional marriages.
- 4.8 Legal issues arise around whether the new process should reflect an existing English Act or the Scottish Civil Government Act, the appeals procedure, and the role of the Registrar in the decision making process. (These issues are outlined in the White Paper).

## **5 FINANCIAL IMPLICATIONS**

- 5.1 The licensing and inspection process would involve staff time as well as the Registrar travelling to and conducting the marriage. It may be necessary to employ additional Registrars to meet demand.

## **6 LEGAL IMPLICATIONS**

- 6.1 The Council will have new powers to grant licenses for marriages outwith registration offices but will be subject to an appeal process to a sheriff if an applicant who has been refused is not satisfied with the decision.

- 6.2 Issues outlined in 4.8 above.

## **7 POLICY IMPLICATIONS**

- 7.1 **Nil**

## **8 CONCLUSIONS**

- 8.1 The Council's Solicitor indicates that there are a number of issues not resolved by the White Paper. Submissions from other authorities indicate similar concerns. In view of this advice and taking into

consideration the concerns of other authorities, it is felt that a “short life” working group with appropriate representation should be established to resolve the issues and report back to Councils

## **9 RECOMMENDATIONS**

9.1 The Committee is asked to agree:-

- (i) to endorse the response to the White Paper; and
- (ii) to remit to the Director of Community Services to report back to a future meeting with a detailed estimate of potential costs and subsequent fees charged as a result of implementing the change in law.

William Stafford  
Director of Community Services

28<sup>th</sup> August 2001

WS/DMV

### **LIST OF BACKGROUND PAPERS**

1. Civil Marriages outwith Registration Offices – A White Paper issued by the Scottish Executive setting out proposed changes in the law.
2. Community Services Committee Report on Marriages outwith Registration Offices by the Director of Community Services of 16<sup>th</sup> April 1997.
3. Letter dated 6<sup>th</sup> Feb 1998 from CoSLA, including a consultation paper issued by the Register General seeking the views of the public in Scotland on a possible change in the law.
4. Letter dated 10<sup>th</sup> March 1997 from CoSLA, including the regulations governing the approval of premises and the English Registrars Guidance to Councils.

Any person wishing to inspect the background papers listed above should contact John Griffiths, Head of Leisure, telephone (01563) 576264.

**Implementation Officer – [john.griffiths@east-ayrshire.gov.uk](mailto:john.griffiths@east-ayrshire.gov.uk)**

## **APPENDIX 1**

### **Response to white paper issued by the Scottish executive setting out proposed changes in the law relating to civil marriages outwith registration offices.**

1 East Ayrshire Council welcomes the opportunity to enable Civil Marriages to be solemnised in certain places approved by the Local Authorities.

#### **2 PRIMARY ISSUES**

2.1 The Council, in concurrence with the White Paper's view, agrees the State's interest should be maintained and that the accuracy and reliability of the records are absolutely essential. It is therefore also essential that a fully qualified Registrar carry out the process.

2.2 It is noted that a number of English authorities have recruited Marriage Officers as result of a similar change to the law. East Ayrshire Council believes however that the high standards required of the marriage service be best provided by fully qualified professional registrars with experience of all registration functions.

2.3 There is already a Civic Government licensing system in place that can be used as a model for the regulations although the Council feel all that is required is a set of national guidelines from the Registrar General to be considered by each local Registrar when faced with a request to conduct a civil ceremony at an alternative venue.

2.4 It is important that the Registrar has a involvement in ensuring the seamliness and dignity of the marriage venue but this will involve Registrars time, an issue outlined in more detail at 2.5 to 2.7 below.

2.5 It is also important that Council's approve places for marriages and the regulations and conditions outlined in the White paper offer an excellent guide and framework for this process.

2.6 The Council does not expect a rise in income generation from the new process but would wish the process to be cost neutral. The cost may include licensing, Health and Safety and Registration officers' time as well as the possibility of recruiting additional staff if demand is high.

2.7 A charge to offset additional costs passed on to new venue owners or customers may encourage an expectation that a Registrar will be available "on demand". An inability to meet that expectation either through a lack of staffing resources or excessive demand (at particular times of the year) could result in customers going elsewhere and licensed premises losing business.

- 2.8 The Council operates a decentralised local office system which includes a Registration service and will find it difficult to supply a Registrar on Friday afternoons at venues outwith the local office as these offices require two people for security reasons. If the Council cannot supply a Registrar, customers may go elsewhere and potential income possibly generated at the Register office will be lost.
- 2.9 The Council would be concerned about any powers given to the Registrar General to revoke an approval, if that approval was originally granted by the Council as the local democratically elected authority.
- 2.10 The appeal procedure should limit the Sheriff's powers to considering whether the authority has erred in law, based its decision on incorrect material fact, acted contrary to natural justice or exercised its discretion in an unreasonable manner.
- 2.11 In view of the issues around whether the new process should reflect an existing English Act or a Scottish Civil Government Act, the appeals procedure and the role of the Registrar vis-à-vis the decision making process the Council feels further investigation is required. A working group made up of representation from the GROS, local Registrars and Councils Legal and Licensing personnel should be established with a view to recommending a consensus view across Scotland.

## **AGENDA**