

**TRUST POLICY AND PROCEDURE FOR EMERGENCY MARRIAGE AND CIVIL PARTNERSHIP**

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| <b>Contact for Review</b>               | Marise Hargreaves – Chaplaincy Services Manager   |
| <b>Executive Lead Signature</b>         | <br>Garry Marsh, Executive Chief Nurse |

## Contents

| <b>Section</b> |   | <b>Page</b> |
|----------------|---|-------------|
| <b>1</b>       | <b>Introduction</b>   | <b>4</b>    |
| <b>2</b>       | <b>Purpose and Outcomes</b>                                   | <b>4</b>    |
| <b>3</b>       | <b>Definitions Used</b>                                       | <b>5</b>    |
| <b>4</b>       | <b>Key Responsibilities/Duties</b>                            | <b>5</b>    |
| <b>5.</b>      | <b>Management of Emergency Marriage and Civil Partnership</b> | <b>6</b>    |
| 5.1            | Notification of Request                                       | 6           |
| 5.2            | Planning the Ceremony   | 6           |
| 5.3            | Medical Statement   | 6           |
| 5.4            | Validity  | 6           |
| <b>6</b>       | <b>Monitoring Compliance and Effectiveness</b>                | <b>7</b>    |
| <b>7</b>       | <b>References</b>   | <b>7-8</b>  |

| <b>Appendices</b> |                           | <b>Page</b> |
|-------------------|---------------------------|-------------|
| Appendix 1        | Legal Requirements        | 9           |
| Appendix 2        | Supporting Information    | 11-12       |
| Appendix 3        | Procedure                 | 13          |
| Appendix 4        | Checklist                 | 14          |
| Appendix 5        | Draft Letter              | 15-16       |
| Appendix 6        | Guidance – Faculty Office | 17-19       |

For urgent advice contact Chaplaincy on 89500 RDH or 566333 Burton or refer to Appendix 4 and 5 for procedures and covering letter. Do not adapt the wording of the letter as it will be refused by the Registrar's Office.

## **TRUST POLICY AND PROCEDURE FOR EMERGENCY MARRIAGE AND CIVIL PARTNERSHIP**

### **1. Introduction**

Marriages or the Registration of Civil Partnerships of seriously ill patients rarely occur in hospital but when they are requested a prompt and effective response is required.

In speaking of emergency marriages in hospital, the distinction needs to be drawn between:-

- (a) Cases where a patient is not expected to recover or to be able to leave hospital, but is not in immediate danger of dying
- (b) Cases where there is an expectation or risk of death within a short time.

This policy is concerned with Category (b) and exists for staff to facilitate proceedings in a manner which is acceptable to the parties involved within the Law.

It should be noted that so far as category (a) is concerned, it is possible for an Anglican hospital Chaplain to solemnise a marriage in the hospital according to the rites of the Church of England on the authority of a Superintendent Registrar's Certificate (SRC, Marriage Act 1983). However, the statutory requirements for the marriage of a "house-bound" person will need to be complied with, including the normal requirement that the certificate cannot be issued until 7 days after notice has been given to the Superintendent Registrar. This procedure is therefore not appropriate for cases in category (b). If it is possible to obtain an SRC this should be done in preference to an Archbishop's Special Licence, on the basis that the SRC is the more statutorily normal preliminary intended for this circumstance.

In addition according to the rites of the Church of England, the Archbishop of Canterbury has ruled that the son or daughter of a seriously ill patient may be married at the patient's bedside if, in the Archbishop's judgement, the circumstances justify this.

### **2. Purpose and Outcomes**

This policy outlines the conditions and legal requirements and identifies the paperwork and supporting documentation required as well as the procedure to be adopted when a request for Emergency Marriage or the Registration of a Civil Partnership is made.

When staff receive such a request it is important that they understand the procedure to adopt and to carry it out in a timely manner. This policy exists to enable staff to carry out the legal requirements and to meet the duty of care to the patient and their intended partner.

The aim is to ensure that patients who are seriously ill have their request met wherever possible within the constraints of the Law.

### 3. Definitions Used

|                               |   |
|-------------------------------|---|
| <b>Seriously ill patient:</b> | A patient, who in the opinion of the attending doctor should not be moved, is not expected to recover and there is an expectation or risk of death within a short time.   |
| <b>Marriage;</b>              | The voluntary union for life of one person with another to the exclusion of all others.   |
| <b>Marriage Ceremony:</b>     | The means of solemnising a marriage by an authorised minister of religion or an officer of the state.   |
| <b>Civil Partnership:</b>     | The voluntary legal union of two people who do not wish to enter a marriage   |
| <b>Registration Ceremony:</b> | The formation of a Civil Partnership by means of registering a partnership  |
| <b>The Registrar:</b>         | The officer of the state licenced to officiate at a marriage ceremony or the Registration of a Civil Partnership.   |
| <b>Mental Capacity</b>        | <p>Capacity is the ability of a person to make decisions that may have legal consequences for themselves and/or for others affected by the decision.</p> <p>The decision to marry or enter a Civil Partnership is not covered by the Mental Capacity Act 2005 because the test for marriage is a common law test (i.e. it follows judgement in court cases). See Mental Capacity Act 2005 Section 27.</p> |

### 4. Key Responsibilities/Duties. The

#### **Chaplain**

The Chaplain will take the lead role and will ensure that the request conforms to the requirements of the Law in order for the application to proceed. The Chaplain will liaise with the Registrar, the Nurse in Charge of the ward, the doctor responsible for the patient's care and the patient and his/her partner in order for the ceremony to take place.

## **Church of England Priest**

Where the Marriage Ceremony is to be conducted according to the rites of the Church of England a Church of England priest will act as the officer of the State (Registrar).

## **The Registrar**

In all other cases where the Marriage/ Civil Partnership is not conducted according to the rites of the Church of England the Marriage/ Civil Ceremony must be carried out by the Registrar. Following the legal ceremony, a Minister or other Faith leader or officiant may be invited to carry out relevant ceremonies if that is the couple's wish.

## **The Nurse in Charge of a Ward**

Following a request for Marriage or for a Registration of a Civil Partnership from a patient the nurse in charge must contact the Chaplain.

## **5. Management of Emergency Marriage and Civil Partnership**

### **5.1 Notification of Request**

The Chaplain must be notified and will assume the lead role in enabling the Marriage or the Registration to take place by liaising with all relevant parties.

### **5.2 Planning the Ceremony**

The prognosis and life expectancy of the patient must be taken into account when planning the ceremony. The Chaplain will liaise with the Nurse in Charge, treating doctors and other relevant staff. A Check List will be kept to ensure that all aspects of planning are covered. See Appendices 3 and 4.

### **5.3 Medical Statement**

The attending doctor must complete a medical statement which is required by the Registrar (see Appendix 5). Please also document all discussions with the patient, family members and colleagues in the medical records.

The doctor must be satisfied that the patient understands the nature and purport of marriage/civil partnership. Specifically, the patient must have a comprehension of the nature of the marriage contract and the duties and responsibilities that arise from being legally married/in a civil partnership. The principles of the Mental Capacity Act (sections 1 to 3) can be used as guidance to determine whether the patient has capacity to understand the above. The Chaplain may also give guidance on this issue.

### **5.4 Validity**

The Chaplain must satisfy him/herself that the Marriage/ Civil Partnership will be valid and that there is no cause why the Marriage or Civil Partnership should not take place. See Appendices 1 and 2.

The Chaplain will take on an enabling role to satisfy validity where other authorised persons are conducting the ceremony. See Appendix 3.

If the patient or partner has special needs, including communication difficulties, advice should be sought from the appropriate member of staff e.g. Acute Liaison Nurse for Learning Disabilities or Interpreters/Signers (BSL).

## 6. Monitoring Compliance and Effectiveness

There will be an annual review of all requests for emergency Marriage and Civil Partnership. Each request will be accompanied by a report which will include the outcome.

Because this procedure can take some time to carry out and each occasion is unique it is not always possible to enable a ceremony before a patient dies. In each case the procedure must be monitored to indicate areas that may need improvement or better communication.

## 7. References

| Source of Data   | Date of Publication/issue |
|--|---------------------------|
| Ecclesiastical Licences Act  | 1533                      |
| Marriage Acts  | 1949 to 2019              |
| Marriage (Registrar General's Licence  | 1970                      |
| Notes for the Application for the Archbishop of Canterbury's Special Licence | 1994                      |
| Civil Partnership Act  | 2004 2019                 |
| Equality Act   | 2010                      |
| Mental Capacity Act  | 2005                      |
| Matrimonial Causes Act   | 1973                      |
| Mental Health Act  | 1983                      |
| Marriage (Same Sex Couples) Act  | 2013                      |
| Marriage and Civil Partnership (Minimum Age) Act                             | 2022                      |

**Legal Requirements.**

The usual form of Marriage in hospital is that of a Civil Ceremony. The Marriage can be solemnised on the authority of either:

The Registrar General according to Civil Ceremony, or  
The Archbishop of Canterbury according to the rites of the Church of England.

**There are legal requirements that apply to those intending to marry:**

- The couple must both be 18 years of age (From 27 February 2023)
- They must understand the nature and purport of the marriage contract and the duties and responsibilities normally associated with marriage (including the capacity to consent to a sexual relationship).
- By reason of kindred or affinity they must not be prohibited from marrying.
- They must not be in an existing marriage or Civil Partnership.
- They must be freely able to consent.
- In the case of foreign nationals, they must be able to fulfil any legal requirements. For non- EU nationals please refer to UK Border Agency Guidance at Appendix 6.

In addition, to obtain a Special Licence for a Church of England ceremony, there are further requirements.

- The parties intending to marry must be of opposite gender. It is not possible for same sex couples to marry according to the rites and ceremonies of the Church of England. One of the parties should be able to show a genuine and long-standing connection with the church.
- They should have good pastoral reasons why the licence should be granted.
- The incumbent of the parish in which the couple would have been married must be consulted.

**Special licences are not normally granted where one of the parties is divorced and has a former spouse still living.**

**NB:** It is possible for the son or daughter of a seriously ill patient to be married at the patient's bedside. Advice should be sought due to changes in law enabling a registrar to conduct this ceremony. Previously it was only possibly by a Church of England priest and by Special License.

**There are legal requirements that apply to those intending to enter a Civil Partnership:**

To ensure that patients who are seriously ill have their request for registration fulfilled wherever possible. There are legal requirements that those intending to register their partnership must satisfy. These apply to both the patient and his/her partner as follows:



- The couple must both be 18 years of age (From 27 February 2023)
- They must understand the nature and purport of the Civil Partnership and the duties and responsibilities normally associated with the relationship (including the capacity to consent to a sexual relationship).
- Not prohibited by reason of kindred or affinity.
- Not in an existing Civil Partnership or Marriage
- Freely able to consent.
- In the case of foreign nationals able to fulfil any legal requirements. For non-EU nationals please refer to UK Border Agency Guidance at Appendix 6.

**Supporting Information**

**Validity**

To fulfil the requirements of validity for a Marriage/Civil Partnership in hospital some documentary evidence will be required. This will depend upon the circumstances of each person and advice should be sought from the civil or religious authority. The usual documentation required is:

- A medical statement concerning the patient (Appendix 5)
- Birth certificates of both parties
- Evidence of dissolution of any previous marriage or registered partnership
- Death certificate of former spouse and previous marriage certificate
- Proof of residence (utility bills, bank statements etc.)
- Where applicable, a full gender recognition certificate issued before the intended date of marriage.

In some circumstances there may be a requirement for:-

- Passports
- Application forms and affidavit (supplied by the Archbishop's Faculty Office) for Archbishop's Special Licence.

**Church of England Marriage**

A marriage according to the rites of the Church of England will be dealt with through the Faculty **Office** of the Archbishop of Canterbury. The Chaplain will need, on behalf of the couple, to provide good reason for the application and demonstrate their genuine and long-standing connections with the church. As part of this, he/she should liaise with the incumbent of the church where the couple would normally worship. Before a licence can be issued, an application form has to be sent by the Faculty Office, completed by the Chaplain and one of the couple and returned. This can be done by fax, provided the original copy is also sent by post. The Faculty Office will give guidance, but licences are issued at the absolute discretion of the Archbishop.

Once the application has been approved, one of the parties has to swear an affidavit to confirm the information given. This will be done in front of the Chaplain. The form of affidavit then has to be sent to the Faculty Office:

The Registrar  
Faculty Office of the Archbishop of Canterbury 1 The  
Sanctuary  
Westminster London  
SW1P 3JT

Tel: 0207 222 5381 Mon – Fri 10.00hrs – 16.00hrs Tel: 0207  
823 5663 Emergency Number  
Fax: 0207 222 7502

The marriage document must be signed on the day of the wedding and returned to the Registrar within 7 days by the Church of England minister. The marriage certificate must be obtained after this period by the spouse from the local Registry Office. It is no longer issued at the time of the marriage. As the marriage is by Special License no longer needs to be entered in parish church registers.

### **Any Other Marriage**

Other marriages will be dealt with through the appropriate **Registrar's Office**. Notice of the marriage must be given in person by the patient's partner to the Superintendent Registrar. A marriage according to a religious rite other than Anglican will require the attendance of a Chaplain or Minister of that practice who may need to obtain the authority of their own denomination.

Registration of the marriage will be carried out by the Registrar.

The out of hours contact numbers for the Registrars are confidential and are available in the Emergency Marriage/ Civil Partnership file in the Chaplaincy Offices.

**Procedure**

In the event of a patient and/or their partner expressing the intention to be married, the nurse in charge must contact the Chaplain.

The Chaplain will ensure that the request conforms with the legal requirements in order for the application to proceed.

If all requirements are met:-

The nurse in charge and Chaplain will agree a timetable following discussions with the patient and partner. The Chaplain will liaise with the civil and religious authorities as necessary.

The nurse in charge or Chaplain will ask the attending doctor (Registrar level or above) to assess the patient and sign the medical statement for the Registrar supplied by the Chaplain (Appendix 5)

The wishes of the patient and partner are paramount when making practical arrangements e.g. privacy, the attendance of significant others, flowers, photographs, refreshments. Civil ceremonies can only take place on the hospital ward. Day rooms or the patient's room should be used as appropriate,

If the patient or their partner has any special needs the nurse in charge will liaise with the appropriate members of staff.

It is the responsibility of the Chaplain to ensure that two people are available to witness the Marriage/ Civil Partnership. Members of staff may be witnesses, but are under no obligation to do so.

If the patient and / or their partner is dissatisfied with the decisions made, the Chaplain and the nurse in charge should discuss this with them. If the situation cannot be resolved, the matter must be discussed with line management.

All relevant details of the intended Marriage/ Civil Partnership will be recorded in the patient's health record by the Senior Nurse.

A religious ceremony, taking the form of prayers and a blessing is possible after the registration of the Civil Marriage. This will be arranged by the Chaplain.

**Costs**

These should be discussed with the relevant authorities and change annually.

**Emergency Marriage & Civil Partnership: initial process**

*Emergency Marriage and Civil Partnership - Trust Policy and Procedure document can be found on Flo through the Policies and Guidelines red icon.*



| Contact a Chaplain   | Date & time | Signature |
|--|-------------|-----------|
| Mon-Thurs 9am-5pm: through ext. 89500<br>Fri 5pm - Mon 9am: through switchboard for the on call Chaplain |             |           |

| Chaplain facilitates the process of the Emergency Marriage or Civil Partnership   | Date & time | Signature |
|---|-------------|-----------|
| <p><i>following the Trust Policy and Procedure for Emergency Marriage and Civil Partnership (Derby Hospital sites)</i></p> <ul style="list-style-type: none"> <li>• liaise with both parties to discuss their request for marriage, and to check they are both legally free to marry (<i>Appendix 1 page 9</i>)</li> <li>• explain the original documents required for obtaining a Registrar General's Licence for an Emergency Marriage</li> <li>• ask a doctor (Consultant or Registrar level) treating the patient to sign the medical statement (<i>essential wording: template Appendix 5</i>)</li> <li>• liaise with the Registrar and ensure that the partner registers the request for an Emergency Marriage at Derby Register Office</li> </ul> <p>Once a licence has been granted, the <u>Registrar arranges a time with the couple</u> to come to the hospital ward to perform the Civil Marriage ceremony (<i>please note, a Civil Marriage ceremony cannot legally take place in a chapel, or have any religious content whatsoever, including music.</i>)</p> <p><i>The Chaplain can be available to offer prayers and a blessing for the couple, should they wish it, as a separate arrangement once the Civil Marriage ceremony has taken place.)</i></p> |             |           |

| Chaplain notes |
|----------------|
|                |

*(Copy onto hospital letter-head)*

The Superintendent Registrar (or relevant Registrar in Burton)  
The Register Office  
Derby Council House  
Corporation Street  
Derby DE1 2SF

**EMERGENCY MARRIAGES IN HOSPITAL**

Patient's full  
name:

Hospital:

Ward:

I certify that:

I am in attendance on the above named patient;

the patient is seriously ill and is not expected to recover.

the patient cannot be moved from the hospital to a place registered for  
marriage; and

the patient understands the nature and purport of the marriage.

Yours Sincerely

*Doctor's signature:*

*Doctor's name printed:*

*Doctor's qualifications and GMC number:*

*Date:*

**OR** for marriage according to the rites of the Church of England

*(Copy onto hospital letter-head)*

The Registrar  
Faculty Office of the Archbishop of Canterbury 1  
The Sanctuary  
Westminster  
London SW1P 3JT

Dear Sir,

Patient's full  
name:

Hospital:

Ward:

I certify that:

I am in attendance on the above named patient;  
the patient is seriously ill and is not expected to recover;  
the patient cannot be moved from the hospital to a place registered for  
marriage; the patient understands the nature and purport of the marriage.

Yours Sincerely

*Doctor's signature:*

*Doctor's name  
printed:*

*Doctor's qualifications and GMC number:*

*Date:*



## **The Faculty Office of the Archbishop of Canterbury**

### **Changes to the requirements for EEA Nationals to marry in the UK from 1<sup>st</sup> July 2021**

#### **Background**

Following the UK's exit from the EU and the end of the transition period on the 31st December 2020, EU free movement ended meaning that EEA citizens and their family members will require permission to enter and remain in the UK. EEA citizens and their family members lawfully resident in the UK before the end of the transition period on 31 December 2020 are required to regularise their immigration status by making an application to the EU Settlement Scheme (EUSS) for Settled Status (or Pre-Settled Status if they have not been resident in the UK for at least 5 years before making the application) before the end of the grace period on 30 June 2021. EUSS status may be granted to any nationality provided they meet the eligibility and suitability requirements of the EU Settlement Scheme.

At the end of the grace period, an EEA citizen who wishes to marry in the Church of England (CofE) or Church in Wales (CiW) and who does not hold Settled Status or Pre-Settled Status under the EUSS or a pending application to the EUSS that was submitted before 30 June 2021, will no longer be permitted to be married after the calling of Banns or the issue of a Common Marriage Licence but instead they will have to give notice of their intention to marry at a register office and be issued with a Superintendent Registrar's Certificate (SRC). This means that EEA citizens who do not hold Settled or Pre-Settled Status, or who does not have a pending application to the EUSS that was submitted before 30 June 2021, will be treated the same as all other foreign nationals have been since 2nd March 2015 when the sham marriage referral and investigation scheme came into being. Irish citizens will continue to be exempt from the EUSS and will be free to enter the UK without permission and to marry after Banns or by Licence.

#### **What do the changes mean for Anglican weddings?**

Any wedding taking place in the CofE/CiW on or after the 1st July 2021 where either or both of the parties are non-UK/Irish nationals and who do not have Settled Status or Pre-Settled Status under the EUSS or a pending application to the EUSS that was submitted before 30 June 2021, will only be able to take place on the authority of an SRC (or a Special Licence – see below). It will be illegal for the wedding to take place after the calling of Banns or by Common Marriage Licence unless the Banns have been started or the Common Licence arranged before 1st July 2021 (see below for further detail on the Transitional Provisions).

As these changes are likely to result in a significant increase in Anglican weddings where an SRC is required, all register offices in England & Wales will be designated for the purpose of giving notice and a couple in scope of the scheme will be required to give notice together and in person at a register office in the district where one or both of the parties reside. EEA citizens travelling to the UK in order to marry will require a mandatory marriage visitor visa issued through the British embassy in the country where they normally reside before coming to the UK.



- Any non-UK/Irish nationals wishing to have an Anglican wedding on the basis of their EUSS status, will be required to provide evidence of that status, where their initial appointment to give notice to marry is on or after 1 July 2021.
- What this means for clergy is that they will be required to check that couples are either UK or Irish Nationals (ideally by seeing an in-date Passport) or confirm that any other national has Settled Status, Pre-Settled Status under the EUSS, or a pending application to the EUSS that was submitted before 30 June 2021, before agreeing to call Banns of Marriage. Note that from 1 July 2021, EEA national ID cards are will no longer be acceptable as evidence of nationality.

Surrogates for Marriage and others responsible for the issue of Common Licences will also need to check. Note that it is possible for a non-EEA citizen to have been granted Settled Status if they are a family member of an EEA citizen.

### How do clergy and others check whether a person has Settled Status or Pre-Settled Status?

A person with EUSS Settled or Pre-Settled Status is required to provide evidence of that status by requesting a 'share code' on the 'view and prove your settled or pre-settled status page' on GOV.UK at: <https://www.gov.uk/view-prove-immigration-status>. Codes are valid for 30 days and must be provided to the member of the clergy either before or at their initial appointment to give notice to marry. The member of the clergy will input the person's name, date of birth and code into the EUSS online status checker tool on the 'check someone's settled or pre-settled status' page on GOV.UK':

<https://www.gov.uk/check-immigration-status>, to confirm that the person has been granted EUSS status. The result will display details of the person, including a photograph, to enable clergy to confirm that the person does have the required EUSS Settled or Pre-Settled Status.

A person with a decision pending on an EUSS application made before the settlement scheme closes on 30 June 2021, should provide their certificate of application to confirm their EUSS status.

### Transitional arrangements

Transitional arrangements are in place for couples who will be affected by the changes but who have already started marriage preliminaries before 1 July 2021. Couples marrying following Anglican ecclesiastical preliminaries will not be required to obtain an SRC if any one of the following applies:

- Banns of marriage have been published on at least one Sunday before 1st July 2021 in at least one of the parishes where they are required to be called;
- both parties have given notice to the incumbent or priest-in-charge for the calling of Banns of marriage in all of the required parishes before 1st July 2021 together with evidence that they were, at that time, relevant nationals (ie a UK/Irish/other EEA/Swiss National);
- a Common Licence for the marriage was granted before 1st July 2021;
- an application for a Common Licence was received but not determined by 1st July 2021, and such application included evidence that the parties were at that time relevant nationals; or
- one of the parties has sworn the oath required for a Common Licence before a person with authority to grant the licence.

Where a couple fall within one of the above transitional provisions on 1st July 2021, they will be able to

marry whilst that preliminary remains valid (i.e. within three months of the final calling of the Banns or the issue of the Common Licence). If the authority of the preliminary expires before the marriage is solemnised, the couple will need to give notice again, together, at a designated register office in the district where one or both of the parties resides to obtain SRCs – Banns cannot be recalled nor a Common Licence re-issued.

### **Couples resident abroad**

Where a couple are normally resident abroad and either of them are non-UK/Irish nationals without an EUSS status, then in order to marry in a CofE/CiW church which is licensed for marriages after 1st July 2021 they would need to apply for SRCs (unless they already have a Common Licence before the 1st July under the Transitional Arrangements).

They would both need to be resident in England or Wales for the minimum qualifying residence period for an SRC (i.e. seven clear days, not counting the day of arrival in the England or Wales) before they can give notice to marry at the register office of the registration district where they have been residing. As is the case with all SRCs, there is then a 28 day waiting period (which can be extended up to 70 days if the application is referred under the sham marriage scheme) before the SRCs are issued. The couple do not need to be resident during the notice period but may need to be available for an interview if called upon as part of the referral.

If the couple already have a Qualifying Connection with the parish where the wedding is to take place, their pre-notice residence period can be in any registration district in England or Wales and their notice would be given in the register office of that district. However, if they do not have a preexisting Qualifying Connection then their period of residence must be in the parish where the wedding is due to take place and give notice in the registration district which covers that parish in order to qualify for an SRC to be married in the parish church.

### **Special Licences**

The changes do not affect Special Marriage Licences issued through the Faculty Office and these will continue to be available to permit the marriage of couples regardless of their nationality or EUSS status. However, in accordance with the policy which we have adopted since the March 2015 changes came into force, we will not issue a Special Licence in circumstances where another legal preliminary is available i.e. where the marriage is to take place in a CofE/CiW place of worship which is ordinarily licensed for marriages and in which the couple have the legal right to marry.

### **Further Information**

The Home Office have issued a guidance document which contains more detail and which can be viewed [here](#).

Clergy or couples with enquiries about their specific circumstances should contact their Diocesan Registry or the Faculty Office for further guidance if needed.

### **The Faculty Office**

**22 February 2021**