



Diocese of York

Guidance for Surrogates Concerning Common Licences for Marriage

For use by the Surrogates in the Diocese of York

Written by Lionel Lennox Registrar of the Diocese

December 2012 : Second Edition

This document is issued under the authority of Canon P N Collier QC, Chancellor and Vicar-General of the Diocese, and with the approval of His Grace The Lord Archbishop of York

Contents of sections

1. Introduction
2. Typical Occasions when a Common Licence will be the Marriage Preliminary
3. On Receiving an Enquiry
4. Eligibility for a Common Licence
5. Place of Marriage
6. On Meeting the Applicant(s)
 - Identity
 - Previous Marriage
 - Persons Subject to Immigration Control
 - Non-British Subjects: Foreign Domicile: Recognition of Christian Marriage Abroad
 - Christian Marriage
 - Kindred and Affinity
 - Minimum Age
 - Condition or Status
7. Help the Applicant to complete the Affidavit
8. Fees

Additional Paper 1-3 - Marriage by Common Licence of Divorced Persons

Additional Paper 4 (part 1-4) - Marriage by Common Licence of persons who are not nationals of the UK, the EEA or Switzerland

Appendix I – Consents to the marriage of a minor (usual cases)

DIocese OF YORK

GUIDANCE FOR SURROGATES CONCERNING COMMON LICENCES FOR MARRIAGE

This Guidance should be read and used in conjunction with the Registrar's Guide : Preliminaries for the solemnisation of marriage with notes on residence and status – A Brief Guide for Clergy of the Diocese of York by Lionel Lennox Registrar of the Diocese – Third Edition : October 2011.

INTRODUCTION

- 1.1 Common Licences are granted by the Archbishop of York through his Chancellor and Vicar General of the Diocese. They are issued by the Registrar of the Diocese after an interview by a Surrogate at which an application for a Common Licence is made by swearing an affidavit and on production of various documents and payment of the appropriate fees. The Surrogates are appointed by the Chancellor, one of whom is the Registrar of the Diocese. Such licences authorise marriage according to the rites of the Church of England but without banns having to be read. The marriage must take place in a parish church or other church licensed for marriages within the Diocese of York. The Applicant may approach either a Surrogate in the Diocese or the Registry direct (after making an appointment). If application is made to a Surrogate he or she will obtain the necessary details from those wishing to marry, and will usually issue the licence to the applicant.
- 1.2 The applicant for a marriage licence may be either of the two persons wishing to marry.
- 1.3 These instructions are issued for the guidance of Surrogates. Where there is any doubt whether a Common Licence should be issued, the Surrogate must seek the advice of the Registrar before the licence is issued. If the application is said to be urgent, the Surrogate must resist pressure from the couple to issue the licence without referring it to the Registrar.
- 1.4 A Common Licence is an episcopal dispensation, recognised by the Marriage Act 1949, from the publication of banns. Thus the issue of a marriage licence is discretionary and cannot be demanded as a right. When the particulars given are satisfactory the Surrogate will be able to give the licence to the applicant but on occasions applications must be referred to the Chancellor through the Registrar for his personal decision.

TYPICAL OCCASIONS WHEN A COMMON LICENCE WILL BE THE MARRIAGE PRELIMINARY

- 2.1 Banns cannot be called where both or one of the persons wishing to marry lives e.g. one person lives in Scotland or both British or EEA nationals live in New Zealand.
- 2.2 Banns have not been called as they should have been eg Sunday missed – “bungled arrangements”.
- 2.3 Urgency: couple have decided that they want to get married in church eg one person being posted overseas in HM Forces.
If in imminent danger of death and in hospital, hospice or at home – the preliminary must be the Archbishop of Canterbury's special licence.
- 2.4 Couple want no publicity eg widow and widower.
- 2.5 Both persons are or one of them is foreign national(s) – non EEA nationals with no right of abode ie permanent residence - every marriage where one or both of the parties are subject to Immigration Control must be by common licence, and the Chancellor's 'calling-in' procedure applies: see para 6. There are no exceptions to this rule.

ON RECEIVING AN ENQUIRY – BEFORE MEETING THE COUPLE

- 3.1 One of the couple will usually telephone the Surrogate to arrange an appointment to meet. Both persons wishing to marry are required to attend the meeting with the Surrogate unless there are exceptional circumstances. In order to avoid a wasted meeting it is useful to clarify various points on the telephone or before the meeting.
- 3.1.1 A common licence expires after 3 months: the marriage must take place within three calendar months from the date of the issue of the licence. This determines the date of the meeting with the Surrogate.
- 3.1.2 A common licence issued in the Diocese of York can only be a preliminary for a marriage in this Diocese.
- 3.1.3 The Surrogate needs to ascertain whether either of the two persons
- has been divorced and if so whether the former spouse is living or
 - is subject to immigration control.
- and in either circumstance the procedures for Previous Marriage and Persons Subject to Immigration Control (see Guide) will need to be followed. In both these circumstances the officiating priest will need to have interviewed the couple (and have followed their part of the procedures), before the couple attend before the Surrogate and apply for a Common Licence.
- 3.2 Identity must be proved by two documents by both persons. (see Guide – para 6).
- 3.3 The applicant needs to bring the fee in cash to the appointment.
- 3.4 If both persons have difficulty in attending together before the Surrogate, it is permissible that they attend separately, but this should not be encouraged.

ELIGIBILITY FOR A COMMON LICENCE

4. One of the couple must:-
- be resident – permanent home - in the parish, OR
 - be on the Electoral Roll of the Parish, OR
 - have had their usual place of abode for 15 days last past in the parish ie 15 days before swearing the affidavit, OR
 - have a qualifying connection with the parish (same QC's as for banns)
 - non EEA national: prior approval from the Chancellor that the couple may make a CL application
 - person who has been divorced: Additional Questions page signed by officiating priest and decree absolute must be produced to Surrogate

PLACE OF MARRIAGE

5. The marriage must take place in the Diocese of York **either**:
- (a) in the church of the parish where one of the persons resides or has resided for at least fifteen days prior to the application; **or**
- (b) in any church in a parish where either of the persons to be married is enrolled on the church's electoral roll; **or**
- (c) in a church in a parish with which one of the persons to be married has a qualifying connection.

ON MEETING THE APPLICANT(S) THE SURROGATE SHOULD PROCEED AS FOLLOWS:

6.1 Identity

- 6.1.1 The two persons wishing to marry must each prove their identity to the satisfaction of the Surrogate. This is required by two documents.
- 6.1.2 First ID document is required to prove their name. The usual and convenient means to do this is for them to produce their current passports (or if not available, birth certificate). The nationality, number and expiry date of both passports must be included in the identity box on the Affidavit. The second separate document is required to show the person's permanent address. The document needs to set out the name and full postal address which bears a date no more than 3 months old. This document can be (for instance) a bank statement, credit card statement, utility bill, mobile telephone contract, HMRC tax document (P60, P45 notice of coding or assessment), council tax demand (may have date up to 12 months old), or tenancy agreement. Note a mere letter about any of these matters is not regarded as sufficient.
- 6.1.3 The Surrogate is concerned to ensure that the details of identity on the affidavit are the same as those in the supporting documentation. If difficulties arise on a particular application, then the Surrogate should consult the Registry for assistance. Proving identity (both name and address) is now common in many fields of commerce and professional life.
- 6.1.4 If matters of difficulty arise eg one of the couple cannot attend in person before the Surrogate or concerning identity documents, the Surrogate should consult the Registrar.
- 6.1.5 It is good practice for clergy to encourage the couple to produce identity documents at an early stage, and before contacting the Surrogate. It is also good practice for Surrogates to encourage clergy in the Deanery to require same documents to be produced prior to publishing banns.

6.2 Previous Marriage

- 6.2.1 The Surrogate should consult the Registrar's Guide for general guidance for a marriage where one or both persons have been previously married.
- 6.2.2 Where either person has been previously married the Surrogate needs to ascertain whether the marriage has been terminated by the death of the spouse or by divorce. It is suggested that the better enquiry is "Have you been married before?" or "Have you been through a marriage ceremony before?" rather than "Are you divorced?"
- 6.2.3 If the earlier marriage was ended by divorce and the former spouse is still alive, it had been the case that a Common Licence would not be issued. In the Diocese of York this was reviewed and changed in 2006. The procedure and requirements that need to be followed are set out in **Additional Paper 1-3** entitled "**Marriage by Common Licence of Divorced Persons**".
- 6.2.4 The application to the Surrogate for the Common Licence needs to be accompanied by the **Additional Questions** completed and signed by the priest who is proposing to officiate at the marriage **together with** the original or a certified copy of the decree absolute of divorce, (note: decree nisi is not sufficient). The House of Bishops leaflet referred to in the Additional Questions is available from SPCK and on the Church of England website (see Additional Paper 3 for more information).
- 6.2.5 The priest who is to officiate at the marriage will complete the Additional Questions and should send them direct to the Surrogate. So the officiating priest needs to liaise with the

couple to ensure they identify the Surrogate whom it is convenient for them to visit to make the application for the Common Licence. Enquiries ought to be made that the Surrogate will be available at the appropriate time, eg not on holiday, away from the parish, etc. It is recommended that the officiating priest should send the documents (see Additional Paper 3) to the Surrogate direct because if the couple fail to bring the documents on their appointment with the Surrogate, there will be delays and inconvenience. The Common Licence cannot be issued until those documents have been produced to the Surrogate.

- 6.2.6 If all is in order at the appointment, then the Surrogate may issue the licence in the usual way. The list of Additional Questions including a copy of the Decree Absolute will need to be stapled to the Affidavit and then forwarded to the Diocesan Registry with the Surrogate's cheque for the Common Licence fees.

6.3 Persons Subject to Immigration Control

- 6.3.1 The Chancellor and Vicar-General of the Diocese, Canon Peter Collier QC, has issued instructions for Surrogates to follow in applications for a Common Licence where one or both of the persons wishing to marry is subject to immigration control. Being subject to immigration control is defined as someone who is not an EEA national **and** who requires leave to enter or remain in the UK. An EEA national means a national of a state which is a member of the European Economic Area (countries in the European Union and Norway, Iceland and Liechtenstein) and (by a separate treaty) Switzerland.

In all cases where one or both of the persons wishing to marry is subject to immigration control then the appropriate preliminary for marriage in church will be a Common (or Special) Licence, and not the publication of banns.

- 6.3.2 Persons subject to immigration control may include migrant workers, who may be here in this country for a short period of time before returning to their home country or not as the case may be, asylum seekers and refugees. Persons who have lived in this country for a long period and who do not have a permanent right of abode also remain subject to immigration control. This may include citizens of the USA and the Commonwealth.
- 6.3.3 The fact that the couple may be coming from abroad to marry in England and then returning to the country where they live after they marry in England does not affect the requirement that a common licence is the appropriate preliminary for marriage for all persons subject to immigration control, after fulfilling the Chancellor's requirements.

There is one exception and this is where the person who is a non-EEA national has been issued with a marriage visa before coming to the UK. According to the UKBA website such a visa may be given to a person who intends to leave the UK within six months.

- 6.3.4 The Surrogate should consult the Guide which includes Chancellor Collier's guidance and instructions set out in **Additional Paper 4** entitled "**Marriage by common licence of persons who are not nationals of the UK, the EEA or Switzerland**" which is in four parts namely:-
Part 1: Procedure to be followed
Part 2: As the officiating priest what should you include in your report to the Chancellor.
Part 3: Action to be taken in case of concern about the genuineness of an application.
Part 4: Preliminary Questionnaire (to be compiled by each person to be married who is a non-EEA national).

- 6.3.5 There are several steps
- Preliminary Questionnaire – completed and signed by each person with identity documents attached
 - interview by officiating priest – one interview should be at their home
 - officiating priest's report to Chancellor.

- Chancellor’s preliminary screening and vetting – Chancellor’s letter valid for 6 months
 - Application to Surrogate for Common Licence
- 6.3.6 The Surrogate should be vigilant about the identity requirements (to be reasonably satisfied that the two persons each are who they say they are) and that the officiating priest has had at least one marriage preparation meeting, which is recommended to be at their home.
- 6.3.7 The officiating priest has a duty and responsibility to prepare the couple for Christian marriage, and the priest needs to explain to them the permanent nature of Christian marriage eg it is not available for a marriage of convenience or for a marriage which the couple agree may be dissolved if things do not “work out”. Marriages of convenience or sham marriages are no doubt very rare but statistics indicate that they have increased in recent years. Bigamy is a criminal offence.
- 6.3.8 Consequently the priest needs to interview the couple and provide a report to the Chancellor (through the Registrar) dealing with the various matters mentioned by the Chancellor in Additional Paper 4, part 2.
- 6.3.9 The application for each licence will be referred to the Chancellor for his decision and the application will need to be accompanied by a report from the officiating minister dealing with matters set out in the Chancellor’s guidance.
- 6.3.10 The Registrar will communicate the Chancellor’s decision to the officiating priest. If the Chancellor is satisfied that the couple can be married in church then the application for a common licence proceeds in the usual way. The officiating priest needs to liaise with the couple to ensure they identify the Surrogate whom it is convenient for them to visit to make the application for the Common Licence. Enquiries ought to be made that the Surrogate will be available at the appropriate time, eg not on holiday, away from the parish, etc. It is recommended that the officiating priest should send the Chancellor’s decision letter to the surrogate direct because if the couple fail to bring this document on their appointment with the Surrogate, there will be delays and inconvenience. The Common Licence cannot be issued until this document has been produced and the fee has been paid to the Surrogate. The couple need to be reminded that a larger than usual fee is payable.
- 6.3.11 If matters of difficulty arise, the Surrogate should consult the Registrar.

6.4 **Non-British Subjects: Foreign Domicile: Recognition of Church Marriage Abroad**

- 6.4.1 It is the responsibility of the two persons wishing to marry to establish if the marriage solemnised in a church of the Church of England in this country will be recognised in the country of domicile or nationality of either person to the proposed marriage.
- 6.4.2 Where one or both of the persons to be married comes from some country other than those listed below then to avoid risks about the recognition of a Church of England marriage abroad, it is necessary to comply both with the laws of this country and the laws of the “home” country. Enquiries as to the validity of the proposed marriage in England under the law of the country of origin should be made. This can take some weeks, but it must be noted, and the applicant informed by the Surrogate, that it is the responsibility of the persons wishing to marry to satisfy themselves that they fulfil the requirements of the countries of their domicile or nationality. Foreign recognition of the marriage as a valid marriage in another country is not the only issue; matters such as legitimacy of children, rights of residence, domicile, and the law of inheritance are all matters that may arise in the home country of the foreigner or non-British subject and be affected by a person’s marriage. It is particularly important to consult the consular authorities where one of the persons is a foreign national under the age of 25. The legal age of consent for marriage is

not invariably the same in other countries as it is in England and Wales.

6.4.3 Where one of the persons is of Australia, Canada, New Zealand, South Africa, U.S.A. or European Union nationality, then the Registrar understands that a marriage solemnised in England is recognised in these countries.

6.4.4 Some countries, while recognising a marriage solemnized by the Church of England in this country, require the marriage to be registered with the authorities of the foreigner's own country, e.g. Greece, Malta, Finland, Switzerland. If either person to the marriage in England has a foreign domicile (that is, their fixed and permanent home is abroad), they should ensure that the legal and administrative requirements of their home country are observed. This is of particular importance if the couple intend to live in the foreign country at any time: marriage outside a person's own country can affect a person's nationality, citizenship or right to reside there.

6.5 **Christian Marriage**

6.5.1 The Affidavit which the Applicant swears in support of the application now includes the statement:-

“I wish to be married in Church and I accept the Church of England's teaching that Christian marriage is marriage freely and voluntarily entered into by one man and one woman to the exclusion of all others, and in its nature is a permanent and life long union.”

6.5.2 This statement affirming Christian marriage is now made, and sworn, by the Applicant for three reasons:-

- previously a similar statement had been asked of those who were or had been a member of a faith which is not Christian;
- in recent years there has been concern about marriages of convenience
- it had been the case that a common marriage licence would not be issued unless at least one of the couple had been baptised. This was reviewed and changed in 2006. The new arrangement is that with regard to the granting of licences for those situations where neither person has been baptised, the Archbishop of York has decided that the lack of baptism of either or both persons should not in itself be a bar to the granting of a licence to enable a wedding to take place in church. This brings the matter in line with the law relating to publication of banns.

6.6 **Kindred and Affinity**

Both persons (especially if they have the same surname) should be informed of the Table of Kindred and Affinity in the Book of Common Prayer (and in Canon B31) and confirm they are not related within the prohibited degrees. The Marriage (Prohibited Degrees of Relationship) Act 1986 amended the Table so far as step-relations and in-laws are concerned and the Registrar's guidance should be sought in cases where such relationships arise.

6.7 **Minimum Age**

Both persons need to be over eighteen. Any person aged sixteen or seventeen needs to have the necessary consents in writing - see Appendix I. The required Form of Consent must be used – Form A.

6.8 **Condition or Status**

For guidance see the Registrar's Guide.

HELP THE APPLICANT TO COMPLETE THE AFFIDAVIT

- 7.1 It is suggested that the Surrogate completes the application for the applicant by asking for the information and writing it down for him/her. Tell the applicant at the outset that you are completing the application form and that you will at the end ask him/her to sign them and to swear the Affidavit as to their truth and accuracy.

The Surrogate should note the following particular points:

- (a) Deal with identity: details of these documents need to be written in the Nationality and ID box on the Affidavit.
- (b) Applicants address at the beginning of the Affidavit is the address at which the applicant is residing at the time he/she swears the Affidavit. This may be, for example, a parents' address at which the applicant is temporarily residing for 15 days prior to the marriage.
- (c) Residential address in the Schedule is the permanent address for the two persons wishing to marry; permanent addresses so that if necessary they can be traced and identified. When referring to an overseas resident, include the full address, the state or province (if any) and the country.
- (d) If one of the persons is a minor, ensure Form A (consent to the marriage) is attached to the Affidavit.

- 7.2 **BEFORE SWEARING** ensure that the deponent, ie the applicant making the oath, confirms the accuracy of the contents of the Affidavit. It is not possible to make any amendment to an Affidavit after swearing it.

It is helpful to remember that the responsibility for the accuracy of the statements in the application is on the applicant who swears the affidavit – and not on the officiating priest or Surrogate. A deponent who has lied is at risk of being prosecuted for perjury or for an offence under the Marriage Acts.

- 7.3 **THE DEPONENT SHOULD THEN SIGN** the Affidavit above the words “Applicant’s signature”.

- 7.4 **BEFORE ADMINISTERING THE OATH** the Surrogate should point to the deponent’s signature and ask him/her to confirm that this is their “name and usual signature.”

- 7.5 **ON ADMINISTERING THE OATH** the Surrogate reads the oath to the deponent, who should repeat it after the Surrogate, holding the New Testament in his/her uplifted hand. The words are:

“I (*full name*) SWEAR BY ALMIGHTY GOD THAT THIS IS MY NAME AND THAT THE CONTENTS OF THIS MY AFFIDAVIT ARE TRUE, AND THAT THIS IS MY USUAL SIGNATURE.”

Should the applicant be reluctant to make a Christian Oath holding the New Testament, or decline to do so, then he/she may make a non religious statutory declaration. The Surrogate should read the declaration to the deponent, who should repeat it after the Surrogate. The words are:-

“I (*full name*) DO SOLEMNLY, SINCERELY AND TRULY, DECLARE AND AFFIRM, THAT THE CONTENTS OF THIS MY STATUTORY DECLARATION, ARE TRUE AND THAT THIS IS MY NAME AND USUAL SIGNATURE, AND I MAKE THIS STATUTORY DECLARATION FOR THE PURPOSES OF THE STATUTORY DECLARATIONS ACT 1835.”

7.6 **AFTER ADMINISTERING THE OATH THE SURROGATE THEN SIGNS THE AFFIDAVIT** at the bottom (above and to the right of the word “Surrogate”).

If a consent letter has been exhibited for a person under 18 years old, the Surrogate should endorse on the back of the letter “This is the document marked ‘B’ referred to in the Affidavit of ... sworn before me the ... day of ... 200..” and should sign this endorsement.

7.7 **COLLECT THE FEE:**

- (a) The applicant who deposes an Affidavit is obliged to pay the fee.
- (b) It is the Surrogate’s responsibility to ensure that payment of the full fee is made. It is therefore desirable that the fee is paid in cash. A cheque signed by an applicant will not be accepted by the Registrar. When the initial contact is made with the Surrogate (by the applicant or priest on their behalf) it is a wise precaution to mention that the fee will be required to be paid in cash. (If the fee is not paid in cash, the signed and sealed licence cannot be delivered to the Applicant). A written receipt should always be given acknowledging the amount of cash paid.

7.8 **COMPLETE THE LICENCE** by using a blank licence (which has previously been sealed and signed by the Registrar): follow the precedent given to you on being made a Surrogate. **THEN HAND THE LICENCE TO THE APPLICANT** and inform the Applicant the Licence will need to be produced to the officiating priest.

7.9 **THE SURROGATE** then promptly returns to the Registry in York the completed affidavit together with a cheque for the fee. In addition it will be necessary to attach to the Affidavit the Additional Paper 3 of Additional Questions (with a copy of the decree absolute attached) if a Common Licence has been issued for a divorced person, and the letter from the Chancellor if a Common Licence has been issued for a person subject to immigration control. The licence fee is composed of two parts: a portion to be retained by the Surrogate as his or her ministerial fee and the balance to be forwarded to the Registry with all the papers (a portion of this is remitted to the DBF for the Chancellor’s fee). The fee for the Registry should be a cheque drawn in favour of “York Diocesan Registry”. The Surrogate’s fee is a ministerial fee which should be forwarded to the Diocesan Board of Finance as if it were a fee for an Occasional Office.

The Registry is obliged to record the issue of the licence and details, so it is important the Surrogate forwards the documents and fees within a day or two to the Registry.

7.10 To summarise – in bullet points:

- complete the Schedule
- complete the front page
- applicant signs
- administer the oath or statutory declaration
- Surrogate signs
- collect the fee in cash and issue receipt
- complete and issue the licence
- send applicant’s affidavit and fee to Registry – same day please

7.11 **A REPLACEMENT AFFIDAVIT** and a signed but blank licence will be sent to the Surrogate by return of post.

FEES

8.1 The fee current from 1 April 2013 is as follows:-

Portion to be retained by the Surrogate for DBF:	£52.00	
Balance to be forwarded to the Diocesan Registry:	£148.00	
Total Licence fee:		<u>£200.00</u>

8.2 The Registrar writes and informs Surrogates of revised fees, usually March – April each year.

LIONEL P M LENNOX
Registrar of the Diocese of York

December 2012

NOTES, FORMS AND APPENDICES ATTACHED

Additional Paper 1-3 - Marriage by Common Licence of Divorced Persons

Additional Paper 4 (part 1-4) - Marriage by Common Licence of persons who are not nationals of the UK, the EEA or Switzerland

Appendix I – Consents to the marriage of a minor (usual cases)

© L P M LENNOX 2012. No part may be reproduced by any means nor stored in any form without written permission.

MARRIAGE BY COMMON LICENCE OF DIVORCED PERSONS Procedure

Following the decisions in 2002 to rescind the Regulations of the Convocations of Canterbury and York and the issuing of the House of Bishops Advice to Clergy on this matter, the Archbishop of York (in consultation with the Suffragan Bishops and Archdeacons of the Diocese) reviewed the policy on the issue of Common Licences where either or both of the parties to the proposed marriage have been married previously with a former spouse still living.

In certain circumstances, it is now possible for a Common Licence to be issued for a marriage where one or both of the two persons are divorced.

The priest who will officiate at the proposed wedding must consult and follow the House of Bishops *Advice to the Clergy* for the marriage of divorcees and complete the various questions published by the House of Bishops.

There is enclosed a copy of the four Additional Questions (Additional Paper 3) which the officiating priest is asked to use in respect of these applications. The questions pre-suppose the use of both the House of Bishops Advice and also the standard form and explanatory statement 'Marriage in Church after Divorce'.

These pamphlets are available from SPCK and the material can be found on the website at: www.churchofengland.org/media/1162432/leafletforenquirers.pdf

The officiating priest should interview the couple and address the questions from the House of Bishop's Advice reproduced on Additional Paper 2. If the priest is satisfied it is right to proceed with the marriage in the light of the House of Bishops' Advice, then the Additional Questions on Additional Paper 3 should be completed.

If the priest is satisfied that the couple have made an appropriate response to the points in Additional Paper 2, then it is sufficient to answer Questions 2 and 3 on Additional Paper 3 with a simple 'yes'. Pastorally sensitive details are not required to be divulged to the Surrogate.

You will see that Question 4 asks whether the views of the Suffragan Bishop have been sought and whether he has expressed any views. The Archbishop of York has indicated that provided the questions raised in the *Advice to Clergy* have been satisfactorily addressed, there is no specific need to seek the Suffragan Bishop's views in relation to the granting of Common Licences. However, the Suffragan Bishops wish to assure clergy that they are very happy to be consulted as a point of reference about a particular application if required or this would assist.

When this has been done, the couple need to make an appointment with the Surrogate to obtain the Common Licence. **The Surrogate will need to see the Additional Questions that the officiating priest has completed and the decree absolute of divorce or a certified copy – it is recommended that the officiating priest sends these documents to the Surrogate,** (rather than ask the couple to take them with them to their appointment).

If the officiating priest or Surrogate is in doubt about the new arrangements, they may contact the Registry for assistance and advice.

MARRIAGE BY COMMON LICENCE OF DIVORCED PERSONS**Questions reproduced from the House of Bishops Advice to Clergy leaflet**

- (a) Do the applicants have a clear understanding of the meaning and purpose of marriage?
- *Do the couple understand that divorce is a breach of God's will for marriage?*
 - *Have they a determination for the new marriage to be a life-long faithful partnership?*
- (b) Do the applicants have a mature view of the circumstances of the breakdown of the previous marriage and are they ready to enter wholeheartedly and responsibly into a new relationship?
- *Does the divorced person appear to be relatively free of self-deception and self justification about the past?*
 - *Did the divorced person take the first marriage seriously and has he/she learnt from mistakes?*
 - *Is the other party aware of the possible cause(s) of the breakdown of their future partner's previous marriage?*
 - *Is there an attitude of repentance, forgiveness and generosity of spirit so that the applicants are free to build a new relationship?*
- (c) Has there been sufficient healing of the personal and social wounds of marriage breakdown?
- *Has there been enough time and distance for the parties concerned to recover emotional stability and good judgment?*
 - *Are there any extant court proceedings relating to the former marriage?*
 - *Are responsibilities to the children of any previous marriage being recognised and honoured?*
- (d) Would the effects of the proposed marriage on individuals, the wider community and the Church be such as to undermine the credibility of the Church's witness to marriage?
- *Would the new marriage be likely to be a cause of hostile public comment or scandal?*
- (e) Would permitting the new marriage be tantamount to consecrating an old infidelity?
- *While it would be unreasonable to expect that the couple should not even have known each other during the former marriage(s), was the relationship between the applicants – so far as you can tell from the information made available to you – a direct cause of the breakdown of the former marriage?*
- (f) Has either of the parties been divorced more than once?
- *In the case of multiple divorces, the sheer complexity of relationships that may have developed will inevitably make any assessment by you more difficult. However, the Church witnesses to lifelong marriage, and should not find itself being a party to 'serial monogamy', hence neither of the parties should normally have been married and divorced more than once.*
- (g) Do the applicants display a readiness to explore the significance of the Christian faith for their lives so that their further marriage is not an isolated contact with the Church?
- *Given that the provision of careful marriage preparation should be the norm for all couples seeking marriage in church, do the applicants possess an understanding of the need of God's grace in relationships and show a willingness to be open to Christian teaching?*

MARRIAGE BY COMMON LICENCE OF DIVORCED PERSONS
Additional questions to be answered by the officiating priest

Name of divorced person:

If both persons are divorced and both have a former spouse still living, please complete a form for each.

Proposed Date of Wedding:

Proposed Place of Marriage: (Name of Church)

Additional Questions to be completed by the priest intending to officiate at the marriage

1. Has a Decree Absolute been issued in respect of the first marriage (note: decree nisi is not sufficient)? If so, please attach the original, or a copy certified by yourself or another independent person as being a copy of the original.

.....

2. Have you followed the procedure set out in the House of Bishops leaflet on Marriage in Church after Divorce? [Please answer yes or no.] If the answer is no, or if there are any matters you wish to bring to the Surrogate's attention, please add an explanatory note here.

.....

.....

3. Having interviewed the couple, are you satisfied that it is appropriate for them to be married in Church? [The questions and notes that the House of Bishops leaflet suggests may be helpful to officiating clergy are reproduced on Additional Paper 2.]

.....

4. Have you sought the advice of the Suffragan Bishop in this case and has he expressed any views? [There is no specific need for this if the answers to questions 2 and 3 are both 'yes'.]

.....

Officiating priest please print your name and address below

I

of

have interviewed the two persons wishing to marry and I am willing to officiate at their marriage if a common licence is issued.

Signature: Date:

Name of Surrogate to whom Application is made:

Further copies may be downloaded from www.yorkdiocesanregistry.com

MARRIAGE BY COMMON LICENCE OF PERSONS WHO ARE NOT NATIONALS OF THE UK, THE EEA OR SWITZERLAND

Part 1: Procedure to be followed

First, please read section 13 of the Guidance above carefully.

If the man or woman seeking marriage does not have a right of abode in the UK, or if either person's immigration status is unclear, the priest who is approached should:

- 1 Interview both persons intending to marry. At least one interview must take place at the stated home address of one or both of the persons. Explain that banns are not the appropriate preliminary, but the people may apply for a Common Licence.
- 2 Both persons must complete a separate Preliminary Questionnaire (see Additional Paper 4 Part 4). Go through the Questionnaire with them and ensure that they can supply the required documents (see section 10.2-3 in the Guidance notes). If appropriate, photocopy and countersign original documents to send on to the Chancellor (but do not accept photocopies from the applicants unless you can check them against originals). The Surrogate will also need to see the original documents when the affidavit is sworn.
- 3 Make a report to the Chancellor (see the next page for items to include) through the Registrar.

The Chancellor will then consider the report and decide whether a Common Licence should be issued. Please be sure to keep a file of all documents and notes.

Consideration of the report of the officiating cleric and the making of the decision

The Chancellor will consider the Preliminary Questionnaires as completed by the two persons wishing to marry, together with the officiating priest's report. He will then decide whether a Common Licence should be issued. The Chancellor will notify the priest and the couple of his decision through the Registrar.

If the Chancellor decides that a Common Licence is to be granted, he will give permission for the normal procedure by application to a Surrogate to take place. The Chancellor's decision letter is not itself the legal preliminary to the marriage.

When the priest receives the decision letter from the Chancellor, (s)he should liaise with the couple to ensure they identify a Surrogate whom it is convenient for them to visit and who will be available. The officiating priest needs to send the Chancellor's decision letter to the Surrogate direct. Both persons to be married should attend before the Surrogate, even though only one need actually swear the affidavit.

If the decision is not to issue a Common Licence then the Chancellor will send a decision letter to the Registrar who will make arrangements for the decision to be communicated direct to the couple, or through the priest if the priest so requests at the time of making the report.

Note: Experience in this and other dioceses where this procedure of 'calling in' applications to be determined by the Chancellor has been introduced, in fact there are few refusals. Those enquiries from couples who might have difficulty in fulfilling the various requirements seem not always to be followed up with formal applications.

MARRIAGE BY COMMON LICENCE OF PERSONS WHO ARE NOT NATIONALS OF THE UK, THE EEA OR SWITZERLAND

Part 2: As the officiating priest, what should you include in your report to the Chancellor?

State the occasion of your interview(s) with the couple, including the date and place of each (Note: at least one interview must have taken place at the home(s) of the couple)
Include a general account of the impression you formed of the relationship

Information about each of the parties (to be included even if one is a UK national)

Name; date of birth; address
Place of origin
If not a UK national, when s/he arrived in this country, and circumstances of arrival
The current immigration status of the two persons
Copy of the passport or other travel document of both persons, including pages showing personal identity information, photograph, visa or entry stamp / authority, and any stamp / sticker / certificate showing that the holder has right of abode in the UK

Is s/he working: if not how is s/he supported?

What faith (if any) the person espouses
Any issue that creates difficulty or concern for the officiating priest

Has either of the persons been previously married?
If so then the procedure in Additional Papers 1-3 needs to be followed.

Information about their relationship, plans and expectations

When and how they met
When they decided to marry
Whether there is any particular reason for marrying (e.g. pregnancy)
What their expectation is of having children

What consideration have they given to what they will do if one or both of them are removed from this country? (It would be possible for one to be removed and one to remain; or for both to be removed possibly to different countries).

If one or other, or both is/are removed and they have children either by former unions or this intended union, then what do they plan to do with regard to the future care of the children?

Information about their wish to marry in church and understanding of Christian marriage

The affidavit in support of the Common Licence includes the statement:

'I wish to be married in Church and I accept the Church of England's teaching that Christian marriage is marriage freely and voluntarily entered into by one man and one woman to the exclusion of all others, and in its nature is a permanent and life long union.'

Have you discussed this statement with the couple wishing to marry, and have they indicated to you that they can sincerely make this statement?

You need to have discussed the Church of England's teaching with the couple before writing the report for the Chancellor, and to be satisfied that they understand Christian marriage to be a lifelong commitment. If you have any concerns that the intended marriage may be a sham, or about any other aspects of the application (see Part 3 of this Additional Paper), you should describe the concerns in your report.

continued on next page

Please send the following items together to the Diocesan Registrar, for the attention of the Chancellor, at the Diocesan Registry, Stamford House, Piccadilly, York YO1 9PP:

- Your report
- The two Preliminary Questionnaires, one completed and signed by each of the couple
- Certified copies, or copies checked and countersigned by you, of the following documents:
 - The two identity documents (section 10.2-3) in respect of each person desiring to marry
 - Be sure to include copies of the pages of the identity documents showing both identity and also the person's immigration status in the UK
 - Where appropriate, evidence of the ending of any previous marriage(s)

The name of the Surrogate to whom the application will be made must be included in the report.

MARRIAGE BY COMMON LICENCE OF PERSONS WHO ARE NOT NATIONALS OF THE UK, THE EEA OR SWITZERLAND

Part 3: Action to be taken in case of concern about the genuineness of an application

The majority of applications for the marriage of non-EEA nationals are genuine, and clergy are encouraged to support those people as they prepare for their marriage. Most couples from different cultural or national backgrounds do intend to enter into a genuine Christian marriage.

Instances of attempted sham marriages, though, while not common, are on the increase. Clergy must feel able to voice concerns, even if at first those concerns are at the level of uncertainty rather than firm evidence of deceit. In many instances further investigation will allay those concerns. But those who do not have a genuine intention may at first be very convincing.

Clergy have a duty to explain to all couples the Church's doctrine of marriage and their obligations as married persons. If the couple decline to attend such meetings, clergy should inform them that the marriage cannot take place until they do. The guidance of the House of Bishops makes clear that clergy who decline to conduct a wedding for such reasons will not be considered guilty of misconduct.

When should clergy contact other authorities?

Clergy are advised to contact the Diocesan Registry (and, if appropriate, the archdeacon, UK Border Agency or police) immediately:

- if a non-EEA national tries to insist on banns being published
- if there is pressure for the marriage to be conducted within as short a time as possible
- if an unknown, hostel or non-residential address supposedly in the parish is given (clergy are encouraged to use their local knowledge)
- if the address where the interview takes place does not look like a real place of residence
- if a couple do not appear to communicate or interact at an interview in a way one would expect of a genuine couple, whether or not they share the same first language
- if the people seem to know little about each other and/or their partner's personal / family background
- if one person is not engaged in the interview
- if one person answers all questions, including responding on behalf of the other
- if one person is unavailable for interview or for the appointment with the Surrogate and there is no convincing reason, especially if there is a series of excuses
- if there are no clear and consistent plans for a future life together
- if the parties fail to produce original documents and only provide photocopies
- if there are any signs that a third person is acting as a paid agent or facilitator in making arrangements (There are instances of a facilitator gaining a priest's confidence over a period and then exploiting the relationship by introducing two persons who wish to arrange a sham marriages)
- if the priest has doubts about the authenticity of documents

If you have concerns about your safety in making a visit, you should consider going accompanied.

Any member of the clergy who has been subjected to any threats or pressure in connection with an intended marriage should immediately report the matter to the police, the archdeacon and the Diocesan Registry.

Canon Peter Collier QC *Chancellor and Vicar-General of the Diocese of York*

October 2011

Further copies may be downloaded from www.yorkdiocesanregistry.com

MARRIAGE BY COMMON LICENCE OF PERSONS WHO ARE NOT NATIONALS OF THE UK, THE EEA OR SWITZERLAND:*Part 4: Preliminary Questionnaire*

If either person to be married is a non-EEA national, *both* persons must each complete a separate copy of this form.

NB Any information supplied in or in connexion with this application for a Common Licence will be held at The Diocesan Registry and may be passed to the UK Border Agency or other Government Agency or Department for verification and/or may be supplied to such Agencies or departments at their request.

Please tick the box to confirm you understand this:

Your full name

Your current address (in full)

When did you move to that address?

You are required to produce two original documents — one (with photograph, e.g. passport) to prove your identity and nationality / immigration status, and another (e.g. utility, bank or government document) to prove your address (see note below)

Telephone number

Date and place of birth

The name of the person you intend to marry

Are you a British national? Yes / No

If not a British national

When did you arrive in this country?

Describe the circumstances of arrival

What is your current immigration status?

Are you working: if not how are you supported?

Faith matters

What faith (if any) do you espouse?

Have you been previously married?

Signature

Date

Note: The priest will give guidance about which documents will be required to prove your identity. If you have been previously married, documents recording the ending of that marriage (either by a decree absolute of divorce or by the death of your previous spouse as the case may be) will also be required.

APPENDIX I

CONSENTS TO THE MARRIAGE OF A MINOR (USUAL CASES)

Situation of minor	Consent required in writing from:	Wording of extra clause at end of Oath:
OPENING WORDS FOR ALL CASES		AND I FURTHER MAKE OATH that the consent(s) of ...
Legitimate: 2 parents living and having custody	Both parents	... A.B. and C.D. the natural and lawful parents of the said Minor ...
Legitimate: 1 parent living and no guardians	Surviving parent	...A.B. the natural and lawful father/mother, surviving parent and sole guardian of the said Minor...
Legitimate: 1 parent living and guardian appointed by Will	Surviving parent and guardian	...A.B. the natural and lawful father/mother and surviving parent of the said Minor and ...C.D. the guardian appointed by the Will of ...E.F. the natural and lawful mother/father of the said Minor, now deceased
Legitimate: Only one parent having custody	Parent with custody	...A.B. the natural and lawful father/mother of the said Minor to whom his/her custody was committed by an Order of the ... Court dated... day of ... 19..
Legitimate: Orphaned: in custody of guardian	Guardian	...A.B. the guardian appointed by (the Will of...C.D. the natural and lawful father/mother and last surviving parent of the said Minor, now deceased) (an Order of the ... Court dated the ... day of ...19..)
Illegitimate: Mother living and having custody	Mother	... A.B. the natural mother of the said Minor
CONCLUSION FOR ALL CASES		... has been given to the said marriage and is contained in the document now produced to me and marked "B"

REFER OTHER SITUATIONS TO THE REGISTRY