

## OPEN AGENDA – PUBLIC DOCUMENT

Copy No:

No: 76/2017

### Memorandum for Executive Council

**SUBJECT**

Marriage Bill

Memorandum by Chairman of the Social and Community  
Development Committee

**ADVICE SOUGHT**

Council are asked to consider the Marriage Bill, as enclosed, and to recommend publication in advance of its presentation at the next session of the Legislative Council.

**BACKGROUND &  
CONSIDERATIONS**

1. The Marriage Bill was presented to the previous Legislative Council on 16<sup>th</sup> December 2016. It was withdrawn during the committee stage.
2. Following the general election in July 2017, the Elected Members have been considering whether or not to adopt the mandate of the previous Council in respect of the Marriage Bill. The new Social and Community Development Committee (SCDC) was asked to ascertain the views of the public and to make a recommendation.
3. A series of seven public meetings were held in October and the public were also invited to express their views in a variety of other ways. During that period, members of the public also organized two petitions: one in favour of equal marriage; the other opposing it. Overall, there was no clear majority view with similar numbers expressing support for enacting the Marriage Bill and for enacting legislation for civil partnerships.
4. Having taken into account the feedback from the public and the other relevant considerations, SCDC has taken the decision to recommend that this Executive Council should adopt the mandate of the previous legislature for the Marriage Bill, with the minor amendment that the date of 2016 in the short title be revised to 2017.
5. The Marriage Bill expressly permits two people of the same gender to marry; thereby ending the uncertainty that is the subject of the current court proceedings. Although that is the most conspicuous feature of the Bill, it also deals with other aspects of marriage.
6. The Bill will allow the Registrar-General to approve premises other than places of worship for the solemnization of civil marriages. Therefore, marriages may be solemnized at the Castle, Plantation, hotels and restaurants if the prescribed

## OPEN AGENDA – PUBLIC DOCUMENT

processes are followed and the prescribed fees paid.

### FINANCIAL IMPLICATIONS

7. The Bill provides that clergy may decline to solemnize a marriage (for instance between two persons of the same gender) if such a marriage is not in accordance with the rules or customs of the relevant communion or denomination.
8. Regulations for the registration of approved premises will be presented to ExCo once the Bill is enacted.
9. Enacting the Marriage Bill as it stands would avoid at least one court case on the issue. Avoiding a court case would avoid £35,000 in Barrister's fees, a potential £35,000 in fees for the appeal and an additional £55,000 for Privy Council. It would also avoid time spent by the Attorney General's office.

### ECONOMIC IMPLICATIONS

10. St Helena has an aging population with more deaths than births and one of the highest dependency ratios in the world. The outcome of the court case is likely to affect migration decisions of the St Helenian LGBT community. Any policy which discourages returning Saint Helenians to come back, or encourages working Saint Helenians to leave the island hinders economic prosperity.
11. There may be a negative impact on tourism if the Marriage Bill is not enacted as it stands. There will be media attention around this issue, and should would be visitors or those considering working on St Helena believe that a minority is being marginalised, this may affect their decision to travel.

### PUBLIC/SOCIAL IMPACT

12. People in committed relationships with a person of the same sex will receive equal treatment and the current situation in which they are denied certain rights afforded to them by the Constitution will end.

### ENVIRONMENTAL IMPACT

13. No Environmental impact.

### PREVIOUS CONSULTATION / COMMITTEE INPUT

14. There has been widespread publicity, public meetings and the public were invited to give their views in a variety of ways. That feedback was taken into account by the current SCDC before making this recommendation.
15. Both the SCDC and Executive Council constituted by the previous Legislative Council approved this Bill.

### PUBLIC REACTION

16. The public reaction is likely to be mixed. Some will be very happy if the Marriage Bill is enacted, others will be very unhappy. The vast majority of the public did not participate in the discussion and it is a reasonable assumption that many will not feel strongly one way or the other.

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**PUBLICITY**

17. The passage of this Bill is expected to be of great interest to the public and to the media. The decision should be included in the ExCo report and Elected Members of SCDC should be available for newspaper and radio interviews.

**SUPPORT TO  
STRATEGIC  
OBJECTIVES  
OPEN AGENDA  
ITEM**

18. None.

19. Recommended for discussion in open session.

***DATE OF MEMO*** 04.12.2017

*AG*