

FOREIGN AND COMMONWEALTH OFFICE REQUESTS FOR PROOF OF VALIDITY OF MARRIAGE – APOSTILLE

It is sometimes necessary for a couple to prove the validity of their marriage if they are thinking of residing in certain foreign countries. This certification is dealt with by the FCO Legalisation Department under an arcane procedure known as an Apostille, under the 1961 Hague Convention, (which codifies the process of certification by a state authority). The Apostille is a certificate by the FCO endorsed onto the marriage certificate confirming that the signature stamp or seal on the document is true and genuine

The request for the confirmation should come from the FCO. Nowadays the requests usually come by email to the priest concerned. But if the couple concerned approach a priest direct, they should be asked to send details of who it is at the FCO the priest or the Registry should communicate with.

The FCO hold a data base of signatures, so that, for any one particular priest they only ask for a sample signature once.

The current practice of the FCO appears to be to ask the priest or incumbent to confirm that the signature on a copy of the certificate that they send to the priest is genuine, and for the full name of the priest concerned, and their capacity (ie vicar or clerk in Holy Orders or whatever). This practice is better than the older practice of asking for a priest or incumbent to send a copy of their signature either to the FCO or to the couple, and the advice the Registry has given, for some years now, is that the FCO or couple should indeed send a copy of the document they seek to authenticate rather than for a priest to send a copy signature.

As to Data Protection, the Registry has long taken the view that disclosure is permissible, because the data is required by a Government Department for the purpose of enabling the establishment or protection of the legal rights of marriage by the parties requesting the certificate (Apostille); their certificate is based on verifying the signature of the priest who performed a public office. It is complex and there is a discretion; but, given the public nature of the marriage, the obligation on the priest to sign the public certificate, the Treaty obligation of the State, the purpose for which we are providing a specimen signature, and the purpose of establishing the marriage parties' rights in law, disclosure is positively desirable and is a proper use of what would be regarded under Data Protection laws as 'sensitive personal data'. The signature is held by the FCO only for the purpose of provision of such certificates, and the FCO database is only accessible by staff working in the Legalisation Department. The Registry therefore take the view that the data comprised within the signature may be disclosed under s35 of the DPA 1998.

In some situations, the current incumbent will not be the one who carried out the marriage. But if the incumbent holds the Register s/he will be able to check other entries to see if the signatures correspond. If the Register is unavailable now, then there may be other books within the parish that can be compared. Finally if these sources fail then the request should be referred to the Registrar to consider; we may well be able to ask the Bishop's Assistant to check the records held within the Bishop's office to see if they hold anything with a signature from the priest on it.

If the signature is not that of the priest concerned then any response to the FCO should make clear that the person responding is not a skilled handwriting expert, and is only able to say that it appears to them from a lay perspective to be the signature of the person concerned.

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Niall Blackie

Lichfield Diocesan Registrar