

## **NOTARIES – COMPLAINTS AND DISCIPLINE**

The Notaries (Conduct & Discipline) Rules 2015 provides a system both for dealing with complaints raised by clients of notaries on minor matters (such as fees or delays) as well as serious complaints where there is an allegation of professional misconduct.

The first feature of the Rules to note is that minor, or 'service', complaints are referred to one of the two members' societies for notaries, the Notaries Society or the Society of Scrivener Notaries. The Rules delegate to the societies the power to investigate and hopefully resolve such complaints swiftly and without any cost to the complainant. Where a notary is a member of neither society, the complaint can be referred to a member of a panel of notaries maintained by the Faculty Office to undertake a similar process of resolution.

Where the Faculty Office, or one of the societies, receives a complaint which clearly shows, or suggests, professional misconduct, then the Faculty Office will appoint a 'Nominated Notary' to formally investigate the matter and if appropriate commence formal proceedings in the Court of Faculties. Guidance notes for the Nominated Notary provide help for that notary in preparing and bringing the case before the Court.

Formal complaints are heard by a Judge of the Court (known as the Commissary) who sits with two Assessors, one a notary and one a 'lay' person. The Rules provide for the Commissary to manage the case and determine procedure. Where there may be a risk to the public, there is a power for the Court to suspend the notary from practice immediately. Where a formal complaint has been proved, there are a number of sanctions available to the Court, including supervision of the notary's practice, further training, suspension from practice for a period or striking-off. The Court may also order that a client who has suffered loss be indemnified.

Attached to the Rules is a Fees Order which specifies fees to be paid at every stage of the investigation and hearing to the Nominated Notary, to any advocate appearing before the Court, for fees to be payable to the Assessors and to cover the costs of the Court and also for the giving of Directions at any stage during the proceedings. This Order may be amended by the Master of the Faculties at any time and has been designed to ensure costs of disciplinary proceedings are controlled and proportionate.