

THE FACULTY OFFICE OF THE ARCHBISHOP OF CANTERBURY

NOTARIES

Annual Report 2017 for the year ending 31 March 2017

In the practising year to 31 October 2016, 793 notaries took out a Practising Certificate (794 in 2015); 19 notaries retired from practice and a further 6 were taking either sabbatical, maternity or other leave for all or part of the year. Sadly, one practising notary died during the year. During the course of the calendar year the Master admitted 28 new notaries – the same number as in 2015. The number of late renewals of Practising Certificates again dropped and it was also noticeable that there were again fewer applications that had to be returned due to incomplete – or totally missing – CPE or insurance information.

The Faculty Office continued to work in 2016 on a number of aspects which had arisen out of the LSB's Regulatory Standards Report in 2013 as well as the Regulatory Standards Report which was released in the summer of 2016. The latest report presents a much more positive picture of the progress made by the Faculty Office against each of the standards set. The LSB's response has again been positive and has commended the Faculty Office for engaging with the issues which had arisen. In addition, a not inconsiderable amount of time was spent supporting the work been done in preparing the Code of Practice and we are particularly grateful to the three authors of the Code, Elaine Standish, Iain Rogers and Nicholas Thompson for their excellent work. It is very much hoped that the Code has been, and will continue to be, well received by the profession and found to be helpful. Further work has been ongoing on the issue of entity regulation (see below) and a considerable amount of time was spent in analysing and responding to the requirements of the Competitions and Markets Authority following its review of legal services in this country. The Master has committed to implementing the CMA's requirements which are also backed by the Legal Services Board.

I am glad to be able to report that in 2016 only one complaint concerning a notary was notified to the Faculty Office and, the complaint in question, being a service complaint, was referred to the Notaries Society for resolution under the Informal Procedure operated by the Society. However, two formal complaints, involving allegations of Notarial Misconduct, were brought into the Faculty Office and Nominated Notaries were appointed in both cases which are ongoing. It should be noted that following the making of the Notaries (Conduct & Discipline) Rules 2015 and the associated Costs

Order, it is now possible for the costs of disciplinary proceedings to be kept strictly under control thus avoiding, wherever possible, substantial drains on the Contingency Fund.

The Advisory Board met on four occasions in 2016. The major items on the agenda were finalising the Code of Practice, entity regulation, the CMA review (see above), and the application of the Institute of Chartered Accountants of England and Wales to take on the regulation of notaries. In addition the Board advised the Faculty Office on the Action Plan arising from the 2015 Regulatory Standards Report from the LSB and also regulatory reduction.

The Qualifications Board also met on four occasions in 2016 and, in addition to scrutinising applications for Certificates of Exemption, also considered amendments to the Qualification Rules providing for Chartered Legal Executives to become notaries and the removal of references to the 2005 EC Directive (which was no longer applicable to notaries) and to removal of the rule covering Scottish and Northern Ireland notaries. 28 students successfully completed the UCL course in the summer of 2016 and 41 students were enrolled on year 1 of the course and 34 on year 2. During 2016 the Board considered 71 applications for Certificates of Exemption (79 in 2015) and 48 Certificates were issued (44 in 2015). Iain Rogers and Michael Lighthowler, have continued their work of visiting law fairs and law faculties in various universities to talk about notaries and to encourage students reading law and/or languages to consider the profession.

At the beginning of 2017 Dr Peter Smith retired from the chairmanship of the Qualifications Board and Colin Menzies retired from the chairmanship of the Advisory Board. The opportunity was taken, following the annual Notarial Forum in January, to bid farewell to both Chairmen who had guided the work of the Boards with considerable distinction. In the case of Peter Smith, he had been the first and only Chairman of the Board since its inception in 1998 and his sheer enthusiasm and dedication to the notaries and their training and qualification has benefitted the profession and the Faculty Office enormously. He has been succeeded by Professor Rob Chambers, himself a Canadian notary and Professor of Private Law at King's College London. The new Chairman of the Advisory Board is Mark Craig who is director of Communications at the BMS World Mission, a National Leader of Governance concentrating on developing school governance capacity and expertise and founder of Question Mark, an educational consultancy.

The Advisory Board has also been joined by Michael Heap, the recently retired chairman of the Intellectual Property Regulation Board, who brings a wealth of regulatory experience as well as very

useful experience of dealing with the LSB. He is already contributing most usefully to the Board's discussions.

You may have noticed that this report covers the fifteen month period from 1 January 2016 to 31 March 2017. This is to bring the Registrar's Annual Report into alignment with the Faculty Office's amended accounting year end. The Faculty Office has historically operated a calendar year accounting period. However, the accounting year commencing 1 January 2016 was lengthened to a 15 month period to facilitate a change of year end to 31st March. From now onwards, the Faculty Office accounting period will run from 1st April to 31st March. The Faculty Office accounts have previously been prepared on a cash basis rather than an accruals basis and the change in accounting practice has highlighted that the regulatory arm of the Faculty Office has operated using 'borrowed' funding from its other sphere of operations pending receipt of the practising certificate income towards the end of the financial year. The current 'borrowing' requirement is around £208,000 and the Master is keen that this figure be reduced year-on-year in order that we can reach the point where the regulatory arm operates without any borrowing requirement.

The accounts for the regulatory arm of the Faculty Office are attached and show a surplus on the year of £26,383. In line with the costs transparency requirements of the LSB, budgets for the years ending 31 March 2018, 2019 and 2020 have been prepared are also attached; these budgets provide for a projected surplus for each of these three years. If the budgets hold up, the projected accumulated deficit as at 31st March 2020 will be £125,356. It will be appreciated that a lot of assumptions have been made in preparing these budgets, particularly around projected numbers of notaries and potential expenditure, but we have tried to be as accurate as possible and also to err on the side of caution. Only time will tell if our projections are correct.

However, there continues to be significant pressure on the budget including the likely significant extra spend on the Legal Choices Website in order that it is enabled to fulfil the role which the Competition and Markets Authority ("CMA") Market Study recommendations are seeking. Additional expenses will also be incurred if a single 'legal professionals' database is to be established across the regulators as envisaged by the CMA recommendations. The final substantial additional external expenditure (although this has not been calculated (or at least not disclosed)) relates to the creation of Office for Professional Body Anti-Money Laundering Supervision as part of the Financial Conduct Authority to fulfil the Government's obligations under the new Money Laundering directive.

This is to be funded by a levy on the Money Laundering Supervisors, of which the Faculty Office is the one responsible for the notarial profession.

In order to cover these substantial additional costs, the Master has concluded that it is necessary to increase the practising fee by £30.00 to £520.00 and this has been approved by the LSB following consultation with the profession at large. You will see that the budgets for the following two years do not, currently, envisage a need to further increase the practising certificate fee whilst continuing to make a year-on-year surplus with a view to reducing the accrued deficit.

The 2016 accounts for the Faculty Office Contingency Fund are also attached. The Contingency Fund year end has also been amended so that the 2016 accounts also cover a 15 month period to 31 March 2017. This fund exists to provide cover for costs arising from disciplinary cases which are otherwise not recoverable from the notaries concerned. Unfortunately, the contribution ordered to be paid by a notary as a result of a disciplinary hearing has been left largely unsettled and it seems unlikely that this sum will be recovered without potentially costly debt recovery litigation. The debt is approximately £13,500 but the notary concerned is no longer practising as a notary and, given what was disclosed concerning his finances during the proceedings, the likelihood of recovering the sum is low even if recovery proceedings were taken. The Master has therefore reluctantly decided that a £10.00 increase to £30.00 is necessary this year to recoup the loss and to refresh the fund to our aim of around £100,000.

The inspections of notaries' records and practices under the Inspections Regulations continued in 2016 and a further 20 notaries had their practices inspected by the two inspectors. All but two of the practices were found to be satisfactory and in those cases the Master directed that the practices should be re-inspected in subsequent years. Otherwise the remainder of the practices were found to be satisfactory and no matters of major concern were identified by the inspectors. A small number of matters of good practice were highlighted by the inspectors and these were drawn to the attention of the authors of the Code of Practice. As in previous years, a number of those inspected also carry out Conveyancing and/or Probate in their capacity as notaries and those areas of their practices were included in the inspections. The inspectors' report on the 2016 inspections is available to view on the Faculty Office website. Robert Pickford retired from both his role as inspector and also from his notarial practice at the end of 2016. We are particularly grateful to Robert for his thorough but sensitive work as an inspector and his contribution to the profession as a whole. He has been replaced by Mr Tony Martin who practises as a notary at Heskin in Lancashire

and who is also an Attorney in New York. Michael Pulvermacher, to whom we are also immensely grateful, continues as the other inspector.

Once again, the Faculty Office has had a busy period in 2016/17, not only with the day to day regulation of the notarial profession but also in addressing issues which continue to be raised both by the LSB as well as other entities referred to above. The work on entity regulation has proved to be a major exercise and we are pleased to announce that we have taken on a consultant to assist us with this who has recently retired from one of the other front-line regulators. There will be a short presentation at the Notaries Society Conference at the end of September on this exercise. Notaries will have become aware that the Faculty Office is now consulting direct with the entire profession, as well as with the two Societies as we have always done in the past. This is now a requirement of the LSB whenever major rule changes are proposed or the annual practising fee is being proposed by the Master and approved by the LSB. The Faculty Office continues to be extremely grateful for the support of both the notarial Societies in the carrying out of its regulatory duties including its dealings with the LSB, CMA, Ministry of Justice and the other bodies with whom we have to work.

**HOWARD DELLAR
REGISTRAR
FACULTY OFFICE**

September 2017

ANNEX 1

FACULTY OFFICE NOTARIAL FEES AND EXPENSES FOR THE 15 MONTH PERIOD 1 JANUARY 2016 - 31 MARCH 2017

	15 Month Period 1 Jan 2016 to 31 Mar 2017		Restated 2015	
	£	£	£	£
Notarial and Practising Certificates Fees		452,671		354,450
Notarial Admission Fees :				
England & Wales admissions	14,663		15,237	
Overseas admissions	5,000		8,125	
Overseas Exam fees	4,200		-	
Notarial Packs	2,980		2,270	
Certificates of Exemption	9,000		8,000	
		<u>35,843</u>		<u>33,632</u>
		488,514		388,082
Expenditure – Indirect				
Registrar's Fees	26,548		18,364	
Rent and rates	46,535		37,359	
Light and heat	2,777		1,912	
Repairs and maintenance	13,279		12,951	
Insurance (Premises & Contents)	3,118		3,471	
Cleaning	4,325		3,347	
Stationery & Copying	5,462		4,471	
Postage	2,244		2,034	
Telephone	3,252		3,259	
Catering	1,631		1,117	
Sundries	7,719		6,669	
Irrecoverable VAT	23,379		18,991	
	<u>140,269</u>		<u>113,945</u>	
Expenditure - Direct				
Salaries & N.I. (jointly employed staff)	226,374		202,485	
Recovery of Staff Costs on complaints	-		(13,922)	
Regulatory Expenses	3,425		2,122	
Contribution to EJustice Portal from the Notaries' Society & The Scriveners	(4,490)		-	
Code of Practice expenses	10,356		3,513	
Inspections/Entity Regulation	11,454		11,002	
Qualifying & Advisory Board members' expenses	2,566		2,933	
Legal Services Board Levy	24,340		23,538	
Counsel's Opinion (Scottish Notaries)	-		600	
Crown Office fees	210		560	
Audit & Accountancy	4,051		2,344	
Insurance (Legal & Professional Fees indemnity)	8,565		9,095	
Entertaining	8,986		4,403	
Governance costs	909		-	
Travel & Accommodation	2,126		1,191	
Printing and stationery	6,898		6,159	
Website	729		218	
Sundries	415		-	
	<u>306,914</u>		<u>256,241</u>	
		(447,183)		(370,186)
		<u>41,331</u>		<u>17,896</u>
Retainer due to the Master of Faculties		(14,948)		(11,676)
Surplus		<u>£26,383</u>		<u>£6,220</u>

ANNEX 2

FACULTY OFFICE
NOTARIAL BUDGET
YEAR ENDED 31 MARCH 2018

NOTARIES	£	£
Income:		
Practising Certificates		
6 certificates @ £490 (balance 2016/17)	2,940	
2017/18 practising year:		
Accrued income April-October 2017	222,664	
780 certificates @ £520	<u>169,000</u>	394,604
Admission fees		<u>34,225</u>
Total Income		428,829
Less Expenditure:		
Management Charge	286,111	
Direct Expenditure	101,200	
LSB/OLC levy fee	<u>19,731</u>	
Total Expenditure		<u>407,042</u>
Projected Notaries Surplus 2017/18		£21,787

FACULTY OFFICE
NOTARIAL BUDGET
YEAR ENDED 31 MARCH 2019

NOTARIES	£	£
Income:		
Practising Certificates		
Accrued income April-October 2018	236,600	
780 certificates @ £520	<u>169,000</u>	
		405,600
Admission fees		<u>44,100</u>
Total Income		449,700
Less Expenditure:		
Management Charge	283,800	
Direct Expenditure	113,500	
LSB/OLC levy fee	<u>20,000</u>	
Total Expenditure		<u>417,300</u>
Projected Notaries Surplus 2017/18		<u>£32,400</u>

FACULTY OFFICE
NOTARIAL BUDGET
YEAR ENDED 31 MARCH 2020

NOTARIES	£	£
Income:		
Practising Certificates		
Accrued income April-October 2019	236,600	
780 certificates @ £520	<u>169,000</u>	
		405,600
Admission fees		<u>44,100</u>
Total Income		449,700
Less Expenditure:		
Management Charge	286,500	
Direct Expenditure	114,000	
LSB/OLC levy fee	<u>20,000</u>	
Total Expenditure		<u>420,500</u>
Projected Notaries Surplus 2017/18		<u>£29,200</u>

ANNEX 3
FACULTY OFFICE - CONTINGENCY FUND
INCOME ACCOUNT FOR THE PERIOD ENDED 31 MARCH 2017

	2017	2015
£	£	£
CONTRIBUTION FROM NOTARIAL PRACTISING CERTS	59,409	62,547
Bank deposit interest	17	23
Less:		
Expenses for Disciplinary Hearings	9,000	28,363
	(9,000)	(28,363)
Surplus for the period ended 31 March 2017	£50,426	£34,207

BALANCE SHEET AS AT 31 MARCH 2017

	2017	2015
£	£	£
ASSETS		
Deposit and current accounts	37,900	36,463
Sundry Debtors	71,730	70,969
	109,630	107,432
LESS LIABILITIES		
Sundry Creditors	9,000	
Accrued Income	9,345	52,734
	(18,345)	(52,734)
NET CURRENT ASSETS	£91,285	£54,698
REPRESENTED BY:		
Contingency Fund Capital Account		
Balance as at 1 January 2016	54,698	20,491
Surplus for year	36,587	34,207
Balance as at 31 March 2017	£91,285	£54,698

ANNEX 4

FACULTY OFFICE OF THE ARCHBISHOP OF CANTERBURY NOTARIES

Core Metrics for the 15 month period ended 31st March 2017

Notaries:

The number of Notaries on the Roll as at 1 April 2017 was 775 (2016: 784).

Entities:

There are currently no entities regulated by the Faculty Office

Change of Year End

The accounting year end has been changed from 31 December to 31 March. This coincides with the Legal Services Board year end. The latest set of accounts cover the 15 month period ended 31 March 2017.

Total Income

15 Month Period ended 31 March 2017: £488,514 (12 months ended 31/12/2015: £388,082)

The Faculty Office collects practising certificate fees directly from the Notaries.

The practising certificate fees are the main source of income (2017: £452,671 2015: £354,450). The balance of the income is derived from Notarial Admission Fees.

This income does not include the contributions to the Contingency Fund amounting to £59,409 for the 15 month period to 31 March 2017 (2015: £62,547). This income is included in the Contingency Fund accounts and is used to build a reserve to cover the cost of any complaints.

Practising certificate fees are retained by the Faculty Office in their entirety. Membership fees are collected by the representative bodies separately.

Total Expenditure

15 month period ended 31 March 2017: £462,131 (12 months ended 31/12/2015: £381,862)

Staff Count

As at 31 March 2017: 3.5 full time equivalent (2015: 3.5)

Staff costs

15 month period ended 31 March 2017: £252,922 (12 months ended 31/12/2015: £206,927)

Remuneration

No member of any Faculty Office Board is remunerated although expenses are reimbursed. The Master of Faculties receives an annual honorarium of £22,000 (of which the Notaries bear 50%).

Reserves

As at 31 March 2017, there was a deficit of £208,743 (31/12/15: £235,126). The deficit has arisen from a change to accounting policy as described below.

Accounting Policy

Income in the accounts for the 15 months ended 31 March 2017 has been recognised on the accruals basis. In prior years, the accounts have been drawn up on a cash basis with the result that practically the entire income arising from the practising certificates for any practising year was included in the accounting year e.g. the income for the practising year 2015/16 was included in the 2015 accounts.

The retained surplus for the Notaries in the 2015 accounts was £56,249 (of which £24k was earmarked for Inspections). As a result of the change to the accounting policy, practising certificate income for the period January - October 2015 previously included in the 2014 accounts has been deferred to the 2015 accounts and likewise the income for the period January-October 2016 previously included in the 2015 accounts has been deferred to the 15 month period ended 31/3/17. A prior year adjustment has been made which has resulted in a deficit as at 31/12/2015 of £235,126, as detailed in the following table:

Prior Year Adjustment:		
Balance Sheet	2014	2015
Retained surplus c/f as previously stated	£48,529	£56,249
Deferred Income Adjustment	(£289,875)	(£291,375)
Restated deficit carried forward	(£241,346)	(£235,126)

Registrar
14th July 2017