



At a meeting of the Master of Faculties and the Officers of the Court of Faculties held on Tuesday 3<sup>rd</sup> December 2019 the following decisions were taken in relation to Regulatory matters:

#### **1. Governance**

Further progress towards the incorporation of the Faculty Office was reported. It was agreed that further advice would be sought on the matter.

#### **2. Channel Island notaries**

The Jersey Notaries Complaints Procedure was approved by the Master and a letter confirming this had been sent to Jersey.

The Master approved and signed the updated Notaries (Guernsey) Interim Practice Rules 2018 during the meeting (to include Rule 18).

It was agreed that the Channel Island Notaries would be contacted regarding the upcoming lapse of the Interim Rules 2018 on 31 December 2020.

#### **3. Internal Governance Rules**

Progress on seeking a waiver for the Qualifications Board was reported. It was agreed that the Qualifications Board would be asked to consider the appropriateness of carrying out their functions as an advisory board. It was agreed that a waiver application would be progressed. Further meetings with the Legal Services Board were noted.

#### **4. Norfolk Island**

The Master signed his decision to suspend the notary concerned for a period of 10 years. The Master gave directions for publication of the notice TO Channel Island notaries and authorities.

#### **5. LSB draft regulatory performance assessment**

The LSB had completed draft regulatory performance assessment for the Faculty Office which was shown to the Master at the Meeting. The Master expressed his disappointment at there being any "red" items and agreed that the report would be considered in detail at the next meeting.

#### **6. AML matters**

The Faculty Office attended an AML conference on the 26 November 2019. It was decided that following attendance at the conference notaries would be informed of the 5th Money-laundering Directive. An internal meeting on AML was arranged for 11 December 2019. It was reported that AML requirements from the Treasury and OPBAS were being met.

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### **7. New Rules**

A draft copy of the proposed new Notaries Practice Certificate Rules 2019 was placed before the Master at the meeting for his review and approval for the Rules to be sent to Consultation.

### **8. Inspections**

It was reported that a new inspector had been appointed but that a specialist probate/conveyancing inspector was still being sought. It was requested that a new date be set for the Inspectors Meeting in 2020.

### **9. Mayson Review**

It was reported that the Faculty Office's response to the Mayson Review was being drafted and that the response would be ready by the extended deadline.

### **10. Date of next meeting**

13 January 2020 at 14:00

February 2020 – TBC

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**At a meeting of the Master of the Faculties and the Officers of the Court of Faculties held on Friday 6<sup>th</sup> September the following decisions were taken in relation to Regulatory matters:**

### **1. Governance**

Progress towards incorporation of the Faculty Office was reported. A draft Memorandum and Articles of Association had been prepared. Advice was being sought from the Faculty Office Accountants on the most efficient form of Incorporation and on the general principle. It was agreed that the Registrar would also seek a view from the Bishop at Lambeth on the plan to incorporate the Faculty Office.

### **2. Authentication and AML**

A draft response to concerns raised by a notary (*inter alia*) on the extent to which notarial authentication was caught by the Money Laundering Regulations 2017 was discussed. The response would be sent as early as possible next week.

### **3. Norfolk Island**

The Chief Clerk has made contact with the operator of the Norfolk Islander newspaper and is seeking a quote for the inclusion of a Notice is awaited. This will be chased up.

### **4. Inspections**

A potential third inspector has been identified and the Chief Clerk will make contact to ascertain whether she would be interested/prepared to be appointed. It was agreed that a fourth inspector was not necessary at this point as any enhanced inspection regime either in relation to AML, practice authorisation or more generally is likely to involve enhanced financial.

### **5. Complaints Procedure**

The Master approved the draft Complaints Procedure for complaints made about the Faculty Office. This will now be posted to the website.

### **6. Review of Professional Qualifications**

The Advisory Board and Qualifications Board had agreed to appoint a joint working party to discuss the working paper on professional qualifications. Two newly qualified notaries had agreed to join the group with a view to sharing their experience of the qualification process. The Chief Clerk will facilitate the meeting of the working party which is intended to report to the December meetings of the Boards.

### **7. AML Matters**

The Faculty Office Action Plan had received approval from OPBAS and would now be formally implemented. The Registrar, Deputy Registrar and Chief Clerk had met with a senior solicitor and notary who is an expert on Anti-Money Laundering who had made some helpful points both in respect of AML regulations and notarial practice generally and around the process of assessment of the adequacy of AML Risk Assessments which will be followed up.

### **8. New Rules**

The Master had signed the approved new Notaries (Conduct and Discipline) Rules 2015 (as amended) which were made and came into force on 2<sup>nd</sup> September 2019. He also signed the new Notaries (Practice) Rules 2019 which were made on 2<sup>nd</sup> September and come into force on 2<sup>nd</sup> December 2019 to give notaries time to make any required changes to their websites, stationery etc to comply with the new rules. In addition, a new Notaries (Supervision Fees) Order 2019 had been signed pursuant to the Notaries (Post-Admission Supervision and Training) Rules 2019. A new Guidance Note outlining the enhanced transparency requirements under the new Practice Rules is being prepared and will be sent out to notaries by email.

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**9. Dates of next meetings**

Tuesday 1<sup>st</sup> October at 2.00pm

Monday 4<sup>th</sup> November at 2.00pm

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**At a meeting of the Master of the Faculties and the Officers of the Court of Faculties held on Tuesday 2<sup>nd</sup> July 2019 the following decisions were taken in relation to Regulatory matters:**

### **1. Governance**

The Master welcomed the Chair of the Advisory Board to his first meeting as a step towards bringing greater lay input into the management of the Faculty Office and greater transparency.

### **2. Complaints procedure**

Although complaints about the Faculty Office are few, it was agreed that a formal complaints procedure should be produced for publication on the Faculty Office website.

### **3. Review of Qualification/Practising Certificate Rules**

In the light of a recent case where a notary had been admitted to the Roll but had then not practised, we need to review the rules to ensure that the Master has the necessary powers to require additional training in appropriate cases to ensure that the individual remains competent to practise for the better protection of consumers.

### **4. Review of professional qualifications**

The Master was provided with a copy of a paper which is to be considered by both the Advisory Board and the Qualifications Board at their next meetings

### **5. AML Matters**

It was reported that OPBAS were broadly content with the draft Action Plan and Whistleblowing Policy which had been submitted following their visit to the Faculty Office in December 2018 and their subsequent letter of February 2019. A few minor changes had been requested and these had been submitted at the end of June.

All notaries will be required to provide a copy of their AML Risk Assessment as part of the annual practising certificate renewal round in the Autumn in order that the Faculty Office can assess their adequacy in accordance with its obligations as Professional Body Supervisor.

### **6. Advisory Board**

It was agreed to seek to increase the lay involvement on the Advisory Board by appointing an additional lay member to be a consumer champion. Advice will be sought from the Legal Services Consumer Panel.

### **7. Practising Certificate Fee Consultation**

A paper to be published on the Faculty Office website in response to the consultation on the new practising certificate fee regime was agreed. It was noted that the responses had been overwhelmingly supportive of the proposed changes. The application would now be submitted to the LSB for approval.

### **8. Inspections**

Two of the issues identified in the 2018 inspections were discussed further. In relation to the provision of receipted bills for notarial work, the issue would be added to the matters dealt with on the Office Practice Course. As regard the issue of the bequest in a Will, the donor had confirmed that all appropriate advice had been given by the notary and no further follow up action was required.

### **9. Growing the profession**

The notes of a meeting held on 17<sup>th</sup> June were considered. Further work is required to create a "brand" for the profession which work will need to be funded by the professional bodies rather than the Faculty Office. Additionally, a document setting out the benefits of qualifying into the notarial qualification

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needs to be prepared for general use and, particularly, to follow up from the Registrar and Chief Clerk's meeting at CILEX.

### **10. Lay member's observations**

It was agreed to ensure that an additional member of staff should attend the meeting so that the Chief Clerk can be relieved of the minute taking responsibilities. He would attend meetings quarterly to assist the Faculty Office to focus on updating its culture and governance.

### **11. Dates of next meetings**

Friday 6<sup>th</sup> September at 11.00am

Tuesday 1<sup>st</sup> October at 2.00pm

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At a meeting of the Master of the Faculties and the Officers of the Court of Faculties held on Friday 24<sup>th</sup> May 2019 the following decisions were taken in relation to Regulatory matters:

### 1. Faculty Office Accounts

The Faculty Office Accounts for the financial year ending 31<sup>st</sup> March 2019 were formally approved by the Master and the Registrar.

### 2. Computerisation

The new online system for notarial practising certificate renewals, NotaryPRO, is scheduled for release to the Faculty Office for testing in June and is on-track to go live in the Autumn. The introduction of the system and its associated banking links has highlighted the unusual legal status of the Faculty Office. It was agreed to look into, and seek specialist advice on, the setting up of a limited company through which the Faculty Office can trade.

### 3. Channel Islands

The Secretary of the Guernsey Society to be written to following up on the additional information required to complete Rule 20 of the Interim Practice Rules and to confirm that he has advised HM Procurer General of their decision to retain the Master as the appointment and regulatory body on the Bailiwick. Similarly, the Secretary of the Jersey Society should be written to with regard to the Frist-Tier Complaints procedure.

### 4. Governance

It was agreed that the lay chair of the Advisory Board would be invited to attend these meetings of the Master and Officers of the Court of Faculties on a quarterly basis to increase lay involvement in the governance of the Faculty Office.

### 5. Notaries (Post Admission Supervision & Training) Rules 2019

The new rules had been approved by the LSB. They were signed by the Master and will come into force on 1<sup>st</sup> June 2019. The new rules had been heralded to this year's cohort on the Notarial Practice Course at UCL and they are, therefore, aware of the changes that the new rules will introduce.

### 6. AML Matters

It was agreed that AML matters would form a standing agenda item for all future meetings to ensure that matters set out in the OPBAS Action Plan are kept under review and progressed.

### 7. Disciplinary Matters

It was reported that six notaries are the subject of complaints being investigated by nominated notaries at the current time. It is not yet clear how many of these complaints might lead to formal hearings in the Court of Faculties but it will be necessary to review the required contribution to the Contingency Fund at the next meeting once the position becomes clearer and in advance of the application to the LSB for approval of the annual Practising Certificate Fee.

### 8. Norfolk Island

The Norfolk Islander is the publication locally in which a formal Notice of the Master's intention to suspend the Notary concerned and the costs of this will be investigated.

### 9. Notaries Society Conference – 19<sup>th</sup> September

The Master's Annual Report will be presented in the same format as in 2018, that is published in advance as part of the Conference papers. The Master will prepare a draft in due course on which the Officer's are to comment and insert all relevant figures etc.

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**10. Dates of next meetings**

Tuesday 2<sup>nd</sup> July at 3.30pm

Friday 6<sup>th</sup> September at 11.00am

**At a meeting of the Master of the Faculties and the Officers of the Court of Faculties held on Tuesday 2<sup>nd</sup> April 2019 the following decisions were taken in relation to Regulatory matters:**

**1. Review of Professional Qualifications**

The Qualifications Board had had an initial discussion at its meeting on 25<sup>th</sup> March and a substantive paper will be prepared to inform its discussions at the July meeting. The Board had been invited to hold one of its Autumn meetings at UCL so that they could get an understanding of how the Notarial Practice Course is delivered to inform its discussions.

**2. Governance**

The issue of the development and publication of KPIs had been discussed at the Advisory Board. The Board did not feel that KPIs were a particularly useful measure of effectiveness nor that the time which would be taken in gathering and recording information was proportionate. The Master, whilst acknowledging the Board's concerns, remains of the view that a small number of targeted KPIs would be useful and further consideration would be given to the matter.

**3. Practising Certificate Fees and Contingency Fund**

Further work was required in respect of the proposed bands for the new variable practising certificate fees. The Chief Clerk was asked to consider the matter further with assistance from others with a view to bringing an amended proposal. It was agreed that the Contingency Fund contribution would be reduced from £40 to £20 for the year 2019/20.

**4. Inspections**

A third inspector needs to be identified (preferably based in the north of the Country) who could assist with the inspections of notarial practices which carry out Conveyancing and Probate.

**5. Revised Notaries (Supervision and Training) Rules**

The amended rules have been lodged with the LSB for approval and a number of enquiries raised by the LSB which have been responded to. Concerns had been expressed that the consultation had not been published on the website. It was agreed that all future consultations would be published in addition to being emailed to the profession.

**6. Amendments to the Practice Rules and Conduct & Discipline Rules**

The consultation on the CMA and OPBAS related amendments to the Notaries Practice Rules 2014 and Notaries (Conduct and Discipline) Rules 2015 has given rise to some further alterations to the rules. These are now to be lodged with the LSB for formal approval.

**7. Gibraltar**

The Registrar and Chief Clerk will arrange to meet the Gibraltar notariat in Gibraltar in the late Summer or early Autumn in order to begin the process of introducing a regulatory regime similar to that in the Channel Islands and also to open discussions with the Government with a view to establishing a modern statutory footing for appointments and regulation.

**8. Norfolk Island**

The Queensland Society have indicated that they believe that the Government of New South Wales would not have the power to discipline a notary practising on Norfolk Island whose appointment predated the Norfolk Island Applied Laws Ordinance 2016. The FO to seek information on an appropriate newspaper circulating on Norfolk Island to publish a Notice seeking information on the whereabouts of the Notary concerned and indicating that the Master is minded to impose a like sanction to that imposed by the Federal Court.

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### **9. New Zealand.**

The FO should write to the New Zealand Society of Notaries encouraging them to revisit the issue of a First Tier Complaints procedure to provide a route under which the Society might give consumers an independent complaints process.

### **10. Dates of next meetings**

Friday 24<sup>th</sup> May at 11am

Tuesday 2<sup>nd</sup> July at 3.30pm

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At a meeting of the Master of the Faculties and the Officers of the Court of Faculties held on Tuesday 12<sup>th</sup> March 2019 the following decisions were taken in relation to Regulatory matters:

### 1. Review of Professional Qualifications

The Master wishes his Qualifications Board to review five areas in relation to professional qualifications, namely: (i) whether the profession should remain a graduate profession; (ii) whether the current academic stage is appropriate; (iii) whether the UCL course modules remain appropriate; (iv) whether the content of the office practice course remains appropriate; and (v) a review of the general CPE provisions.

### 2. Governance

The lay Chair of the Advisory Board to be invited to attend the meetings of the Master and Officers of the Court of Faculties on a quarterly basis to offer lay input.

### 3. Matters arising from the Forum

**Growing the profession**- a small working party had been set up to consider ways of growing the profession under the chairmanship of the Registrar.

**Unlicensed notaries**- the offering of notarial services by persons not entitled has been a concern, particularly of the Society of Scrivener Notaries. There is no evidence to suggest that the work itself is not being carried out by authorised notaries, however there are questions about the standard of work and the level of contact which the notary has with the client. The FCO have cited Data Protection reasons for not providing the information requested from them which they had treated as an FOI request. The FCO will be written to again.

### 4. Inspections

The list of notaries to be inspected has been drawn up using a risk-based approach which has identified notaries who hold client monies or where their annual return gave rise to possible issues over the separation of accounting functions from related SRA regulated practices.

### 5. Revised Notaries (Supervision and Training) Rules

The amended rules have been lodged with the LSB for approval.

### 6. Amendments to the Practice Rules and Conduct & Discipline Rules

The consultation on the CMA and OPBAS related amendments to the Notaries Practice Rules 2014 and Notaries (Conduct and Discipline) Rules 2015 has closed. A good number of responses have been received and the Master was provided with a draft of the proposed amendments to the rules taking into account the responses to the consultation. The Master agreed to a shortened form of regulatory statement to that contained in the consultation – vis: "Regulated through the Faculty Office of the Archbishop of Canterbury."

### 7. Channel Islands

FO to further follow up with Jersey Society re First Tier Complaints procedure. The Guernsey Society's AGM decided that they wished to retain the Master as appointing and regulatory authority. The FO therefore now needs to follow up with the Society in respect of the wording for the missing Rule 18 of the Interim Practice Rules 2018 and to contact HM Procurer General with a view to progressing the required legislation.

### 8. Norfolk Island

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No response having been received from the Registrar of the Supreme Court of Norfolk Island the FO should follow up with the Registrar but will also enquire with the Queensland Society given that the Norfolk Island notary's last known address was in Queensland.

### **9. Any other matters.**

There were none.

### **10. Dates of next meetings**

Tuesday 2<sup>nd</sup> April at 2pm

Friday 24<sup>th</sup> May at 11am

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At a meeting of the Master of the Faculties and the Officers of the Court of Faculties held on Tuesday 5<sup>th</sup> February 2019 the following decisions were taken in relation to Regulatory matters:

### 1. Transparency and good governance

The appointment of an additional lay member of the Advisory Board to represent consumers. Advice should be sought from the LSCP. The Advisory Board Rules will need amendment.

Consideration will be given to what Key Performance Indicators (KPIs) on the regulatory work of the Faculty Office might be set and published.

### 2. Annual Notarial Forum

With the consent of the attendees, a Minute of the Annual Notarial Forum will be prepared and published on the Faculty Office Website.

The Registrar will convene a working party to seek ways of increasing the size of the Notarial profession in England & Wales.

### 3. OPBAS

Following receipt of the OPBAS inspection findings a number of matters need to be addressed. A minor amendment to the wording of the whistleblowing policy was agreed. The Chief Clerk was formally appointed as the Money Laundering Reporting Officer for the Faculty Office. All staff of the Faculty Office will be required to undertake annual AML training.

### 4. Inspections

The list of notaries to be inspected will be drawn up and a risk-based approach will be used to identify inspectees. The Inspectors reports will be considered by the Master at the meeting immediately after they are received in the Faculty Office. This will become a standing item on the agenda.

### 5. Revised Notaries (Supervision and Training) Rules

The rules have been slightly revised following the consultation to take into account a number of helpful comments made in responses. These will be lodged with the LSB for approval by the end of February.

### 6. Amendments to the Practice Rules and Conduct & Discipline Rules

The consultation on the CMA and OPBAS related amendments to the Notaries Practice Rules 2014 and Notaries (Conduct and Discipline) Rules 2015 has been issued. A number of responses have been received. The Societies have been given an extension of two weeks to submit their formal response.

### 7. Channel Islands

FO to follow up with Jersey Society re First Tier Complaints procedure. FO to follow up with Guernsey Society following their AGM in early February.

### 8. Norfolk Island

No response having been received from the Registrar of the Supreme Court of Norfolk Island the FO should follow up with the Registrar but will also enquire with the Queensland Society given that the Norfolk Island notary's last known address was in Queensland.

### 9. Any other matters

A) A letter had been received from a practising notary regarding the qualification process. The Master will consider the letter and prepare a response.

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- B)** An email had been received from a notary who had not practised since 1999 and now wished to return to practice. He will be required to undertake eight hours of CPE before a practising certificate is issued and be supervised by a senior notary for his first year back in practice.
- C)** A complaint about the conduct of the consultation at 6 above had been received. The Master will consider the papers and prepare a response.

### 10. Dates of next meeting

Tuesday 12<sup>th</sup> March at 2pm

Tuesday 2<sup>nd</sup> April at 2pm

**At a meeting of the Master of the Faculties and the Officers of the Court of Faculties held on Tuesday 8<sup>th</sup> January 2019 the following decisions were taken in relation to Regulatory matters:**

**1. Practice authorisation**

A meeting to be requested with the LSB to update them on the "modernisation" programme and present a draft of the Section 69 Order.

**2. Inspections**

The Inspectors reports to be provided to the Master at the meeting immediately following their receipt in the Faculty Office and any recommendations for action by the Inspectors followed up promptly.

**3 The priorities for the Faculty Office for 2019**

The Master identified six notarial priorities for the Faculty Office:

- a) to make progress with the computerisation project;
- b) to make progress on practice authorisation, including the new fee structure;
- c) to review professional qualifications, including recruitment, the content of the UCL course, supervision and CPE;
- d) compliance with the LSB (regulatory standards and diversity) action plans and any OPBAS action plan;
- e) enhanced regulation in Jersey, Guernsey and Gibraltar; and
- f) revision of the overseas admission documents.

The Master identified four priorities for the Advisory Board:

- a) advising on the regulatory standards and diversity action plans;
- b) revision of the Code of Practice;
- c) advising on the new fee structure; and
- d) advising on any requirements arising from the OPBAS inspection.

and three priorities for the Qualifications Board:

- a) should entry to the profession remain largely restricted to graduates?
- b) review the content of the UCL course;
- c) review of CPE provision.

**4. Transparency and good governance**

A note recording decisions or action points arising from the monthly meetings of the Master of the Faculties and the Officers of the Court of Faculties would be published on the Faculty Office website. The resource implications of this action were noted and would be kept under review.

**5. Response to LSB diversity assessment**

There were no factual inaccuracies noted in the LSB Diversity Assessment and a response to the LSB would be sent as appropriate.

**6. Amendments to the Practice Rules and Conduct & Discipline Rules**

The consultation on the CMA and OPBAS related amendments to the Notaries Practice Rules 2014 and Notaries (Conduct and Discipline) Rules 2015 would be issued by the end of the week.

**7. Re X – a notary**

**A)** A follow-up letter to be sent to X requiring the name of the notary holding his records to be disclosed to the Faculty Office.

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**B)** A note of the Master's recommendations set out in his report re X's complaint will be published on the Faculty Office website.

### **8. Channel Islands**

FO to follow up with Jersey Society re First Tier Complaints procedure. Follow up with Guernsey Society to be actioned after their AGM in early February.

### **9. New Zealand**

FO to invite the New Zealand Notaries Society Council to reconsider having a formal complaints procedure in their Code of Practice which we believe to be good practice.

### **10. Norfolk Island**

FO to follow up with the Registrar of the Supreme Court of Norfolk Island following our email seeking both an address for the notary and an indication as to whether or not anything in the Ordinance which incorporated New South Wales law into Norfolk Island Law had affected the ability of the Master to both appoint and, by extension, discipline notaries in that jurisdiction.

### **11. Annual Notarial Forum – Tuesday 29<sup>th</sup> January 2019**

The secretaries of the two Societies will be asked for agenda items and the chairs of the Advisory and Qualifications Boards to be asked for a short report.

### **12. Any other matters**

**A)** The LBMW litigation team to continue to pursue Mr Lado for his debt to the Contingency Fund following service of the Statutory Demand.

**B)** FO to follow up anonymous allegation of conviction against an English notary, who should be written to seeking an explanation.

**C)** The application for admission form (and the application for a Certificate of Exemption form) to be amended to give applicants the opportunity to disclose any other matters in addition to convictions which might be taken into consideration by the Master.

### **13. Dates of next meeting**

Tuesday 5<sup>th</sup> February at 2pm

Tuesday 12<sup>th</sup> March at 2pm