



The Faculty Office of the Archbishop of Canterbury

Notaries

Registrar's Annual Report 2019 for the year ending 31 March 2019

Size of the profession

In the practising year to 31 October 2018 751 notaries took out a Practising Certificate (767 to 31 October 2017); 24 notaries retired from practice and a further 7 were taking either sabbatical, maternity or other leave for all or part of the year. A number of notaries who advised they were taking a sabbatical in the previous year have not yet returned to practise. We were also advised that 2 notaries had died. During the course of the calendar year 2018 the Master admitted 40 new notaries – up from 24 in 2017 but this is still not keeping pace with the numbers ceasing to practise either temporarily or permanently.

Regulatory work

The Faculty Office continued to work in 2018/2019 on a number of aspects set out in the action plan arising out of the Legal Service Board's (LSB) Regulatory Standards work which also now encompasses the Diversity work arising from the LSB's report issued in August 2018.

The Faculty Office consulted on its proposed rule changes to the Notaries Practice Rules 2014 and the Notaries (Conduct & Discipline) Rules 2015 which are intended to provide enhanced consumer transparency around pricing, redress and disciplinary information in order to meet the requirements set out in the Competition and Markets Authority's (CMA) report into the Legal Services Market issued in December 2016. A number of useful responses were forthcoming which have been incorporated. At the time of writing, we await LSB approval for the rule changes.

In December 2018, the Faculty Office was inspected by the new Office for Professional Body Anti-Money Laundering Supervision (OPBAS) which reported in January 2019. An action plan is currently being agreed with OPBAS to address a number of the issues raised in its report. The Faculty Office began requiring all notaries to produce criminal record checks through the Disclosure and Barring Service.

Complaints

Unfortunately, I have to report an increase in the number of complaints (including one self-report) made to the Faculty Office against notaries. Two service complaints were referred to the Notaries Society for resolution under the Informal Procedure operated by the Society. Three solicitor notaries have had disciplinary complaints upheld by the Solicitors Regulation Authority or entered into Regulatory Agreements and these are currently the subject of investigations by Nominated Notaries. Three further complaints of a disciplinary nature were received during the current reporting period which have also been referred to Nominated Notaries.

Advisory Board

The Advisory Board met on four occasions in the period covered by this report under its Chair, Mark Craig. The major items on the agenda were entity regulation, post-admission supervision, Anti-Money Laundering supervision and matters arising from the CMA report. The Board took a keen interest in the application for Judicial Review by the Institute of Chartered Accountants of England and Wales against the Lord Chancellor's decision not to extend its regulatory remit (particularly around its application to regulate notarial activities). The Board also examined a report on the diversity of the notarial profession.

Qualifications Board

The Qualifications Board also met on four occasions in the same period and, in addition to scrutinising applications for Certificates of Exemption, also considered amendments to the Post-Admission Supervision Rules. During 2018 the Board considered 75 applications for Certificates of Exemption (51 in 2017) and 52 Certificates were issued (18 in 2017) including two applicants who successfully completed required additional CILEX modules.

New/Revised Rules

No new rules were made during the current reporting period (although the new Notaries (Post-Admission Supervision and Training) Rules 2019 were made by the Master on 23 May 2019 and came into force on 1st June).

Financial

This report covers the year from 1 April 2018 to 31 March 2019 representing the second complete year of our amended accounting year end. You will recall that the Faculty Office had historically operated a calendar year accounting period.

The accounts for the regulatory arm of the Faculty Office are attached and show a shortfall on the year of £10,945. In line with the costs transparency requirements of the LSB, budgets for the years ending 31 March 2020, 2021 and 2022 have been prepared and are also attached; these budgets anticipate a further shortfall in the current financial year and projected surpluses for each of the following two years. 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 but only time will tell if our projections are correct.

We have recently consulted on a new regime of practising certificate fees with the feedback being almost entirely supportive even from those notaries who will be required to pay more for their practising certificate fee. The Faculty Office has published its response to the consultation and we will shortly be seeking LSB approval for the new regime which will see a significant number of notaries benefitting from a reduction in their annual practising certificate fee. The proposed fees remain as set out in the consultation.

There is, as ever, significant pressure on the budget including significant extra spend on the Legal Choices Website in order that it is enabled to fulfil the role which the CMA Market Study recommendations are seeking. As I reported last year, OPBAS are to be funded by a levy on the Professional Body Supervisors, of which the Faculty Office is one. We still await the outcome of the consultation but anticipate that our annual contribution will be in the region of £5,000. Additionally, the Home Office and HM Treasury have announced plans for a levy on, amongst others, the Professional Body Supervisors to fund improvements to the SARs regime although no details of how this will work or, more importantly, how much is being sought have yet been released. A consultation is expected in the late Summer or early Autumn.

The 2018/19 accounts for the Faculty Office Contingency Fund are also attached and I am pleased to report a significant surplus on the year of £39,768. This fund exists, principally, to provide cover for costs arising from disciplinary cases which are otherwise not recoverable from the notaries concerned. A substantial proportion of the 'debt' I reported last year (some £17,000) has now been settled following the service of a Statutory Demand but several thousand pounds remains outstanding (.). Last year's surplus does mean that the Master has been able to approve a 50% reduction in the contribution which will be collected this year from £40 to £20. However, with six Nominated Notaries currently appointed there is likely to be at least some call on the Fund in the coming year.

Inspections

The inspections of notaries' records and practices under the Inspections Regulations continued in 2018 and a further 19 notaries had their practices inspected by the two inspectors. 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 2018 inspections is available to view on the Faculty Office website. Tony Martin and Nigel Harding are the current inspectors and the Master is intending to appoint a third inspector to assist with the inspections of those notaries who carry out conveyancing and probate. Michael Pulvermacher, to whom we remain immensely grateful, retired as an inspector in December, having been an inspector since the inception of the regime.

In conclusion

Once again the Faculty Office and Master have had a busy period in 2018/19, not only dealing with the day to day regulation of the notarial profession but also in addressing issues raised both by the two 'oversight' bodies, the LSB and OPBAS, and the various Government departments with whom we engage including BEIS, the MoJ, the Home Office and HM Treasury. The Faculty Office continues to be extremely grateful for both Societies' support of its work and for the support which they provide to the profession.

HOWARD DELLAR | REGISTRAR
FACULTY OFFICE

15th July 2019