

Minutes of Faculty Office Senior Officers' Meeting

Held on 13 January 2020 at 14:00 at 1 The Sanctuary, Westminster, SW1P 3JT

Attendees: Charles George QC
Howard Dellar
Ian Blaney
Neil Turpin

Also present: Emily Boccock
Edward Macey-Dare (present only for item 1 of Part II; incorporation)

The Notes of the meeting held on 3 December 2020 had been circulated and were accepted.

These minutes have been split into the following parts;

- Part I - Ecclesiastical Matters,
- Part II - England and Wales Notarial Matters,
- Part III - Overseas Notarial Matters.

It was agreed that Part II of the minutes of the meetings would be published on the Faculty Office website in full (redacted only where necessary).

PART II – England & Wales Notarial Matters

1. Incorporation of the Faculty Office

Charles George thanked Ian Blaney for his work in producing the draft Articles of Association and accompanying proposal paper.

Proposal paper

There was a discussion around the proposal for the company to provide an indemnity to the Court of Faculties to cover any matters not covered by the insurance policy. It was noted that any such indemnity would be included in the transfer agreement.

There was a discussion around the Archbishops of Canterbury and York's power to appoint the Master of Faculties and whether this extended to the Registrar and Commissary. It was agreed that the Archbishop of Canterbury appointed the Registrar and Commissary but that the Registrar and Commissary appointed their own deputies.

It was queried whether appointment by the Archbishop was by statute or convention. *It was agreed that this would be investigated and clarified for the next meeting.*

It was agreed that reference to the Deputy Master of Faculties would be removed as this was not currently possible under legislation.

It was agreed that further consideration was needed on appointing the Chief Clerk as a director. Further discussion was had around the practicalities of the Members and Directors being the same individuals. It was agreed that this was not an issue but needed to be noted.

Edward Macey-Dare joined the meeting to provide advice on the employment aspects of the incorporation of the Faculty Office. It was noted that staff were currently jointly employed by Lee Bolton Monier-Williams and the Faculty Office. It was explained that this was for VAT reasons and that this would be maintained following the incorporation of the Faculty Office. Edward Macey-Dare explained that TUPE notice would be sent to all jointly employed staff and it was hoped that this could be synchronized with the conversion of Lee Bolton Monier-Williams to an LLP which is due to take place on 1 April 2020.

The Lord Chief Justice's appointment powers in case of vacancy in the See of Canterbury was questioned and it was agreed that this would be changed to the Archbishop of York or the Bishop of London.

It was agreed that the liabilities referred to on page 4 of the proposal paper would include both past and future liabilities.

It was noted that a draft transfer agreement would be needed. Ian Blaney volunteered to draft this.

The Draft proposal paper was agreed subject to the changes discussed. The paper, as a working document, will not be published.

2. Faculty Office Reception – 14 February 2020

It was reported that lots of RSVPs had been received. It was noted that Lady Hale would be attending the reception along with her successor as President of the Supreme Court.

Charles George invited Senior Staff to provide any suggestions for items to be included in his speech.

3. Review of the success of 2019 priorities

A discussion was had around each of the below priorities and a mark out of 3 was given for all. 3 being successfully completed and 1 being little to no progress made.

Computerisation – 3/3

Practice Authorisation – 2/3

Professional qualifications – 2/3

LSB and OPBAS action plans – 2/3 and 3/3 respectively

Jersey, Guernsey and Gibraltar – 1/3

Overseas Documents – 2/3

KPIs – 1/3

Overall it was agreed that the 2019 priorities were broadly achieved though more progress was made in some than others.

4. Priorities for 2020

The Master set out his priorities for 2020.

Priorities for 2020:

- Compliance with the LSB developing regulatory standards requirements
- Compliance with AML obligations
- Reducing the notarial deficit for 2020/21
- Efficiency improvements, including the introduction of KPIs
- Decisions following review of qualifications
- Incorporation of the Faculty Office
- Achieving Statutory Instrument for Practice Authorisation

Some alterations to the wording of the priorities were agreed.

There was a discussion around the proposed priorities for the Advisory Board. It was agreed that these would be:

- Completion of the review of Professional Qualification,
- Code of Practice revisions
- Compliance with best standards of transparency and good governance.

It was agreed that Charles George would notify Mark Craig of these priorities.

5. Review of Qualifications

It was reported that the Qualifications Party Working group had agreed the final form of the report and this was given to Charles George at the meeting.

It was noted that the report contained the recommendations of the Group and that these were to be set before the Qualifications and Advisory Boards on 22 January 2020 for their review.

6. Practice renewals list

It was reported that the Faculty Office had issued 734 practising certificates.

Of the 38 outstanding applications it was determined that 16 had retired, 2 had sadly passed away and another 3-4 were taking a sabbatical or career break. 5 applications were still expected to be received and 6 were as yet unidentified.

It was noted that the demographic of the profession accounted for the number of retirees and the decline in the number of professionals. It was also noted that the amount of work for the professional had not diminished.

It was reported that the online renewals process had gone well and that notaries were asked to supply risk assessments for the first year. It was confirmed that an AML question would be asked every year.

7. LSB Regulatory Performance Assessment

It was noted that the recent LSB Regulatory Performance assessment had downgraded the Faculty Office against two criteria to "not met – urgent action required" and "not met – action being undertaken" in a further area. It was also reported that a further not met action had been changed to "met" before Christmas. The remaining 'red marks' were in the well-led section and concerned transparency and learning from the Faculty Office's work.

The 'amber mark' ("not met – action being taken") was noted but this related to rule change applications so would not be reviewed until further rule changes were sought. It was noted that no regulator had had their new rule applications approved within the 28 period set by the LSB.

It was noted that a meeting was held on 7 January 2020 to discuss an LSB action plan. It was reported that the meeting went well and that the Faculty Office's proposed action plan was agreed. Work on the website had already been undertaken to seek to meet the transparency obligations.

It was also reported that the minutes of the Advisory Board and Senior Officers' Meeting would be published along with the agendas and accompanying documents. It was agreed that the minutes and agenda of the Senior Officers' Meeting would be divided into 3 parts with only the relevant England and Wales Notarial matters published on the Faculty Office website.

The points of criticism raised in the LSB's performance assessment were acknowledged and a plan to respond was actioned.

8. KPIs

It was reported that the following areas had been agreed for publishing KPIs:

- Disciplinary cases - from Complaint to conclusion,
- Inspections - from receipt of report to any follow up action
- Admissions - from Application to Admission.

It was reported that the data had been gathered for the KPIs and it was agreed that these would be published by April 2020

9. Revision of Rules

It was reported that a few minor changes had been made to the first draft of the Practice Certificate Rules but that these would go out for consultation before the next meeting.

The draft Accounts Rules 2020 had been drafted to combine the 1989 Account Rules, 1989 Trust Account Rules and the 1989 Deposit Interest Rules. A first draft had been reviewed by Neil Turpin and a further review was needed before the Rules were ready to be sent to Charles George. It was felt that these would be ready to send by the next meeting.

10. Inspections

The Inspectors' Meeting on 28 January 2020 was noted.

It was reported that no additional inspection reports had been received and that Nigel Harding was still catching up with 1 or 2 before the inspectors meeting at the end of January 2020. It was confirmed that all necessary follow-up action had been taken.

It was reported that no Inspectors' Report had been received for the 2019 inspections. It was confirmed that this was needed in advance of the Inspectors' Meeting.

It was confirmed that all the inspectors would be attending the meeting including Janet Goode, the new inspector for 2020.

11. Notarial forum

It was noted that the Notarial Forum would take place on 28 January 2020 at 14:30. It was agreed that the Societies would be asked for any agenda points and that once agreed these would be published on the Faculty Office website.

It was agreed that the Chairs of both boards would be given time to make a short report.

12. LSB chairs meeting

The LSB Chairs meeting was noted for the 27 January 2020. Charles George invited Senior Staff to suggest talking points for the meeting. A discussion was had around what to mention at the meeting including the Legal Choices and the BSB withdrawal, the issues around investigating LSA 07 offences and positive feedback on LSB oversight.

Howard Dellar agreed to feedback to Charles George following his meeting with the LSB CEO.

13. OPBAS matters

The suggestion raised at the last meeting to consider making a report to the NCA re [REDACTED] was considered and it was agreed no breach of sanctions was suggested and therefore no referral was necessary.

It was reported that the OPBAS meeting at the start of January 2020 was successful and that OPBAS were content with the Faculty Office's action plan.

It was reported that some progress had been made in securing the Faculty Office IT folders which are now hidden from Lee Bolton Monier-Williams staff.

It was reported that the profession had been "traffic light" risk rated and that this risk rating would inform who was selected for inspections and for sampling the risk assessments.

It was reported that the Treasury had been supplied with the information requested and that the NCA report had also been submitted.

The Faculty Office risk assessment had been revised 12 months ago and would be reviewed again in the near future.

It was confirmed that no new national risk assessment had been issued.

14. Practice Authorisation

It was reported that a draft s.69 order had been returned to the Faculty Office along with questions. It was agreed that this would be sent to Charles George for his review.

15. IOPC response

It was reported that a response was received from the IOPC suggesting that the relevant investigating body would be the LSB or Law Society.

It was reported that the LSB had no enforcement powers to investigate such an offence and that the police had investigated similar matters in the past.

It was agreed that a response would be sent to the IOPC stating the LSB's lack of enforcement powers and citing cases where the police have investigated in the past requesting them to investigate further. It was also agreed that the SRA would be notified of the situation and the IOPC response.

16. Update on Code of Practice Revisions

It was reported that progress had been made but that the Code would not be ready for the Advisory Board meeting in January 2020.

It was agreed that the authors would be contacted expressing the concern of the Master that the revision of the Code could not be completed in 2019 and expressing the strong wish that the amendments are set before the Advisory Board in their next meeting.

Any other business

There was no other business.

Date of next meeting

24 February 2020 at 11:00

23 March 2020 at 11:00