



FACULTY OFFICE

Minutes of the Meeting of the Advisory Board held at 1 The Sanctuary, Westminster, London SW1P 3JT on Wednesday 22 January 2020 at 10:45am

Present: Mark Craig (Chair)
Jonathan Coutts
Michael Heap
Elaine Standish
Christopher Vaughan

In attendance: Howard Dellar, Registrar Faculty Office
Ian Blaney, Deputy Registrar Faculty Office
Neil Turpin, Chief Clerk Faculty Office & Clerk to the Board
Ann Wright, Consultant to Faculty Office
Emily Bocock, Trainee Solicitor in Faculty Office (minute taking)

1. APOLOGIES

There were no apologies. It was noted that Vidal Martin was suspended from her position on the board following her striking-off as a solicitor and interim suspension as a notary.

2. MINUTES OF LAST MEETING

The minutes of the meeting held on 23 October 2019 were circulated and agreed. As per Item 4 (ii) of the previous minutes Elaine Standish was asked to confirm a completion date for the revision to the Code of Practice. She confirmed a completion date of end of March 2020.

3. MATTERS ARISING NOT OTHERWISE ON THE AGENDA

In line with the Faculty Office's new publication policy the minutes, agenda and supplementary papers would be published as quickly as reasonably possible on the Faculty Office website. Any

confidential matters would be included in a non-published Part II of the minutes where appropriate. The minutes of the Advisory Board would be drafted in a new style and approval of the minutes would be sought by email to facilitate publication as quickly as possible.

4. LSB REGULATORY PERFORMANCE ASSESSMENT NOVEMBER 2019

The LSB had downgraded the Faculty Office to red "not met - action required" in two areas WL3 and WL4. A productive meeting was held between senior members of the Faculty Office and Mark Craig had been on 7 January 2020 to develop the response.

Transparency: Outcome WL3 focussed on the need for increased transparency of the Faculty Office decision-making process and approach. It was agreed that a more transparent culture would be developed quickly within the Faculty Office with more information published on the Faculty Office website to explain the rationale behind decisions to the public. The agenda, minutes and papers of the Advisory Board and the monthly meetings with the Master would be published on the Faculty Office website.

Evidence of Learning: Outcome WL4 focussed on evidencing learning from the work undertaken by the Faculty Office. In order to meet this outcome a schedule of "outreach events" attended by Senior Faculty Office Staff had been developed. This would include events such as attendance at the Notaries Society Conference, meetings with the LSB, meetings with other regulators etc. It was agreed that this schedule would be expanded to include an additional column defining "Lessons Learned" from the outreach events. This schedule would also be published on the Faculty Office website.

It was noted that correspondence with the profession was also learning from "work undertaken" by the Faculty Office.

It was also agreed that any advice given to the Master by the Board would be made clear in the minutes, and any paper(s) outlining the rationale behind advice would be published.

Amendments had already been made to the Faculty Office website to make space for the publication of these documents.

Disciplinary Records: The LSB had upgraded the Faculty Office to green "met" for outcomes A5 and RA4. Outcome A5 focussed on the publication of disciplinary records and notices entered against the online details of notaries published by the Faculty Office. This had been achieved with the introduction of the new IT system in November 2019.

Overall, it was agreed that the Board and Faculty Office would seek to be more transparent, clear and timely in their operations.

A query was raised as to whether it was likely that the Faculty Office would be the subject of a targeted review in 2020. This was not known but making rapid progress was important, regardless.

The representatives from the Societies felt that the objectives set by the Faculty Office were achievable and were keen to assist where possible. Increased publication and transparency would help the profession better understand the role of the Faculty Office.

To publish – the LSB Regulatory Performance Assessment will be published on the Faculty Office website as a supporting paper

5. RESOURCING THE FACULTY OFFICE – UPDATE FROM TEAM AWAY DAY

The Advisory Board considered a report presented by Mark Craig, who had facilitated a reflective and self-evaluative day for the Faculty Office staff on how the Faculty Office could best respond to future challenges.

To publish – the report into resourcing within the Faculty Office will be published on the Faculty Office website as a supporting paper.

6. REVIEW OF MASTER'S PRIORITIES FOR 2019

Advising on Regulatory Standards and diversity action plans:

A significant amount of work had gone into achieving this priority and a major part of meeting this objective was the LSB Assessment. It was also noted that the rules change outcome had been marked as yellow "not met action required".

Revision of the Code of Practice:

Less progress than hoped had been made on this priority. Delays had been caused by costings, the "busyness" of notaries involved and the complexity of the website coding. It was suggested that a "hit rate" for the Code of Practice pages on the website be obtained to help inform decisions on coding in the future.

Advising on the new fee structure:

The Board had provided helpful advice and the new fee structure had been successfully implemented. 45% of the profession had paid less than in previous years though there had been a significant increase for higher earners. The Faculty Office had received a slightly lower income than anticipated this year, and this would be investigated further before the next meeting. There was a discussion around the possibility of introducing further bands or increasing fees. It was reported that there were more retirements than admissions this year, but this was due to the demographic of the profession rather than the result of any admission changes. The new fee structure had been well received by the profession.

Advising on the OPBAS action plan:

The Advisory Board had been less involved in this than originally planned due to the confidentiality requirements of OPBAS. However, progress had been made against the action plan. A risk assessment of the profession had been undertaken and a review of the profession's risk assessment policies was ongoing.

There was a discussion around the plan to appoint a new Deputy Chief Clerk with AML expertise and skills to undertake this side of the regulation.

To publish – the Review of the Master's Priorities for 2019 will be published on the Faculty Office website as a supporting paper

7. KEY PERFORMANCE INDICATORS

The Faculty Office intends to produce and publish useful and meaningful KPIs in the following areas:

1. Timeliness of inspections

This would include the number of inspections, the number of inspections resulting in follow up action and the timeliness of that action.

2. Timeliness of disciplinary cases

This was the most challenging KPI to produce. There are a low number of disciplinary cases in any given year, making the dataset very modest indeed. The Board noted that one very complex case could distort the data significantly, with concerns being raised at the meeting that the KPI would be dependent on many things outside Faculty Office control. This was acknowledged by the Board, but it was important to publish a KPI in this area.

3. Timeliness of admissions

This would measure the time taken from receipt of a completed application to admission.

Discussions centred around the Faculty Office setting targets which are dependent on external factors. This concern was acknowledged by the Board and explanations of the KPIs would be published where necessary.

It was agreed that these would be “base line” KPIs which could be reviewed and revised in the future.

It was agreed that the briefing paper would be published.

To publish – KPI briefing paper will be published on the Faculty Office website as a supporting paper

8. REPORT FROM JOINT WORKING PARTY ON PROFESSIONAL QUALIFICATIONS

Ian Blaney reported that the Report from the Joint Working Party contained a summary of the Working Party's views and recommendations. If the Board was happy to support the recommendations these would be followed up by the Faculty Office.

The following areas of the report were discussed.

Graduate profession

The Working Party felt that there were already suitable provisions for those without a degree to qualify as a notary and the group did not consider that this created an undue bar to entry to the profession. The Board agreed.

Syllabus

The Working Party considered the modules particularly in light of the Solicitors Qualifying Examination and recommended no change. There was some discussion around the cost of the course and whether this proved value for money. It was felt that the UCL course should not be compared directly with the cost of an LPC because of the anticipated salary difference and the job certainty following the respective courses. The Board agreed with this.

Practice Course

The Working Party considered the course to be fit for purpose but recommended asking UCL to consider changing the balance of the Roman Law module and increasing the pass mark.

It was queried whether the Working Party had considered any change to the requirement for notaries to be competent in property law and probate law in the context of creating an enhanced practice certificate. The Board were advised that changes to the practising certificates was considered outside the scope of the Working Party.

The question was raised as to whether the pass mark needed to be altered or whether more aggressive marking could be required. It was noted that many notaries achieved a merit or distinction.

The Board asked the Faculty Office to make enquiries to UCL regarding these matters.

Office Practice Course

The Working Party was happy with the delivery and content of the course but recommended that UCL be approached about covering some of the material on the course. The Board agreed with this proposal

CPE Regime

The Working Party recommended that an AML CPE unit be required and that additional CPE would be required for notaries out of practice for two to three years. The Board agreed with the AML CPE unit and felt that this was important.

Overall, the Board was happy to support the recommendations of the Working Party and for these to be followed up by the Faculty Office.

Advice to the Master – the Advisory Board makes a recommendation in support of the Joint Working Group's recommendations.

To publish – the Joint Working Party Report into Professional Qualifications will be published on the Faculty Office website as a supporting paper

9. INCREASING THE SIZE OF THE PROFESSION

Numerous discussions had been had regarding the need to improve the notarial "brand". Mark Craig reported that he and Howard had produced a draft tender to develop a new brand within the context of growing the profession. The draft tender would be circulated to the Board for their comments and consideration. It was requested that comments be sent to Neil Turpin within the next seven days.

There was a question about how this work would be funded. It was requested that the Societies consider funding the project as the Faculty Office's role as regulator limited its funds to investment in its regulatory aims rather than in reputational matters.

It was agreed that a revised draft would be set before the Board at the next meeting.

There were some additional suggestions of alternative promotional methods including Legal Choices and email footers.

Advice to the Master – the draft tender would form part of the advice given to the Master following the Advisory Board meeting in March 2020

10. INTERNAL GOVERNANCES RULES

The IGRs govern the separation of regulatory and representative functions of regulators. It was reported that new rules were coming into effect in June/July 2020 requiring regulatory boards to have a lay majority. It was noted that the Qualifications Board did not currently have a lay majority.

An application had been submitted to the LSB for a waiver exempting the Qualifications Board from a lay membership due to the technical nature of the admissions looked at however this was initially rejected by the LSB.

Three options remained to ensure compliance:

- (i) Make a further application to retain the non-lay majority.
- (ii) Make the Board advisory.
- (iii) Reconstitute the Board with a lay majority (and secure any necessary technical advice outside the remit of the Board)

It was suggested that efforts should be made to recruit new lay members with specific experience and skills. To establish a lay majority at least three additional members would need appointing.

The Board advised that lay appointments should be sought, and that a suitable recruitment programme be developed.

Advice to the Master – the Advisory Board advises the Master to authorise the appointment of additional lay members to the Qualifications Board to satisfy the IGR requirements.

To publish – the application for a waiver for the Qualifications Board will not be published as it contains information which may form part of an ongoing matter.

11. AML/ OPBAS MATTERS

The 5th Money Laundering Directive was transposed into UK law on 10 January 2020. A basic guidance note was available, and this was sent to all notaries on the same date. Further guidance would be available soon.

To publish – the 5th Money Laundering Directive [Guidance Note](#) has already been published on the Faculty Office website.

12. PROPOSALS FOR RULE CHANGES

Draft Practice Certificate Rules had been drafted to update the current rules to reflect the introduction of NotaryPro. These would be ready for consultation very soon.

There was some discussion as to whether the changes could be achieved through an Order of the Master under the existing rules rather than a rule change but after discussion this was rejected.

Draft Accounts Rules were being prepared to amalgamate and update the current 1989 Rules. There was a suggestion that the Rules be considered by any Deputy Chief Clerk specialising in AML if/when they were appointed.

13. COMPOSITION OF THE ADVISORY BOARD

The issue of additional lay members being sought for the Board had been discussed earlier in the meeting. An advertisement would be drafted and submitted to the Board for approval. It was also suggested that the notaries present may be able to suggest clients or contacts as candidates.

There was some discussion regarding the rotation of notary members of the Board. It was agreed that this would be discussed at the next meeting and that a paper would be produced.

Advice to the Master – the draft advertisement for lay members of the Advisory Board will form part of the Board's advice to the Master on the composition of the Board.

14. ANY OTHER URGENT BUSINESS

It was reported that the Master had produced a list of 2020 priorities for the Advisory Board.

Priorities for 2020

- 1) Completion and approval of revisions to the Code of Practice
- 2) Completion of Review of qualifications and educational requirements
- 3) Transparency and good governance.

15. DATE OF 2020 MEETINGS

25 March 2020	23 September 2020
9 June 2020	1 December 2020