

Minutes of Quarterly Master's Council Meeting

Held on Monday 02 November 2020 at 16:00 via video conference

Attendees: Morag Ellis QC, Master
Howard Dellar, Registrar
Ian Blaney, Deputy Registrar
Neil Turpin, Chief Clerk
Mark Craig, Chair of the Advisory Board
Mili Bhanji, Risk, Compliance and Investigations Officer and Deputy Chief Clerk

Present: David Fowlis, Regulatory Policy Manager, LSB (*observing*)

PART I - Ecclesiastical Matters

PART II – England & Wales Notarial Matters

1. Faculty Office

Practising certificate applications

The Faculty Office confirmed that to date there was a deficit of £16,820 in terms of licence renewal fees. However, weighing up the the small number of retirees this year (nine) compared to previous years (around 30), and having received several emails from members indicating they would renew, the overall outlook was positive.

The Faculty Office expects a number of late submissions and is confident that it is on target to achieve anticipated renewals figures. As an additional measure, reminders will also be sent week commencing 09 November 2020 to all members with practising certificate renewals outstanding.

Covid-19 Impact update

The Master expressed particular interest in two areas: the effect of covid on the profession and the effect of covid on the Faculty Office staff.

The Faculty Office reported that during the licence renewal process it had received comments from a number of individuals that their income had fallen. Equally, others seem to be "picking up the slack" because the bulk of the work has continued.

The Master recently attended introductory meetings with two main professions where she gained the impression the City of London had been quite hard hit during lockdown. The knock on impact being that sole practitioners working from home around the country were more positive.

The Master observed that previously there was a certain amount of centralisation happening and there was possibly a measure of concern about there not being as many notaries in smaller towns and places as one might ideally like. It seems as though one of the consequences of covid may have been to reverse that trend somewhat.

A discussion then followed about membership demographics in terms of geographical spread and membership age, and whether there was any potential risk to the budget. It was agreed that the Faculty Office would provide a synopsis at another meeting, which would feed into other considerations about risk and strategy such as diversity.

With regards to Faculty Office staff, the Registrar confirmed that plans for getting back into the office had come to a complete halt. The office would be closed again from Wednesday evening until further guidance from government. However, home working has been very effective and whilst physical meetings have lots of benefits, the Faculty Office had saved considerable time due to remote meetings.

The Master enquired about staff welfare and the Registrar confirmed measures were in place to support staff and facilitate confidential counselling, particularly for those individuals that have been affected by the death bed marriage licence work.

KPIs update

The Faculty Office confirmed that three agreed KPIs had been published since April 2020 and these were based on the admissions framework, inspections regime and disciplinary process. However, there was little in terms of an update due to the following:

- **Admissions** - examinations were later than normal this year between August through to October so sufficient data is not yet available.
- **Disciplinary cases** - no new cases although there is one looming which will be reported on in due course.
- **Inspections** – the 2020 remote inspections did not get underway until August and are therefore likely to run into 2021.

The Advisory Board considered the existing KPIs were a credible starting point with a focus on developing more detailed KPIs moving forward. It was agreed that the Faculty Office would devise additional KPIs for consideration at another meeting.

Internal risk register

The progress column for each risk area was considered and the following observations were noted:

a) **Human resource**

- Additional capacity in terms of governance with Mili Joining
- New HR manager requiring induction
- Staff development agenda for 2021

b) **Professional Indemnity Insurance**

- Renewal application submitted but anticipating increased premium

c) **Disciplinary cases**

- A process of collating and centralising data is underway

d) **Cyber awareness**

- All staff where being required to complete the KnowBe4 cyber awareness course to combat scams, the incidence of which are rising due to covid.

Inspections

Remote inspections have raised questions about data retention. Inspectors would ordinarily view notarial files onsite. These may include client ledgers and other sensitive data. However, due to the move during covid to remote inspections, this information is transmitted electronically to the Inspectors and they are seeking our view on the holding of sensitive data.

It was agreed that the Faculty Office would produce guidance on this point but in the interim our instruction is for the inspectors to hold onto inspections data until the Master has sighted the report and given the green light and then it should be deleted.

s.69 order update

This is the statutory instrument under the Legal Services Act which would enable us to amend the Courts and Legal Services Act 1990, which is the main piece of legislation dealing with how the Master appoints and regulates notaries.

A draft amendment order to enable the Master to expressly regulate notarial entities, that is more than one notary working together in an unincorporated or an incorporated body, was prepared and the Faculty Office responded to a list of questions on it from the Ministry of Justice some time ago but there is no update since then to report.

The Ministry of Justice are drafting endless instruments to deal with Brexit and are therefore more preoccupied than usual. However, this is not of pressing concern at this time although it was agreed that we do need to do it eventually, in particular the power to impose a fine which we do not have at the moment. We have other powers such as the power to strike and suspend, or place conditions on a practice but no power to fine.

Boards

Minutes of these Board meetings were circulated prior to the Quarterly Council Meeting and the Advisory Board minutes are available for publication on the Faculty Office website.

Qualifications Board – The Board had met in September 2020 and considered 28 new applications for a certificate of exemption but there is no update regarding the number of actual exemptions because some applications went to a sub-committee.

A total of 43 students started in September even before the cohort which went before the Board in September, although 11 of those were waiting upon results of their Cilex examinations and their entry on some course was provisional on them retaining those marks. A diversity break down of these students is as follows:

- 26 are men and 17 are women
- In terms of age group, 8 are in the 20s
- 15 are in the 30s
- 8 are in their 40s
- 9 are in their 50s
- 2 are in their 60s and one is over 70.

Advisory Board – The Board had met in September 2020 and produced several advisory notes to the Master as reported in the published minutes.

The Chair of the Advisory Board highlighted the key issues and reinforced the benefits of reporting information clearly on the Faculty Office website. This opened a discussion around the importance of communication and the need to reach out to a wide audience.

Diversity Questionnaire

The Faculty Office previously reported that the triennial diversity questionnaire would be issued with the application for renewal of the practising certificate.

The diversity questionnaire was distributed as planned and the data collection process is almost at an end. The Faculty Office reported that the diversity information is readily and efficiently processable and will be formulated and published by January 2021.

Enforcement action policy

The Faculty office presented a draft informal enforcement policy document in line with a request from OPBAS.

It was agreed that whilst creation of an enforcement action policy is supported by the legal principles of proportionality, transparency and legitimate expectation, it must not fetter discretion and so a wider consultation was considered appropriate.

As such, the Master welcomes input from the Advisory Board.

2. LSB matters

The Faculty Office bimonthly relationship meeting continues to take place. The LSB has placed quite a lot of emphasis on collaboration with other regulators and in principle we are absolutely in support.

The Faculty Office were in the process of providing a final response to LSBs request and would await an update.

The Master confirmed that we see this as a rigorous and testing process but also a useful and learning process, which is very much what we want to achieve.

3. Mayson review

It was agreed that in line with the Advisory Board advice, we would keep a watchful brief on any changes falling from the Mayson review publication.

4. Disciplinary cases

There is one complaint that is likely to need to be heard by the Court shortly, and it was hoped that this might be using the proposed change to the rules to allow the proceedings to take place by videoconference.

5. AML matters

OPBAS have approved the Faculty Office draft action plan. The format will provide positive and meaningful progress during the course of the year.

6. Legal Choices

The Master congratulated Howard Dellar who has been appointed Chair of the Legal Services Board.

The Legal Choices group is a useful forum where all regulators come together and have the opportunity to be united and to make a difference. Increasingly, the focus of Legal Choices will be the access to justice agenda as well as legal education more generally.

Legal Choices are also looking to tackle diversity and promotional work with schools and universities.

This led to a discussion about promoting Legal Choices through social media and the possibility of suggesting to notaries to include a link on their website to advertise Legal Choices.

7. RPIG

There was a discussion around a review carried out by CMA and our response to it, which was published on its website. It was agreed that a link to this would be added to the Faculty Office website.

8. Economic Crime Levy

The Faculty Office submitted its response to the ECL consultation and a copy of this will be added to the Faculty Office website to inform notaries.

PART III – Overseas Notarial Matters

9. Any other business

10. Date of next meeting - TBC

Glossary

NotaryPro	Online system used to administer the regulation of the profession
LSB	Legal Services Board
OPBAS	Office for Professional Body Anti-money laundering Supervision
MAC	Master's Audit Committee
IGRs	Internal Governance Rules
KPIs	Key Performance Indicators
RPIG	Remedies Programme Implementation Group

CMA	Competition and Markets Authority
AML	Anti-Money Laundering