



**Minutes of the Meeting of the Advisory Board held
on Tuesday 15th March at 11.00am at 1 The Sanctuary, Westminster**

Present: Mark Craig (Chair) (MC)
Jonathan Coutts (JC)
Michael Heap (MH)
Lesley Hurst (LH)
Elaine Standish (ES)
Christopher Vaughan (CV)

In attendance: Howard Dellar, Registrar Faculty Office (HJD)
Ian Blaney, Deputy Registrar Faculty Office (ISB)
Neil Turpin, Chief Clerk Faculty Office & Clerk to the Board (NDT)
Mili Bhanji, Deputy Chief Clerk (MB)

Part I – open

1. Apologies for absence

James Barnes Miller (JBM) – due to BSL interpreters being unavailable.
Michael Lighttower (ML)

2. Minutes of the last meeting

- a. Approval of minutes
The Board approved the minutes from the last meeting, which had been circulated in advance, subject to one typographical error.
- b. Confirmation of documents uploaded to website
NDT confirmed that the minutes and supporting papers had been uploaded.

3. Matters arising not otherwise on the agenda:

a. Insurance – minimum terms

NDT confirmed the Master had agreed to the recommendation to produce minimum professional indemnity insurance terms and this item would be pursued. **FO to bring this matter back to the Advisory Board later this year.**

4. Faculty Office updates

a. LSB ongoing competence statement of policy

A copy of the FO response to the LSB had been circulated to Board members. NDT reported that other regulators had indicated that they would be putting in a response to the draft statement specifically seeking significant alterations to some aspects. One regulator was even considering the legality of LSB's position in producing this statement.

JC reported that they had submitted their own response.

ISB confirmed that the FO are not saying that there is no need for checks on ongoing competence. Each regulator will have their own method of carrying out these checks whether this is for example through inspections or by monitoring of continuing professional education. The point being made is that this assessment process is a matter for the frontline regulator, rather than the oversight regulator dictating how this should be achieved.

Board Members agreed that the consultation response provided by the FO is appropriate and reasonably robust.

b. LeO Consultation – Scheme Rules

NDT confirmed that the FO had not yet submitted a response. The proposals are being made largely to address LeO's service levels and backlog situation. The main change includes a limit on the period during which complaints can be made – down from six years to one year after the action being complained about, or one year after client becomes aware of the action being complained about.

JC observed that this was a disappointing outcome of LeO previously overreaching themselves and now having to come full circle. This was also down to procedure in that everything seems to be escalated to Ombudsman decisions.

LH raised the point that LeO's proposed changes could potentially extend the period for the claimant to lodge a complaint. ISB confirmed that this was limited to cases where a claimant was not aware that they had cause for complaint.

The Chair summarised that the proposals were focused on saving money, cutting backlog and political mood but the information available is not clear. Concerns were raised about resources given the length of the consultation paper.

FO to draft a response broadly accepting the proposals but recommending a longer period (perhaps two or three years) in which to make a complaint.

c. Consumer Survey

NDT reported that the Consumer Survey had received 147 responses after one month of being live. Previously, even after a year of being live, only 35 responses had been received. This method of accessing consumers has provided better reach.

The data provides positive indicators:

- that there are no specific problems in accessing notarial services,
- there are no specific problems in the quality of service received.
- 85% said they were pleased with the service and would recommend the notary to others, which provides assurance

JC on behalf of the notaries confirmed whilst there were some reservations about who responded, overall this was a good news story.

FO will analyse and publish the data in due course

d. KPIs

NDT presented a paper on admissions and confirmed that it will be updated on 31 March to include new applications data before being published on FO's website.

This led to a discussion on the admissions and supervision process:

- NDT clarified that the "Faculty" is when applicant is admitted to the Roll
- ISB explained that the admissions process was currently paper based, but the practising certificate application was submitted via NotaryPro. Making the entire process electronic had been considered but the costs involved were too high given the low number of applicants coming through each year
- ISB invited the Board's view on the duration of the admissions process and whether they had received any feedback on this point
- The general view was that the appropriate time from admission to practising certificate varied depending on the applicant. ES pointed out that some notaries wish to obtain their practising certificate straight away. Although this had been slower during covid but she was aware of at least

- two supervisees who passed three years ago and only recently wished to obtain a practising certificate
- ES provided an example of a newly qualified notary in Newcastle having difficulty finding a supervisor because the local notaries did not want to support competition. The issue was resolved by locating a supervisor in Durham
 - NDT confirmed there was a time limit under the rules for applying for a practising certificate

5. AML/OPBAS matters

ISB confirmed that the key point under this agenda item was that due to the war new sanctions orders had been imposed by the UK Government. The FO are under intense pressure from the super regulators to monitor compliance and cascade information to notaries.

The FO has emailed notaries to raise awareness and reminding them to be aware of funnelling dirty money.

HJD confirmed that he attended a roundtable meeting with LSB and other legal service regulators and this led to a discussion around the reasonableness of legal fees from a designated person and the requirement to obtain a licence from OFSI. JC confirmed that as expected this had created more work. They had controls in place to consider sanctions and would continue to take on Russian clients. Concerns were raised around equality, diversity and inclusion issues arising from a blanket approach to refrain from accepting instructions from all Russians.

ES sought clarity as to when it would be acceptable to decline instructions given that notaries are expected to be always available under the rules. ISB confirmed that unless there is a sanctions match notaries must only decline if they do not have the competence to accept the instructions. MB pointed out that in terms of monitoring and compliance much would depend on what type of instructions were accepted prior to the new sanctions being announced.

CV provided a live example of these issues where legal service provider helping a teacher client based in Russia to secure their appointment by having their UK qualifications notarized and legalized.

FO to make Master aware of this discussion

6. LSB Governance Review – update

- a. Policy Review Schedule draft

NDT presented the draft schedule and invited Board members to consider whether the review cycle was on point. Agreed that the date of review for the Complaints Policy to be adjusted to corrected to 2023.

The Chair confirmed that he had prepared the Governance Manual with help from the FO staff. Eleven items from the LSB action plan now completed and four are on track. There is one item where clarity has been sought about removing data from minutes.

7. Advisory Board skills matrix

The Chair confirmed general view that:

- ECC knowledge not as important
- Ability to understand complex material is important
- Relationship management is important
- Other items - training on specific things – for example AML via zoom also important

Key outcome is to inform the Master that useful to keep in place

8. Law-Tech/AI

Deferred for next meeting – to be added to top of agenda.

9. Strategic issues – open discussion (up to 60 minutes)

The Chair explained that this agenda item was one of the away day initiatives. The purpose was to have open time for Board members to bring up matters for discussion.

- ES raised the matter of information about well-being for notaries. She suggested the FO include an item on the website signposting what help is available. ES reported that she had attended a roundtable meeting with other regulators and some of them had a 24-hour helpline. There was a view that wellbeing should be an important focus.

Board members agreed that this should be raised with Master and to be included as matters arising for the AB meeting in September.

- MH reminded the Board members that whilst the political effort had been taken away by Brexit/covid/sanctions but important to revisit the possibility issue of the single regulator threat as this was not in interest of consumers. He asked whether the Master has a plan to influence this view.

CV reminded the Board members about the Mayson report and that there would be a thrust to review regulation again. Stephen Mayson will be speaking as keynote speaker at the conference in September. HJD confirmed it would be useful to arrange for Stephen Mayson to meet the Master.

The Board agreed that it was important to cultivate relationships and for the Master to exert such influence as was possible by arranging an informal annual meeting or dinner with the Lord Chief Justice and Lord Chancellor/Secretary of State for Justice as a way of maintaining/creating open communication channels

The Chair requested that the Mayson report to be circulated with the minutes (highlight key pages).

- CV reminded the Board of a paper the FO had prepared around the need for strengthening disciplinary powers for dealing with individuals who provide notarial services without licence. He gave an example of an inconsistency of approach by the FCDO around document legalisation – they expect an English/Welsh notarial document to be bound, however if Scottish notary lodged the same type of documents then they are happy for it to be stapled which is cheaper and quicker.

IB confirmed need for a statutory instrument to augment the Master's power. A draft has been with the MoJ which includes power to fine rather than take Notaries through court procedure but does not include the power to take action against non-notaries. The FO realise there is a lacuna that needs to be raised with LSB and MoJ. MH pointed out that there was a need to champion regulation by activity as opposed to title. This led to a discussion around activities that need to be brought into regulation: illegal activities (practising without a certificate) and legal activities (will writing). JC urged for the Master to lobby carefully. Important to respond to consultations.

10. Any other urgent business

Register of interest when Board member get agenda for next meeting

11. Dates of next meeting

Tuesday 14th June at 11am

Tuesday 13th September at 11am

Tuesday 6th December at 11am

Part II – closed items

None.