



THE FACULTY OFFICE

Minutes of the Meeting of the Advisory Board held on Tuesday 14th June at 11.00am at 1 The Sanctuary, Westminster

Present: Michael Heal (MH) (Acting Chair)
James Barnes-Miller (JB)
Jonathan Coutts (JC)
Lesley Hurst (LH)
Michael Lightowler (ML)
Elaine Standish (ES)
Christopher Vaughan (CV)

In attendance: Howard Dellar, Registrar Faculty Office (HJD)
Neil Turpin, Chief Clerk Faculty Office & Clerk to the Board (NDT)
Elizabeth Cooper, Trainee Solicitor Faculty Office
Chloe Matthews (CM) – BSL Interpreter
Gurmail Narwain (GN) – BSL Interpreter

Part I – open

1. Apologies for absence

Mark Craig (Chair); Ian Blaney, Deputy Registrar Faculty Office; Mili Bhanji, Deputy Chief Clerk Faculty Office.

HJD reported that the Chair had been taken very seriously ill at the end of April and, whilst he was making progress, his recovery was likely to be a lengthy process. The Board sent their best wishes for a full recovery.

2. Minutes of the last meeting

- a. Approval of minutes
The Board approved the minutes of the meeting held on 15th March 2022 *nem con*.

- 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. LSB ongoing competence statement of policy – NDT reported that responses were being considered by the LSB and we were awaiting the final version of the statement of policy.
- b. LeO Consultation – Scheme Rules – copy FO response. NT confirmed that the FO had put in its response which took account of the points made by the Board at its March meeting. LeO would now be considering the responses. A timetable for implementation of any revision to the rules following the consultation was not known.
- c. LSB Governance Review – Action plan update. A copy of the update had been circulated with the papers and sent to the LSB. Action was being taken to catch up where the timetable had slipped. In particular, appointments to the Audit Committee had slipped but an advert had been placed in Third Sector and on the Faculty Office website. At least one application had been received along with other expressions of interest. HJD confirm that the Acting Chair would be invited to assist the Officers of the FO to shortlist and interview applicants.

4. Faculty Office updates

- a. Consumer Survey - NDT introduced an analysis paper which had been circulated and seen by the Master. He drew attention to the Key Findings on page 2 and the Summary on page 12 which proposed four possible workstreams arising from the results on which the Board were invited to comment:
 - i. Increased compliance with some aspects of the transparency work (particularly around provision of clear complaints signposting);
 - ii. Increased public understanding of the redress/regulatory status of notaries;
 - iii. Increasing the profile of the Faculty Office/Faculty Office website as the “go to” site for up to date details of notaries authorised to practise in England & Wales; and
 - iv. Encouraging applicants into the profession from outside of the M25 area so that the supply of notarial services better reflects the population spread throughout the Country.

ML noted that it was disappointing that some notaries appear not to be providing the required information to consumers particularly complaints signposting which had been a requirement for many years prior to the enhanced transparency obligations following the CMA report. Inspections, spot checks and secret shopper checks might be required alongside more general reminders to notaries of their obligations in these areas in communications from the Faculty Office.

ES asked about the suggestion that the Faculty Office website should be the go to site for finding a notary, noting that the Notaries Society website also includes a function to find a notary. NDT explained that the FO site was directly linked to NotaryPRO so it was updated in real time for all notaries holding a current practising certificate AND whose insurances etc were up to date and in place. The Notaries Society site only recorded members of the Society and was reliant on members advising that they

continued to practise and hold a valid practising certificate. A separate part of the site, accessible only to members and not the public, contained contact details for all members whether or not they are currently practising. It was noted that the FO website would need further investment to be picked up as a search engine for notaries, particularly as the word Notary does not appear in the title of the FO.

HJD stated that the public may want to be able to find details of retired and struck off notaries and that to have access to this record would help protect the public. JB suggested that it may be worth having a separate website or a section on the website explaining what information/criteria should be covered for practicing notaries. HJD proposed a separate list should be created of struck off notaries. CV stated that this would not cover notaries who are the subject of ongoing disciplinary action and who may end up being struck off and that the publishing or disciplinary decisions and the noting of restrictions on practicing certificates only being a fairly recent development. JC felt that the publication of judgments on the FO website did work quite well.

JC asked about feedback from the survey more generally given that this had been an area of concern highlighted by the LSB. NDT confirmed that the paper had been circulated to the LSB and that, whilst no substantive feedback had been received as yet, regulatory performance update was expected soon and we would anticipate that the fact of the survey would be noted. NDT indicated that they were surprised by the level of engagement (159 responses) given the limited amount of direct funding put into the survey. The use of external consultants and even the LSB's public panel, would have required significant funding alongside internal resources.

JC asked if the survey would be repeated in the future. NDT indicated that a similar survey might be repeated bi-annually with a particular focus as to whether the noted action points have made a difference and assess whether any further work is needed. ML noted that the final action point is a matter of concern and action to encourage more applicants is important as part of a wider horizon scanning and risk profiling exercise which is an important matter for the Board to return to at future meetings.

- b. LSB proposed regulatory performance framework – consultation. A draft (not for publication) response to this LSB consultation paper had been circulated to members of the Board. NDT, introducing the paper, indicated that it was very much a first draft and acknowledged that amendments to both the tone and content would be required before it is submitted. Board members suggested some amendments to the introductory comments and, specifically, to questions 1 and 12. These comments would be incorporated and a revised draft circulated to members of the Board. The final, submitted, version, to be published alongside these minutes in due course.

5. Law-tech/AI

ML reported that very significant progress had been made in recent months on electronic documents and the E-Apostille project but that a last minute technical issue between the platform provider and the Foreign Commonwealth and Development Office (FCDO) systems had arisen. The parties were now in direct contact with each other to resolve the issue. Once the issue has been resolved, an article should be put in the next Notary magazine setting out the costs and benefits of using the system and an explanation on how to use the platform; a video would be produced by September demonstrating how to create and use the software.

HJD asked about the costs and whether these would need to be passed on to consumers. ML stated that the documents would be sent directly to the individuals and the documents would still need to be checked by the Notary, but the efficiency of the service would provide a cost saving for the public. Significant investment had been made by the FCDO, but people would need to start using the service, noting however that many other countries have not yet started using electronic documents but as this number increased the cost savings would also increase. NDT asked if it was a notary society product. ML confirmed that the product is on a third party platform and had been adapted for notaries and would be used on a pay as you go basis.

MH asked that ML provide a paper on the project for the next Advisory Board meeting to be held on 13.09.2022. ML confirmed that it was hoped to launch the product at the Notaries Society Annual Conference on 15.09.2022

6. AML/OPBAS matters

- a. Sanctions – HJD introduced the confidential action plan prepared by the Faculty Office for the LSB outlining the steps which have been taken and will be taken to enforce the sanctions regime generally and, in particular, with the current focus on Russia and Belarus. This document will not be published as, although prepared for the LSB, the view of OPBAS is that details of the work being undertaken by Professional Body Supervisors in the AML sphere ought not to be published in order that those who might be involved in Money Laundering or Sanction circumventing activities are not alerted. The Action Plan has been well-received and the LSB have offered to assist the Faculty Office to make progress with the provision of a Section 69 Order to provide additional enforcement powers to the Faculty Office.

JC sought some clarity on the additional questions which the Faculty Office might be asking and what the implications might be of answering in a particular way. MB would be asked to contact him to assist as she was unable to be present due to a meeting clash.

- b. On a related matter, NDT enquired of the notary members of the Board as to whether they were aware of any issues in obtaining/renewing PII cover for work in sanctioned jurisdictions. The Faculty Office had been alerted to one case where an Insurer had unilaterally, and without notice, rescinded cover for any work in relation for an individual or corporate client whose principal residence or place of business was in Russian Belarus or Ukraine regardless of whether the individual or corporation was on the Sanctions list. The Insured had only been made aware of the position when they came to renew their PII policy at the end of April. The Insurer had taken what it termed an 'ethical' decision to withdraw cover for this market notwithstanding that their actions had effectively removed access to justice for many millions of people simply because of where they lived. The Board expressed serious concerns at the retrospective removal of cover and consumer protections but were not aware of any other similar issues having arisen. Clear guidance is available to lawyers on the general operation of sanctions regimes on Government websites and notaries should not be declining work which is within their competencies simply because of the nationality of the client or location of the corporation. POST MEETING UPDATE: the case referred to above has been resolved with cover being secured from an alternative insurer.

7. British Sign Language Act 2022

JB confirmed that the passing of this Act to recognize British Sign Language (BSL) as a recognised language in England, Wales and Scotland was very welcome. He pointed out that Scotland did in fact already have its own legislation in place so the rest of the UK mainland was 'catching up'! The Act is primarily focused on requiring all Government Departments to report on what steps each has taken in using or including BSL when communicating with the public in its public announcements on policy or changes in the law, publication of strategies or consultation documents and at press conferences etc. The Secretary of State is required to produce a report on the above annually as well as publishing guidance on the promotion and facilitation of the use of BSL. The Faculty Office to look out for the guidance when issued and to consider the annual report issued under the Act at its meeting in September 2023 to ascertain whether there are matters which could be applicable to the work of the Faculty Office.

The acting chair expressed his thanks to CM and GN (BSL Interpreters) for their assistance with interpretation and, with JB's agreement, expressed the hope that they might be available for the Board's next meeting on Tuesday 13th September.

8. Any other urgent business

There was none

9. Dates of next meetings

Tuesday 13th September at 11am (this meeting to be by Zoom due to avoid Board members attending the Notaries Society Conference in London on 15th September from travelling into London twice in one week)

Tuesday 6th December at 11am

Part II – closed items

None.