



## **FACULTY OFFICE**

### **Quarterly Master's Council Meeting**

Meeting held on Monday 5<sup>th</sup> December 2022 at 3.30pm via Zoom and in-person

#### **Present/online:**

Morag Ellis KC, Master of the Faculties (ME)  
Howard Dellar, Registrar, Faculty Office (HD)  
Ian Blaney, Deputy Registrar, Faculty Office (IB)  
Neil Turpin, Chief Clerk, Faculty Office (NT)  
Ola Olajide, Legal Advisor EEC (OO) (Minutes)

Apologies : Mili Bhanji

## **MINUTES**

### **Review minutes of previous meeting and action points/matters arising**

#### **PART I – England & Wales Notarial Matters**

##### **1. Faculty Office**

- (i) Financial report and update

(Not for publishing)

NT reported that the figure for marriage licences is under budget, although this is likely to be closer to the budget after the usual seasonal increase in January and February.

HD suggested that the financial data be supported by graphs and more visual presentation and ME requested that the financial update is shared with the Archbishop or his new Chief of Staff.

It was agreed that the financial audit to go ahead. HD to schedule a meeting with haysmacintyre to arrange.

#### **Risk Register**

IB raised the following points:

- There was no change to risk levels.
- A new lay member of the Qualifications Board has been recruited but disappointingly two lay members have submitted their resignation.
- One member of the QB, Patrick Maddams has sadly passed away and a letter of condolence has been sent to the family.
- There is a gradual decrease in number of special licence applications. A civitas study suggests that the marriage rate in Britain could fall to just 1 in every 400 couples over the course of the

next two generations. The current marriage rate in Britain is around one couple for every 100 adults. Civitas estimates that 67,000 couples in England and Wales will marry in 2062 compared with 213,000 in 2019. There has been a rapid drop over the generations.

This led to a general discussion around the risks identified in the risk register and ME made the following suggestions:

- Everyone to consider diversity in the broadest sense.
- The FO is to tap into its university networks with an overt call for underrepresented candidates to apply (NT mentioned that two board members were recruited through an external advert and this method may also be used again).
- FO to consider a broader analysis to include general pandemic situations and not just COVID.
- Evident that there is a need to progress the mapping of cyber-attack risks.

ME queried whether there was any progress on the idea that someone could be paid to hack in and test the system. HD said David Nason our IT consultant was preparing a paper for the FO to consider. Independent consultants have been contacted to see how prepared the FO is and general comments were given with some initial information about the possible costs of hiring cyber security experts to test our systems and then make recommendations.

IB confirmed that periodic staff training in place to raise awareness around phishing, malicious links and suspicious activity.

#### Horizon Scanning

IB confirmed the following:

- there was no update on an independent review of the Legal Services Regulation, led by Professor Stephen Mayson.
- Ministers have launched an expert industry working group to boost public confidence in e-signatures.
- There was a review of Human Rights Act 1998 through a proposed Bill of Rights, but this has stalled with all the changes in government.
- The governments proposed Data Protection and Digital Information Bill has also stalled. This legislation would substantively impact the way in which notaries may collect and process their client's personal data.
- There are positive legislative changes in the Retained EU Law (Revocation and Reform) Bill. Under the proposals by end of 2023 all retained EU law will be repealed unless enacted in UK law before then.
- It is necessary to keep a watching brief and ask the Societies or the Advisory Board whether the Bill is likely to have any unintended consequences for notaries.

ME suggested that to assess the impact of any legislative changes HD keep a watching brief of any developments and ensure there is a channel of communication in place with the societies, government agencies and other relevant bodies where HD sits on their boards.

(ii) Operations: Complaints against Faculty Office

None to report.

(iii) Lessons learnt from the Practising certificate renewal round

IB suggested that the questions from the first round should be looked at rather than additional questions included, and these should be reviewed on an ad hoc basis. MB is looking at the layout and grouping of questions.

ME suggested an earlier review of questions being asked and to assist notaries there needs to be provision for saving answers prior to submission.

(iv) Discipline cases- update

NT confirmed that the Kerr case is listed to be heard on the 23<sup>rd</sup> January 2023. ME proposed attending the hearing as observer to gain insight into the disciplinary process in practical terms.

(v) KPIs and discipline cases

In the year ending March 2022 the Faculty Office concluded four misconduct complaints of which three were amalgamated into one case against the same notary. This led to one case going to a full hearing following a lengthy investigation and after several interim Court Directives.

There was discussion as to who should have the investigatory role in a notary disciplinary matter, having regard to the need for someone with the right background, skill and knowledge. There is a potential shortage of suitably qualified “nominated notaries” for the range of disciplinary cases brought.

ME confirmed that the issue in every case will need to be looked at to determine the right person.

## **2. LSB matters**

(i) LSB Annual Regulatory Performance Assessment clarification assessment and well led review action plan.

The action plan has been updated since the last quarterly meeting and is in the public domain.

(ii) LSB priorities generally

Consumer empowerment and continuing competence are the two main priorities.

### **The Master's priorities updates**

(i) **Protecting and promoting the interests of the consumer**

#### S 69 order

The principle behind the draft s69 Order was agreed by the LSB and they had sight of the earlier Order. MOJ made points around jurisdiction role of FO concerning notaries that have given up practice.

IB confirmed that since the last meeting there has been substantive engagement with MOJ. IB has also contacted Ian Miller (IM) and will send all documents to him with a view to getting an estimate of his costs. It was noted that the matter is progressing, but the timing is dependent on the MOJ and therefore uncertain.

#### Insurance minimum terms, run off cover and the level of cover

Insurance minimum terms, run off cover and the level of cover all need consideration and relevant changes made to our rules following a suitable consultation and after taking into account the findings of the LSB's research into the state of the professional indemnity market.

NT contacted someone who knows about notarial PII. The challenge is the run-off cover as it is a difficult market. There are no requirements for notaries for PII. The financial viability of this needs to be considered.

**ii) Protecting and promoting the public interest and promoting and maintaining adherence to the professional principles.**

Review of the FO discipline system

A meeting is being arranged between the Commissary and ME which will be a good opportunity to scope and review the disciplinary process.

Review of the three sets of accounts rules

This will be revised, and the draft proposal tweaked. To be done by mid-February 2023.

Reinforce the sanctions regime-review against action plan.

The Faculty Office will continue to re-enforce the sanctions regime as outlined in its sanctions action plan and keep this work stream under review.

MB produced an action plan that went well.

Review progress on increasing FO reserves.

At the Faculty Office we will continue to build up the Faculty Office's reserves to the equivalent of six month's expenditure.

**iii) Encouraging an independent, strong, diverse and effective legal profession**

Equality, Diversity and Inclusion (EDI)

OO- the FO's new diversity champion provided an update on the recent EDI Forum with a cross-section of regulators. There was a discussion on the Social Mobility Task Force research and increasing a diverse workforce at senior level (which relates to employers). There was also a focus on evaluation and data collection in terms of how, what and when regulators could ask about diversity. This will all feed into the FO diversity questionnaire for next year and the LSB EDI programme.

In terms of collaboration, CLC have expressed interest in learning about the FO's 1000 black internship experience.

ME mentioned that other professions are looking at apprentices and making access easier for students without incurring debt or having to move away from home. HD suggested that the profession (notarial) should be demystified. This led to a discussion on the other routes and options to becoming a notary and possibilities include, CILEX, Barrister or degree.

ME suggested that there should, perhaps, be the possibility of doing an apprenticeship with a notary or Scrivener within a solicitor's firm.

FO to raise this with the Qualifications Board.

#### Post-qualification requirements

ME suggested that a first draft of the continuing employment and competency report should be completed before the new year.

#### Wellbeing update

ME noted that evidence points to other life factors being at play when people burn out. HD spoke to CEO of LawCare and a suggestion was made to offer referral services as part of disciplinary process. HD will ask the CEO to attend a Master's Council meeting and to hold a course and possibly present to the Advisory Board too.

NT asked whether a donation could be made to LawCare for the work they do. ME agreed to authorise a donation up to a maximum of £1,000. HD will check the funds with SG.

#### **iv) Supporting the constitutional principle of the rule of law**

This lecture will be a high-profile seminar to explore the importance of notaries in upholding the rule of law- update. HD has spoken with Sir Keith about this conference and a new date is to be set. In preparation, IB will send a paper of key legislative changes.

#### **v) Increasing public understanding of the citizen's legal rights and duties and improving access to justice. Legal Education.**

##### Legal Choices

HD reported that he will continue to chair for another year until his term comes to an end in 2023.

#### **3. AML matters-OPBAS review**

IB reported that the OPBAS inspection has come to an end and anticipates that the inspection findings will be communicated in the next few weeks.

#### **PART II – Overseas Notarial Matters**

These items are not for publication.

#### **PART III – Ecclesiastical Matters**

- (i) Marriage law update

(These items are not for publication)

[REDACTED]

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#### **Date of next meeting**

2023 dates to be agreed