

**Minutes of Meeting of the Advisory Board held on
Tuesday 14 March 2023 at 11:00am at 1 The Sanctuary, Westminster**

Present (in person): Michael Heap, (MH) Acting Chair
Martin Charlton MC) – replacing Jonathan Coutts
Lesley Hurst (LH)
Michael Lightowler (ML)
Christopher Matthews-Maxwell (CMM)
Elaine Standish (ES)

In attendance: Howard Dellar, Registrar (HJD)
Ian Blaney, Deputy Registrar (IB)
Neil Turpin, Chief Clerk (NT)
Mili Bhanji, Deputy Chief Clerk (MB)
Jaymisha Tailor, Legal Administrator (JT)

PART 1 – OPEN ISSUES

1. Apologies:

Apologies have been received from Mark Craig (MC), Clare Curtis-Thomas (CCT) and Christopher Vaughan (CV).

2. Presentation from Review Solicitors and Questions:

IB reported that Michael Hanney, CEO of Review Solicitors, was unwell and unable to travel to London to give his presentation. The Board requested that he be invited to attend the next Advisory Board meeting in June.

3. Minutes of Last Meeting:

- a. The minutes of the meeting held on 6 December 2022 had been circulated and approved by all present
- b. NT confirmed that the minutes of the last meeting will be uploaded onto the website by the close of business on 14 March 2023.

4. Matters arising not otherwise on the agenda:

- a. LSB Statement of Policy (Ongoing Competency) – NT confirmed that the response to the LSB information request was submitted at the end of January 2023. A copy of the Faculty Office response had been circulated to the members of the advisory board and focused on the lack of evidence of problems with ongoing competency in the notarial profession and the imposition of additional burdens on the profession and the Faculty Office would be disproportionate. The LSB have acknowledged receipt of the submission however the Faculty Office are awaiting a substantive response which is anticipated, following the LSB Board meeting at the end of March 2023, by the end of April 2023. The LSB response will be circulated to members of the Board and discussed at the next Advisory Board meeting. IB noted that consideration of the post-qualification supervision and training of

notaries undertaking conveyancing and probate is one of the Master's priorities in the Business Plan.

5. Digital Comparison Tools / Review websites:

A substantive discussion on this topic will be re-scheduled for the June meeting following the presentation from Review Solicitors. However, it was noted that engagement with these tools are one of the key elements of the LSB's Consumer Empowerment Statement of Policy in order to give consumers access to independent reviews of a particular lawyer and to make an informed decision of who they choose to instruct.

The Faculty Office will need to make an informed decision on promoting engagement with DCT's/Review websites or provide an evidence-based rationale as to why such tools are not appropriate for the notarial profession.

It was noted that the Bar Standards Board (BSB) is currently running a pilot to see if review and comparison websites could work for the Bar, but the Vice-Chair of the Bar Council has been reported as saying that they were "utterly inappropriate for our referral profession with its sophisticated professional clientele".

Notarial members of the Board drew a distinction between independent reviews, with which they were broadly in favour, and "Comparison tools" which by definition require something to "compare" it to. Price comparisons, for example, are likely to be "a recipe for disaster" as the average consumer's understanding of what they require is often vastly different from the reality of the instruction. It may be that promoting or requiring engagement with a generic review platform such as *Trustpilot* would be a more helpful approach for consumers.

6. Faculty Office Updates

(a) New Chair of LSB – Alan Kershaw

The Ministry of Justice and the LSB have announced the appointment of Alan Kershaw as the new chair of the LSB. Alan Kershaw has been appointed for a four-year term effective from 1 April 2023 to replace Dr Helen Phillips. It was noted that Mr Kershaw had had significant experience of regulation including with frontline legal regulators.

(b) Faculty Office Business Plan

(i) Rule of Law Lecture – Feedback

Significant positive feedback had been received by all that attended the Rule of Law Lecture given by Sir Keith Lindblom. Those that attended via Zoom reported it was a clear recording and they could hear well. The content of the lecture was interesting, intellectually stimulating and very well researched and delivered. Additionally, Sir Keith dealt with the questions well.

HD suggested that it was likely that we would put on a similar event in the future, perhaps inviting a speaker to give a Civil Law perspective on the Rule of Law.

(c) Disclosure & Barring Service Certificates – amending SI

IB reported that we are applying to the MoJ to be granted entitlement to seek information on "spent convictions" under the Rehabilitation of Offenders Act 1974.

Currently the Faculty Office is only entitled to request basic DBS certificate which only discloses unspent convictions. If an exemption was granted, we would be entitled to require a Certificate which would disclose all convictions and the criminal history of would-be notaries. NT reported that whilst all applicants are asked to disclose any past convictions, applicants are not currently required to disclose spent convictions.

IB reported that he was not yet sure when the SI would be presented to Parliament but is aware that it is at the late stages of drafting. IB additionally reported that this is vitally important for AML purposes as this will entitle us to an Enhanced Certificate.

(d) Review of Governance Policies

NT reported that Governance Policies are now in place and require review in accordance with the Review Schedule approved by the Board.

(i) Complaints Policy

NT had received an email from CMM with some suggested changes to Paragraph 2 providing a wider definition of discrimination. The Board recommended that this should simply be linked to the Equality Act 2010.

NT confirmed that there is a separate section on the Faculty Website with details of how to raise a complaint about a Notary. There should be a clear distinction between service complaints and misconduct. The Disciplinary procedure is currently under review.

(ii) Whistleblowing Policy

It was noted that the current version of the Whistleblowing Policy has not been formatted in the same manner as the Complaints Policy in that there is no review date or paragraph numbers. This would be attended to along with a typo in paragraph 5.

(iii) Anti-Corruption and Bribery

NT reported there has been no changes to terms of the policy since the last review. The Board did not consider any changes necessary (subject to the formatting point noted above).

(iv) Expenses Policy

Whether an expense is reasonable or not is a judgement call. Whilst “flowers” is noted as an exception – this is in relation to, for example, ordering flowers to brighten up a hotel room if travelling/working away and would not exclude sending flowers to an employee who had been bereaved, for example. The Board did not consider any changes to be necessary.

(v) Staff with joint responsibilities to Faculty Office and LBMW Policy

The LSB had expressed concerns in relation to the potential for a conflict of interests as part of its Well-led review of the Faculty Office. This policy is part of the measures put in place to address those concerns alongside the Shared Services Agreement, an independent Audit of the Faculty Office and a “value for money” review/audit undertaken by an independent accountant on behalf of the Master. The Board did not consider any changes to the policy to be necessary.

7. Legal Ombudsman (Leo) – Change of Scheme Rule

IB introduced a paper which had been circulated to the Board. The Legal Ombudsman (LeO) is the statutory body that considers consumer complaints. Earlier this year LeO undertook a

review of its Scheme Rules to identify opportunities to improve the customer experience by enhancing operational efficiency.

The new Scheme Rules will go live on 1 April 2023. There are three areas for change, alongside several additional minor technical changes, however the key change is to the Scheme Rule 4: Time Limits.

From 1 April 2023, the time limits for referring a complaint to the Legal Ombudsman will be not later than:

- one year from the date of the act or omission being complained about; or
- one year from the date when the complainant should have realised that there was cause for complaint

The Legal Ombudsman will retain the ability to apply Rule 4.7, which allows an Ombudsman to exercise discretion to extend the 1 year time limit for specific customers if, on the evidence, it was fair and reasonable to do so.

The communication of the change to time limits is key and it will be important that the complaints information notaries provide to their clients is amended from 1 April 2023 to reflect the new time limits. This will include information published on any websites as well as any signposting or guidance document providers may use which outline when a complaint can be taken to the Ombudsman. The Legal Ombudsman will also ensure that information and guidance on time limits is clear and accessible through all of its customer channels. The circumstances in which discretion can be exercised and how customers can request that it be exercised will also be published on LeO's website.

The Board recommended approval by the Master of a slightly amended form of prescribed complaints wording to take into account the changes which should then be communicated to all Notaries in advance of 1 April 2023.

8. Law – Tech / AI

ML reported that NotarySIGN and the E-Apostille system was working well with a good uptake from Notaries. It is anticipated that with the increase in the number of jurisdictions now accepting electronic signatures, associated costs (particularly disbursements) and processing time for many Notarial acts will be reduced and the process more streamlined. An article will be published in the next edition of the Notary highlighting the progress made to date.

ML also reported that he had, for a number of years, been a member of The Union of International Latin Notariat (UINL) Civil Law – Common Law Task Force which was created in order to discuss topics that compare and contrast law and notarial practice within countries of different legal traditions. ML had received notification this morning that the UINL had decided to disband the taskforce which is disappointing. He is awaiting further information in this regard but it is unclear at this stage whether it will be replaced.

Industry Working Group on e-signatures – an interim report was published last year and the final report has now been published <https://www.gov.uk/government/publications/industry-working-group-on-esignatures-final-report>. There is currently no coherent standard for electronic signatures and the Group is therefore proposing self-certification using the ICO or the National Cyber security center as a moderator if they do not comply with basic performance standards. A list of platforms will be published to provide a uniform approach and mutual recognition, to deal with ID online.

9. AML/OPBAS matters

MB reported this heading was included as information only and given the nature of the matters under discussion only a high-level summary would be minuted.

OPBAS had inspected the Faculty Office in 2019 and an action plan to meet some concerns had been developed and implemented. A number of review meetings had taken place and everything under the action plan was considered to be on track. A further inspection had taken place in September 2022 and OPBAS had identified a number of areas where further work is thought necessary and the confidential draft Action Plan which had been circulated to members of the Board for information represent the Faculty Office's response. A meeting has been requested to discuss the Plan to ensure that OPBAS are content.

10. Any other urgent business

(a) UCL Open day

ES (on behalf of CV) noted that the UCL Open days, prior to the pandemic, had been held in person at UCL on a Friday. They had been well advertised and attracted a high volume of interest. However, since the pandemic, the Open Day had been presented online (on a Saturday) via a Zoom event. The most recent Open Day in November 2022 attracted circa 20 people and considering the format, it was impossible to have one-to-one discussions and any questions were raised through the chat facility. It was a rather disappointing experience.

It was felt that the practical reason for the online event is no longer justified although it does enable people who may have far to travel to engage. However, as the event is recorded, even if people are unable to travel to London, they are still able to view the presentations.

Moving forward, it is suggested that a face to face/ in person event is restored to encourage discussions and worthiness of career choices. It was suggested that the Qualifications Board be asked to review the advertising of the event with a view to generating more interest.

11. Date of next meeting

Tuesday 13 June 2023 at 11:00am (in person)

PART II – CLOSED ISSUES

There were no closed issues to be discussed at the meeting and the meeting concluded at 13:00.