



FACULTY OFFICE

Quarterly Master's Council Meeting

Held on Monday 9th October 2023 at 12.45pm held via Zoom and office

Present/Online:

Morag Ellis KC, Master of the Faculties (ME)
Jim Clifford, OBE (JC)
Howard Dellar, Registrar, Faculty Office (HD)
Mili Bhanji, Deputy Chief Clerk, Faculty Office (MB)
Neil Turpin, Chief Clerk, Faculty Office (NT)
Rebecca Martin, Trainee Solicitor, Faculty Office (RM)

Welcome and apologies

Apologies from Ian Blaney (IB) and Sue Goss (SG).

Opening matters : Declarations of interest relevant to the business of the meeting - none to report

Review minutes of previous meeting and action points/matters arising that are not covered in the agenda

ME to liaise with MB about minor amendments to minutes. No further comments or matters arising from the minutes reported.

PART I – England & Wales Notarial Matters

1. Faculty Office

(i) Financial update (HD/SG)

HD receives the monthly reconciliation data and JC suggested that it would be a good idea for those figures to be shared with the board.

MB/NT explained that the money recovered from respondents following civil action will go into a separate bank account and be earmarked for future disciplinary cases. There is currently around £160,000 in that bank account.

(ii) Special licence fees

[redacted]

2. Risk register (Paper not for publication)

The paper was presented by HD and the following points were raised/noted:

- (i) A6 – this is for HD and IB to deal with before the next meeting
- (ii) C13 – An audit meeting needs to be held to go through the recommendations found within the report. ME suggested that as part of that exercise the correspondence from the LSB should be considered.
- (iii) D8 – HD to meet with UCL about the course and obtain further information about the issues with complaints. It is important to not have a repeat of the situation with the Cambridge notarial course. NT noted that there are currently 73 students in the first year of the course.
- (iv) E5 – HD noted that since the last meeting there had been a cyber-attack and a report has been provided. No Faculty Office data has been compromised.
- (v) JC made a number of suggestions for potential inclusions on the risk register:
 - a. The Faculty Office's exposure to a lack of notaries (i.e., being asked to do more with less money).
 - b. Expanding on F2 and reputational issues, he raised a concern about church organisations being targeted and experiencing reputational damage from the media. ME gave an example of how she regularly gets included in email chains by a CofE 'survivor' who fails to appreciate that she has an unrelated role to his complaints/experiences.
 - c. Contingency planning for inspectors – if there are around 730 notaries and only 3 inspectors what will happen if 1-3 of the inspectors becomes unavailable?
 - d. EDI – pro-active planning about creating Faculty Office messaging on EDI.

ACTION – HD to take the risk register to the next Audit Committee meeting.

3. Horizon scanning (Paper attached)

JC was asked to provide his opinion on the horizon scanning. He noted that there is a general drift at governmental and public levels to scrutinising and criticising the professions. ME noted that this may link to the LSB paper on first-tier tribunals.

Action – HD and IB to meet with the Shadow Justice Minister.

The appropriate angle to discuss the issues with a Shadow Minister was discussed. It was agreed that the focus should be a social approach focused on educating them about the role of notaries and how they help people. ME noted for example that in the Lord Thomas reform of Welsh law only one mention was made on notaries, and they were seen as having a fringe contribution to the economy. Instead, the economic importance and role of Notaries in ensuring that vulnerable people's interests are protected and in preventing AML needs to be highlighted.

4. LSB matters

(i) Practicing certificate fee application (paper attached)

NT explained that the issues with increasing the fees for other regulators was centred around the consultation process rather than the proposals themselves.

JC took a more positive interpretation of the letter and viewed it akin to how the Charity Commission writes to trustees asking them to show what they are doing (and avoiding the need to take action). JC suggested coming up with case studies/stories to share with them (and the public generally) what the profession does and how it helps people. ME suggested using these examples as part of the annual directors' report. The material produced could be used in a number of different contexts. For example, ME is expected to produce a paper/speech for the Notaries' Society Conference. It would also be positive to share details of how the student enrolment numbers are changing for the good.

HD reported that he had met with Matthew Hill and the feedback was to continue reviewing the well-led review and the information contained within that.

ME noted that the Bar has always been quite good at sharing what the profession is there for and there may be some lessons which can be learned from the bar. She also suggested incorporating individuals like Jonathan Hewitt who are young pioneers in the profession.

ACTION – letter from LSB to be on the agenda for the Audit Committee meeting and team to review as it gives an indication of what they will include in their annual review.

(ii) IT consultation (paper attached)

The deadline for the consultation is the 17 November 2023. NT has a meeting scheduled with the LSB representative about this consultation.

(iii) First-tier complaints (paper attached)

NT has met with the representatives from the LSB about the consultation. He reported that this consultation is challenging because the Faculty Office do not receive that many complaints making it hard to extrapolate information into training and CPE provisions. Additionally, due to staff changes the LSB were unaware of the notaries complaints process (going through the respective society).

ME noted that the impression she has is that the LSB believes that there are lots of disappointed customers. HD does not share this view as the complaint's procedure is listed at the bottom of every letter of engagement provided by notaries. Additionally, the work conducted by notaries tends to be very short (rather than a protracted transaction or litigation).

ACTION - NT to circulate the first draft of the consultation response by the beginning of November.

(iv) LSB priorities generally

It was agreed that this item had been sufficiently addressed under other items.

5. The Master's priorities

i) Protecting and promoting the interests of the consumer

- S69 order – The MoJ have responded with some questions.

NT reported that the LSB are keen to support progress but are out of the loop at the moment.

ACTION – IB to reply to MoJ communication and FO to continue seeking support from LSB.

- -Insurance minimum terms, run off cover and the level of cover– update (NT)

There were no further updates on this item since the last meeting.

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

- Review of the FO discipline system – update (NT)

NT reported that this is with the FO to review. The scoping paper was considered by the advisory board, and they are content with the direction of travel. The next stage will be the formal call for evidence which NT hopes to have completed by the end of the year.

- Review of the three sets of accounts rules (paper attached) – update (NT)

NT reported that this was discussed at the last quarterly meeting, and he is preparing an amended version of the draft rules to go to the advisory board in December. They will then go out for consultation in the new year.

- Reinforce the sanctions regime-review against action plan.

MB raised the point about the likely overlap between OPBAS and LSB arising from the new regulatory objective of “promoting and preventing the detection of economic crime”. It was agreed that the FO would take the approach of being prepared to work with either LSB or OPBAS but preferably only working with one.

MB reported that entity inspection was ongoing. Two entities had been inspected and two more had been ringfenced for an inspection. A desk-based sanctions review had commenced, and the information gathered would be analysed and used to inform future activities.

This led to a general discussion about the recent AML training received by FO staff.

ACTION – to include as a news item the Home Office ID link shared during the AML training.

-Review progress on increasing FO reserves.

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

- Diversity

It was agreed that it is important to ensure that Notaries are serving all the profession and all of the community well. ME noted that the LSB want the FO to show that they are using the diversity information for good. NT reported that we are launching the triannual diversity data gathering exercise and will be looking at the information gathered through that process. He also noted that one of the key issues is social mobility which may not be fully within the gift of the FO.

HD noted that there is work to be done in analysing the data which has been collected since 2011 and assessing statistical trends and developing a narrative around the data.

ME shared how one of the Inspectors recounted various case studies during the AML training which showed how notarial work impacts the community and heavily interacts with overseas jurisdictions. She noted how important it is to highlight how notarial work serves families and diverse communities. ME suggested that the FO speak to the inspector about providing case studies.

JC suggested incorporating discussions about how notarial work supports diverse cultural heritage. He also raised the need to incorporate social mobility into the profession and support those from the LGBT+ community access notarial services. JC also asked what work is being done to improve access to those with disability (both as clients and notaries). RM questioned what inclusion is being instituted at places like UCL to encourage those with disabilities at early stages in their notarial career.

ACTION – team to reflect on how to take the actions about diversity forward at the next meeting.

iv) Supporting the constitutional principle of the rule of law

- Lecture

Lecture will be on AI and notarial practice – HD confirmed he has a speaker for the event.

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

- Legal Choices

HD confirmed no updates to report.

6. AML matters

- OPBAS
- Consultant's report (paper attached) and next steps

FO to identify if any of the report can be made available to notaries as part of CPE (or have Fraser produce something similar for this specific purpose).

7. Legal education

- -University College London (MoU attached)

HD has a meeting with UCL on 11 October and will report back. The meeting will include discussions about succession planning as well as the immediate issues with the course. It was suggested that Jonathan Hewitt might want to also be a tutor on the course.

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

Date of next meeting

04th December 2023 (Master's Quarterly Council meeting)

Howard to organise dates for 2024 meetings.

