



FACULTY OFFICE

Quarterly Master's Council Meeting

Held on Monday 08 January 2024 at 3.30pm 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)
Ian Blaney, Deputy Registrar, Faculty Office (IB)
Neil Turpin, Chief Clerk, Faculty Office (NT)
Rebecca Martin, Trainee Solicitor, Faculty Office (RM)

Welcome and apologies

Apologies from Mili Bhanji (MB) 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

The minutes of the meeting dated 09 October 2023 had been circulated and approved by all present.

PART I – England & Wales Notarial Matters

1. Faculty Office

(i) Financial update (HD/SG)

Licence Income (Redacted)

In the period 1 April 2023 – 07 January 2024 the number of licences waived was 45 and licences paid for (not necessarily yet issued) was 395. The budget for the entire year is 40 waived and 610 paid for.

JC suggested that a “*chatbox*” function may assist applicants to answer the more simple recurring questions that repeatedly arise.

The Archbishop approved the increases in the SML fee from £350.00 to £400 with effect from 01 November 2023 and to £440.00 with effect from 01 April 2024.

Notarial Income:

ME reported that she had no further questions or concerns regarding notarial income. The figures look healthy.

NT commented that SG’s report indicates a total number of 752 notaries, whereas only 746 are reported on NotaryPro. NT will liaise with SG regarding the numbers.

Accounting Package

HJD reported that a catch-up meeting is scheduled with Sam Coutinho in January 2024 to discuss the Accounting Package and investing with Virgin Money.

ME thanked SG for the preparation of the report and update.

Action: NT to clarify number of practicing notaries with SG. IB/NT to look at ways in which the website could be updated to relieve NTs workload of responding to general queries from clergy/applicants.

(ii) Faculty Office – Away Day Planning (10 May 2024)

The date for the FO Away Day has been agreed for 10 May 2024.

JC suggested two topics for discussion:

1. Risk Reports – JC reported that the risk environment is rapidly changing, and we should consider the risk plans/report that other organisations/regulators may have in place and look at how our activity and involvement is affecting the notarial role, linking it with LSB.
2. Masters Priorities - look at how these are being delivered and revisit what we are doing to achieve our priorities and what other bodies are doing.

ME agreed with JC's suggestion and reported that we need to be demonstrating how to make best use of information. LSB want to see us been more evidenced based, not just completing tick box exercises.

Action: ME, HJD, IB & JC to arrange a date to meet to discuss the topics to cover and costings.

(iii) Faculty Office Forum

It was agreed that end of June / July 2024 would be an ideal time to hold the Faculty Office Forum. NT indicated on or around 24 June 2024 would be a profound date, as it also marks the 490th Anniversary of the Faculty Office.

It may not be possible to get hold of the Archbishop at such short notice however it may be possible to get a Bishop on board and we should also contact the Archbishop's Chaplain, Tosin.

JC suggested that the first half of the day could include a debate amongst the younger and diverse notarial professionals.

ME was in agreement and suggested that we would need to sort out costings firstly. IB reported that the Forum has always previously being funded from the income from Special Marriage Licence's.

A number of Notaries were discussed as potential candidates for the debate.

Action: to calculate costings, to discuss potential attendees and agenda for the day.

2. Risk Register

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

- (i) A01 – There are a few new board members who need to sign a statement of compliance. ME added that there are few gaps on the board, whereby some members are coming up to retirement and/or require replacement.
- (ii) A02 – Away day scheduled for 10 May 2024
- (iii) A03 – Successor for SG being recruited
- (iv) B06 – Appraisals last conducted in June 2023. The next appraisals will be undertaken internally mid-2024.
- (v) C08 – SG and NT are working on a Procedures Manual and SG is looking into which cloud based accountancy package should be used (QuickBooks)
- (vi) C10 – Special Licence Fee was raised on 01 November 2023 from £350.00 to £400.00
- (vii) C14 – Cost of premises mitigation not yet implemented.
- (viii) C15 – Procurement Policy drafted ready to go to the Audit Committee.
- (ix) D03 – Work on the January 2023 Action Plan continues, and a consultant was appointed in June 2023 to advise the FO on its supervision, to give training and to review policies. The consultant has given positive feedback.
- (x) D05 – awaiting Government’s response to the Law Commission’s review of marriage Law
- (xi) D06 – Three new inspectors have been recruited, all with expertise in probate and conveyancing.
- (xii) D07 – There is a review of the Disciplinary system. The next step is to formulate a consultation paper
- (xiii) D08 – Annual review conducted in November 2023 leading to a renewal of the Memorandum of Understanding with UCL. A new lead for the notarial practice part of the course is in post and support staff have also been appointed. Stability and success of the course appear to be good.
- (xiv) E05 – Cyber Security - FO systems were tested in late 2023 by an independent IT contractor and the conclusions of the report are being implemented. Cyber awareness training continues through KnowBe4 on a monthly basis. NT added that a multi factor authentication package is ready to go for the next round of PC renewals. Notaries will be alerted around February/March 2024 of the implementation.
- (xv) F01 – Latest LSB performance review has been published and areas of concern will need to be followed up in bespoke action plan.

Risk – it was noted that there might be change in Government at the next general election. If Labour was elected, then there is a possibility that it might want to have a single professional regulator.

IB indicated that meeting with the shadow Justice minister to prepare the way would be beneficial.

JC reported that the Risk Register is clear, highly relevant and works well.

3. Horizon scanning (Paper attached)

The paper was presented by IB, and the following points were raised:

- (i) *Rule of Law & Professional Ethics* – the project was heavily criticised by several professional bodies/regulators during the Justice Committee Hearing in December 2023. ME Reported that we need to continue to demonstrate that we are supporting the Rule of Law and implementing the core objectives.

Action: to invite LSB Contacts to the AI Lecture

- (ii) *“Failure to prevent Fraud, False Accounting and money laundering could become a criminal offence”* - The Government is creating a new offence for failure to prevent fraud offences, in order to hold organisations accountable if they profit from fraud committed by their employees - [Factsheet: failure to prevent fraud offence - GOV.UK \(www.gov.uk\)](https://www.gov.uk/government/factsheets/failure-to-prevent-fraud-offence)

IB reported that this is a new provision that will need to be scrutinised to see whether it has effects for the profession or the FO but it appears that it mainly concentrates on large organisations.

Action: IB to review whether any further action is required. RM to prepare a note for the website about the policy paper.

- (iii) *Independent review of Legal Service Regulation led by Stephen Mayson* – The SRA consulted on how it intends on regulating conveyancers and a separate consultation run by CILEX addressed their case for re-delegating the regulation of its members to the SRA. The outcomes of these consultations have not yet been published so we shall keep watching brief.
- (iv) *Expert industry to boost public confidence in e-signatures* – nothing new to report and we will continue to watch work streams.
- (v) *Review of Human Rights Act 1998* – Bill of Rights withdrawn on 27 June 2023. Will keep a watching brief.
- (vi) *Data Protection and Digital Information (No2) Bill* – There is a new Bill replacing an earlier one but apparently substantially the same. It is now at the Committee stage in the House of Lords. We will keep a watching brief and be ready to produce guidance to the profession if the Bill becomes law. Additionally, we should consider mandating CPE in data protection should the law be passed.
- (vii) *EU Law (Revocation and Reform Bill)* – became Law on 29 June 2023. 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 alerts on website would be helpful.
- (viii) *Enhanced Protection from Redundancy* – Act has received royal assent but will not come into force until after 06 April 2024 when potential claims may begin to arise. No action required, monitor for any implications.

ME thanked IB for his work on this paper.

4. LSB matters

- (i) Business Plan 2024-2025

The Legal Services Board (LSB) has asked for views on its proposed business plan and budget for the 2024/25 year to ensure it remains focused on “delivering a legal services market that better meets society’s needs”, in which the LSB outline a series of 9 challenges that need to be addressed to improve outcomes for legal services users and the public, under 3 key objectives: fairer outcomes, stronger confidence, and better services.

The consultation ends on 12 February 2024.

ME suggested that we maintain communication with the LSB and prepare and submit a response. JC suggested that in response we could demonstrate what we are doing to help meet their objectives.

Action: HJD/NT to consider and prepare response.

- (ii) First-tier complaints

NT reported that a response to LSB First Tier Complaints Consultation has now been submitted and we wait to hear further.

- (iii) LSB Performance Review – to be published by the end of January 2024

5. The Master’s priorities

i) Protecting and promoting the interests of the consumer

- S69 order

IB Reported that the latest draft s69 order has been submitted to the LSB and MoJ. We propose to prepare to consult upon entity regulation again this month. IB indicated that he will refresh the paper to ensure the profession and stakeholders are on board with this. We will additionally track substantive response to LSB and ask them to make recommendations.

Action: IB to prepare consultation paper

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

- Review of the FO discipline system

IB reported that the internal papers have been received with ideas for changes. Amends have been incorporated into the Disciplinary Rules but not yet finalised or circulated. IB explained that once this has been discussed at the internal management meeting, the consultation paper will be published.

Action: IB to prepare papers before the next meeting.

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

NT reported that due to absence, there has not been much progress since the last meeting, however RM has reviewed the comments proposed/suggested by JC. NT to prepare draft consultation paper.

In an attempt to prevent overwhelming the profession with several consultations all at once, It was suggested and agreed that we wait until the s69 order consultation paper is prepared and published before issuing this paper.

Action : NT to prepare draft consultation paper

- Reinforce the sanctions regime-review against action plan.

Refer to Action Plan circulated by MB prior to meeting for updates.

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

- Diversity

RM reported that the Triennial Diversity Report was published in December 2023. JC indicated that he has reviewed and will forward RM comments for consideration.

Amends to the website to aid Dyslexic users have not yet been achieved but we are working on this.

Action – NT/RM to liaise with David Nason

iv) Supporting the constitutional principle of the rule of law

- Lecture

JT confirmed that the lecture has now been advertised on the FO website and via Eventbrite.

To date, 8 have registered their attendance via the website advert and 25 via Eventbrite.

Discussion was held around who else would be of interest to invite.

Action: HJD/IB to review previous invite list and to confirm who to add / remove. HJD also plans to finalise plans with the church and will attend with JT. JT to obtain list of contacts and circulate invite.

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

- Legal Choices

HD reported that all regulators are now in favour of working towards one single register, therefore the consumer can have access to a Notary's profile and see what area of law they undertake. The service will be online and via the Legal Choices' brand. FO will be required to pay an annual fee for the service and the SRA are currently working on the costings. Once this is confirmed, we will incorporate this into the Budget.

6. AML matters

- OPBAS

NT reported the Faculty Office wrote to OPBAS explaining where we are and asked for comment on whether the work completed to date meets their expectations. OPBAS have confirmed that before they respond, they require us to explain how the changes implemented have increased effectiveness

The Master asked for the Faculty Office to approach two other individuals for a quote if Fraser is not available (Fiona Fleming and Amy Bell).

- Fraser has not provided a quote.
- Amy Bell is away until the 15th of January 2024
- Fiona Fleming has capacity and has provided an estimate of £500+ VAT (is available and has the relevant experience)

Action: ME suggested that we proceed with Fiona Flemming based on her capacity, availability and experience.

- **Consultant's work and next steps including Podcast plans and AML inspections.**

With the assistance of the AML consultant, a selection of notaries' records and practices are due to be reviewed under the Money Laundering Regulations to:

- 1) assess the general AML framework implemented by the practice, and
- 2) to review at least two individual client files in accordance with AML regulations.

This work is underway, and the first letter (format approved by the Registrar) is due to be sent out week commencing 02 January 2024.

- **Record keeping and NotaryPro**

David Nason has confirmed that there is scope to build the existing system to upload all compliance records onto NotaryPro.

We have been in discussions around how best to approach this, and after thrashing out ideas, we agree that it might be sensible to take a two-stage approach.

Stage 1- upload data (inspection reports, complaints, intelligences etc) – this way we have visibility against each notary's record

Stage 2 – embed the workflows that fall from these uploads (investigation and enforcement)

MB has informed David that we would like this work to commence as soon as possible, subject to an idea on costs

7. Actions arising from the Advisory Board (Update)

(a) IB reported that a letter to the Secretary of State of Foreign, Commonwealth and Development Affairs was prepared and issued on 20 December in response to our concerns over the closure of the Premium Legislation Service. LSB were also copied into the correspondence, and we await a response.

(b) HJD/IB are in the process of writing to Government representatives about FCDO issues with Notaries with multiple surnames (usually because they are married women). Following the closure of the Premium Legislation Service, this is now being brought to the forefront as e-signature is imperative.

PART II – Overseas Notarial Matters

These items are not for publication

PART III – Ecclesiastical Matters

- (i) Marriage law update (Not for Publication)

These items are not for publication

Action: NT to contact Law commissioner

Date of Next Meeting:

Monday, 08 April 2024