



**Minutes of Meeting of the Advisory Board held on
Tuesday 12 December 2023 at 11:00am at 1 The Sanctuary, Westminster**

Present (in person): Michael Heap, (MH) Acting Chair
Claire Curtis -Thomas (CC-T) (remotely)
Christopher Vaughan (CV) (remotely)
Elaine Standish (ES) (remotely)
Michael Lightowler (ML)
Jonathan Coutts (JC)
Lesley Hurst (LH)

In attendance: Howard Dellar, Registrar (HJD)
Ian Blaney, Deputy Registrar (IB) (remotely)
Mili Bhanji, Deputy Chief Clerk (MB)
Rebecca Martin, Trainee Solicitor (RM)
Jaymisha Tailor, Legal Administrator (JT) (minutes)

PART 1 – OPEN ISSUES

1. Apologies:

Apologies have been received from Mark Craig (MC), Christopher Matthew-Maxwell (CMM) and Neil Turpin (NT)

2. Minutes of Last Meeting:

(a) Approval of Minutes – The minutes of the meeting held on 05 September 2023 had been circulated and approved by the Chair.

(b) Confirmation of Documents uploaded to website – Confirmed

3. Matters arising not otherwise on the agenda:

(a) LSB Statement of Policy – Ongoing Competence

IB reported that NT had met with the Regulatory Affairs/Policy Manager to feedback our views. The FO had received an informal response on the matter. Matthew Hill (CEO Legal Services Board) had spoken at the tail end of the Westminster Forum on AI & Law Tech whereby he stated that regulators should not be taking a laid-back approach on the subject and regulators should be encouraging AI and Law Tech policies. HD added that this is top priority, and the impending Robert Bond Lecture on AI and Tech is a positive step in engagement.

4. Faculty Office Updates

(a) First Tier Complaints – LSB Consultation on requirements, guidance, and policy statement

HD reported that our response has been submitted and we are currently awaiting a response.

(b) AI Lecture – Robert Bond – 7 March 2024 @ 5pm

HJD reported that the AI Lecture will take place on 7 March 2024 at 5:00pm at St Matthews Westminster, 20 Great Peter St, London SW1P 2BU.

HJD explained that the last lecture was well attended and anticipates that this lecture will be just as successful. The invite has been opened to Notaries, other regulators and the LSB.

The lecture will also be available via live stream for those who cannot attend in person.

(c) Equality, Diversity & Inclusion – Triennial Survey Draft Report

RM reported that we received a 100% response rate, as the EDI survey was included within this year's practicing certificate renewal process.

The draft diversity report and data analysis was circulated. This report is awaiting additional input from UCL who were contacted for data and comments on the "entering the notarial profession" section of the report.

RM briefly discussed the findings and reported on the following:

- Increase in the number of women notaries.
- A review of the gender representation of the new entrants to the profession, found that 55% of new notaries (0-4 years PQE) are women.

- Gender identity data now appears to be correct with one transgender notary.
- No change in % of disabled notaries.
- Slight reduction in the no of notaries from fee paying schools – additionally we are now gathering additional information on socio-economic background such as parental profession at age 14 and free school meal eligibility. This is more in line with the data the social mobility commission recommends that we collect to provide a better-informed picture.
- No change in the % of notaries who were the first in their family to attend university. There has been a decrease in the % of notaries who never attended university.
- Slight increase in the % of notaries with childcare responsibilities – those responsibilities are shared equally between the genders
- There is a decline in the number of Christian notaries and an increase in other faiths and no faiths
- 2 notaries within the 16-24 age group (this is the first time we have seen notaries within this age group since the survey started in 2011)

With the FO being a small regulatory board compared to other regulators, the issue we have is that there are no widespread data points to put together granulated data.

HJD questioned whether earnings could be tracked? RM indicated that we do not currently collect data on income, but this could be a question that could be asked in the next survey. JC commented that he receives a number of calls about the questionnaire. It was highlighted that data on income may not provide an accurate insight as most notaries are also solicitors, so this may skew the data.

CCT expressed that the report was excellent and special thanks were conveyed to RM for preparing it. CCT referred the Board to page 10 of the report (Disability). The report indicates that 23% of the working-age population are classified as disabled (Employment of disabled people 2023 – Gov.UK) compared to the legal profession with 6% of barristers and legal executives and 3% of solicitors and notaries identifying as having some form of disability.

CV indicated that some notaries do not necessarily want to admit that they have a disability, they want to be able to carry out their notarial duty without their disability hindering their role.

CCT stated that many physical disabilities do not necessarily prohibit you from working however mental health on the other hand would.

CV and HJD both reported that the Notaries Society and the Faculty Office work closely with Law Care (a mental health charity) that provides free and confidential emotional and peer support.

Action: RM to finalise the report – currently awaiting additional information/data from UCL to add to the report.

5. Law – Tech / AI

(a) LSB Consultation – draft statutory guidance on promoting technology & innovation

ML reported that the numbers on digital signatures / e-apostille are still increasing and there appears to be a healthy interest for QES (Qualifying Electronic Signatures) on documents.

ML received correspondence from the Foreign Office indicating that volumes of e-apostille applications continue to climb. Last month saw over 200 e-Apostilles issued for the first time and the FCDO had more signatories submit sample digital signatures/certificates. The FCDO held three sessions demonstrating the application process which were attended by around 200 people in total.

From the questionnaire sent out concerning e-apostille friendly countries, only a few responses were received, but those that did come back were all positive and included some additional countries where they'd been accepted. The latest (rough) list is Austria, Greece, Guatemala, Honduras, Italy, Netherlands, Panama, Peru, Philippines, Poland, Portugal, Spain and Uruguay. There is also a suggestion that some authorities in both Spain and Italy are now mandating digital apostilles over paper apostilles. However, ML did highlight, this does not mean that all authorities in all these countries will accept the e-apostille and it is important to check first.

6. AML/OPBAS Matters:

MB reported that consolidated specialist in house training had been delivered to Faculty Office Staff and Inspectors, to improve and enhance the AML framework. Following the training session, action points have been proposed for 2024.

MB additionally reported that, with the assistance of the AML Consultant, a selection of notaries records and practices will 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

The "BOOMS" – (Beneficial Owners, Officers, and Managers) process is also under review and MB is satisfied that the Faculty Office are undertaking fit and proper tests and a review of convictions as part and parcel of the practicing certificate renewal process.

MB encouraged the Board to visit the Faculty Office Website as there have been some recent updates, namely the following:

- The Faculty Offices' annual AML report (MB confirmed the risk assessment figures for the profession and shared some of the statistics contained in the report).

- Addendum to the 2023 edition of the Legal Sector Affinity Group guidance. This addendum contains legislative updates and shows a change in LSAG's position and expectations. MB summarised the key changes.
- Money Laundering and Terrorist Financing (High-Risk Countries) (Amendment) (No. 2) Regulations 2023 came into force on 5 December 2023 and substitutes the list of High-Risk Countries specified in Schedule 3za of the MLRs with a new list. The update adds Bulgaria, Cameroon, Croatia, Nigeria, South Africa and Vietnam and remove Albania, Cayman Islands, Jordan and Panama from Schedule 3ZA to reflect changes in FATF lists.

In addition, MB confirmed that the Master's Order for notaries to do one hour AML training had been successfully implemented and she had not come across any cases of non-compliance.

For 2024, the Faculty Office are planning to deliver a podcast on AML.

Action: MB to send CV the link to the AML Report, as requested

7. UCL Open Day

HJD reported that the Open Day, held on 25 November in a hybrid format was a success and a good turnout. HJD explained that a good relationship has been built with UCL and equally the Faculty Office are a priority area for them.

HJD reported that the Memorandum of Understanding had recently been signed between the Dean of Laws at UCL and the Faculty Office and that this will cover the next 5 years until November 2028.

CV expressed that he was delighted to see the number in attendance at 9am on a Saturday morning and was pleased with how the open day went adding *"it is fun to be a notary"*!

8. E-Apostille and naming usage and Premium Office Closure

(a) ML reported It has recently transpired that any notary who practices under a name other than the name on their passport (mainly affecting married women), cannot register for use of the E-Apostille without either changing the name of their notarial practice or changing their legal name.

To be able to register to use an e-Apostille you are required to have an QES (Qualifying Electronic Signature”) which must be issued to you by a registered trust company compliant with EU Regulations. The Trust Service, IDNow has been engaged by DocuSign to issue the QES to notaries. IDNow will only allow applications in the name on the laminated page of the UK Passport even though there is provision to have an “also known as” name noted on the facing page, which also contains the related seal image for QES which is granted in the passport name.

ML reported that after discussions with DocuSign and no satisfactory solution, the only two alternatives are 1) to change your practicing name or 2) to change your passport name (married name to practicing name)

The Board recognised that this is discriminatory against female practitioners. ES explained that this is not just for the notary profession, it is widespread and should be escalated to Parliament, adding it is important for the Faculty Office to push to get all notaries to campaign. This is an issue that needs to be addressed by the Home Office and/or MoJ and the Faculty Office and Notaries Society need to be corresponding with them on this issue.

IB indicated that we shall address this at the next Master’s Meeting and in the meantime, the Notaries Society will do what they can.

(b) FCDO Premium Office Closure – The issuing authority for apostilles under the convention is the Foreign Commonwealth & Development Office (FCDO). The FCDO operates its legislation service through two offices. One in Milton Keynes and the second office offers a premium (same-day) service and is located in London. In an article by Julian Gibbons in the Law Society Gazette dated 1 December 2023, he writes that the London Office deals with around 25% of all apostilles issued (approximately 140, 000 of 550,000 issued per annum).

In October 2023, without consultation with the notary profession as the biggest single user, the FCDO announced closure of the London Premium office with effect from the end of December 2023.

ML explained that many notaries have written to the FCDO to discourage the closure. JC expressed that this is not good news for notaries at all and that for same day applications a criterion would likely be applicable using a list of categories, making it difficult obtain an urgent same-day apostille. JC explained that the service now requires the unexecuted version of the document to be sent a day before.

CV explained that a counsel’s meeting was held when the announcement was first made, in the view of obtaining counsel’s advice for judicial review in the event that this decision has not been properly consulted.

Concerns were expressed across the Board regarding the reduction in public and legal services to the detriment of clients. (See Section 1 LSA 2007 eight regulatory objectives one of which is 'protecting and promoting the interests of consumers of legal services')

9. Any Other Business:

CCT mentioned special thanks to MB for getting her in touch with Barry Holland, former president of the Notaries Society, to gain a better understanding of what Notaries do.

HJD reported that the latest version of the Annual LSB Assessment will be released in draft form circa January 2024.

ML added that it would be prudent to do a SWOT analysis of the profession once a year to see where it is heading and what can be done to improve it or make it more attractive ("Horizon Gazing"). MH explained that Mark Craig did reserve some time on a Horizon scanning exercise, but this has not been done for a couple of years.

10. Date of Next Meeting

12 March 2024 (In person)

AGENDA PART II – CLOSED ISSUES

(None to report)