

**Minutes of Meeting of the Advisory Board held on
Tuesday 11 March 2025 at 11:00am at 1 The Sanctuary, Westminster**

Present: Michael Heap, (MH) Acting Chair
Claire Curtis-Thomas (CCT) (online)
Robert Kerss (RK)
Michael Lightowler (ML) (online)
Christopher Matthews-Maxwell (CMM)
Iain Ostrowski-Rogers (IOR)
David Pope (DP) (online)
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 (JT)

PART 1 – OPEN ISSUES

1. Apologies:

Apologies received from Christopher Vaughan (CV)

Welcome:

Iain Ostrowski-Rogers was welcomed to the Board.

2. Minutes of Last Meeting:

(a) Approval of Minutes

Corrections to be made at 4b, Paragraph 4 – it is an offence under the Legal Services Act *for persons who are not regulated*, to purport to provide notarial services.

4b, Paragraph 7 – regulation guidance *to be made available* to the consumer

(b) Confirmation of Documents uploaded to website – Confirmed.

3. Matters arising not otherwise on the agenda:

(a) Amended Conduct & Discipline Rules – draft application with the LSB

The LSB required the Faculty Office to lodge guidance on penalties alongside the application. The guidance is currently work in progress and the Commissary has been approached for their comments.

4. Faculty Office Updates

(a) AI Working Party

A new chapter has been introduced to the Code of Practice concerning Technology, Digital Devices and Artificial Intelligence.

Two additional chapters are currently been drafted on a) Remote appearance and b) Electronic documents.

The chapters are technically detailed compared to other chapters within the Code of Practice and provide examples of good and bad practice.

Subject to comments of the Board, the Chapters will be consulted on.

Q: What is the relevance of a notary carrying out a notarial act in England and Wales, if the client is anywhere in the world.

A: the Faculty is restricted to the notary operating in England and Wales only and therefore cannot carry out a notarial act in another jurisdiction. With basic notarial acts, notaries are required to set out where the act has been carried out and will ultimately reveal where the act is taking place. It would be difficult for notaries to argue that they have carried out the Act in England and Wales if they were really in another jurisdiction. Additionally, There is a risk of invalidating the insurance and PI Policy.

The Board was informed that independent Counsel's opinion was obtained on this point previously and the advice received confirmed that notarial acts must be executed in England & Wales.

The Board seek to review the opinion. There is a willingness to re-examine the issue in light of the enormous stride in the change of technology, and to assess whether the opinion is still practicable.

(b) Future of Notarial Work working party

Meeting notes of previous meeting was circulated for information purposes only.

5. Faculty Office Code of Practice

(a) Draft Chapters on Electronic Documents and Remote Appearance

IOR was of the opinion that the chapter is far too long for the Code of Practice and suggested it be reduced/condensed by 15% to align with the other chapters.

6. First Tier Complaints – LeO presentation & LSB Statement of Policy / Statutory Guidance

In May 2024, the LSB published its First-Tier Complaints Policy emphasizing that users of legal services and the public should have confidence in accessing high-quality legal services and a mechanism of resolving their concerns effectively.

The LSB has specified under section 112 of the Legal Services Act 2007 the requirements for effective, efficient and fair resolution of first-tier complaints. Regulators are required to make provisions for their complaints procedure to be accessible, informative, easy to use and fair.

Service complaints are referred to the Societies (Notaries Society or Scriveners Society). If the complaint remains unresolved, it can be referred to the Legal Ombudsman and consumers are clearly signposted to our complaints procedure.

LSB's requirements, guidance and Statement of Policy aim to deliver a step-change improvement in first-tier complaints handling to ensure that complaints are dealt with effectively, efficiently and fairly.

S.112 requirements provide for five specific areas which must ensure that their complaints process are satisfactory. The Faculty Office have until 29 November 2025 to certify to the LSB that we are in position to comply with these requirements.

ES explained that the majority of complaints received pertain to i) costs exceeding estimated costs ii) delays and iii) conduct of notary. At present 3 first tier complaints, 2 of which are spurious.

The Faculty Office have previously agreed a first-tier complaints arrangement with the LSB and made reference to the procedure more recently, in response to their consultation. However, the Faculty Office have not re-engaged with the LSB to ascertain whether or not they are content with the procedure, nor has the LSB approached the Faculty Office directly in this regard. With that said, the Faculty Office shall ensure that they are content.

7. Holding of Client Monies – SRA Consumer Protection Review

The SRA are consulting on client money in legal services; safeguarding consumers and providing redress. The consultation is in three parts i) the model of solicitors holding client money ii) protecting the client money that solicitors hold and iii) delivering and paying for sustainable compensation fund. If implemented, the SRA's proposed regulatory changes would have huge ramifications on how legal services are delivered. Restricting firms ability to hold client funds would adversely affect the range and quality of services provided to the public, causing negative impact on consumers.

The Board explored how this would impact notarial practices.

The Faculty Office definition of "client money" is much looser than the SRA definition and considering the relatively small amount of monies held, it can rest in the office account without any ramifications:

"Money held or received by a notary on account of a person for whom he is acting in relation to the holding or receipt of such money either as a notary or, in connection with his practice as a notary, as agent, bailee, stakeholder or in any other capacity; provided that the expression "client's money" shall not include – (a) money held or received on account of the trustees of a trust of which the notary is a notary-trustee; or (b) money to which the only person entitled is the notary himself or, in the case of a firm of notaries, one or more of the partners in the notaries firm [Accounts Rule 2.1]"

DP reported that holding client monies in escrow and third party managed accounts was looked into a number of years ago and found the providers in the market would not be able to cope considering the volume of transactions (conveyancing). DP understands the SRAs reaction to review it but will be amazed to see if it goes ahead and what the alternatives are.

17 Notaries currently offer or provide conveyancing services in their capacity as a notary, that require them to hold client monies. Whilst the risk is relatively low, it would take only 1 to result in reputational damage. It was questioned whether the 17 (if dual qualified) could be regulated by another body for regulated services? NT confirmed that this had been explored and would very likely be met with resistance.

Action : to keep a watching brief. Add to agenda on next meeting with LSB Relationship Manager to obtain further information.

8. Law-Tech / AI not otherwise on the Agenda

Despite detailed guidance been published on the notaries society website, Jonathan Coutts and Michael Lightowler continue to receive numerous telephone calls from notaries seeking advice. Often, they will be referred to published guidance and webinars but the volume of enquiries demonstrates that there is an increasing demand from their clients to have things done digitally for the convenience of cost and speed. This also underlines the need for digital notarial acts to be kept in the forefront of training and education.

ML explained the requirement to try and persuade other jurisdictions to accept electronic signature – those that do already accept, great but until such time it is embraced by most jurisdictions, it will be a very slow process.

ML conveyed that we are fortunate to have Robert Bond, who is knowledgeable in AI Matters and Law – he is an asset to the profession.

9. AML/OPBAS matters – general update

MB updated the Board on the following:

- I. LSAG have created a subgroup for industry experts to discuss changes to the LSAG Guidance – Andrew Claudet is a member of the group and will provide update.
- II. OPBAS – recent meeting with OPBAS was positive. The OPBAS Sourcebook required us to report on our supervised activities. OPBAS are now satisfied that all supervisors are now at the appropriate levels and have drawn a line under annual monitoring.
- III. Russian Sanctions Package – The UK announced new designations targeting individuals and entities supporting Russia's military efforts in Ukraine, including third-country financial institutions.
- IV. HMRC Scam email - HMRC is aware of a scam email asking firms to submit an **Annual Supervisory Return** and pay fees related to **Anti-Money Laundering (AML) supervision**. The email may appear legitimate, closely resembling the official **gov.uk** format, but it is actually sent from a fake email address ending in **@taxuk-access.services**.

- V. FATF have updated their monitoring list – The Philippines is no longer subject to increased monitoring by the FATF. Additional countries, Nepal and Lao PDR, are now also subject to increased monitoring
- VI. Companies House have published guidance on how to apply to register as a Companies House authorised agent – to verify identity of clients for Companies House, agents must register as an Authorised Corporate Service Provider (ASCP)
- VII. The Faculty Office have now collated its risk assessment data.

RK is awaiting a response from MB regarding Register of Overseas Entity – Companies House guidance advises that verification required under the 2022/725 Regulation is not a supervised activity, unlike activity under the MLRs. MB signposted RK to Companies House Guidance and the Faculty office Podcast. RK was concerned that notaries need not conduct enhanced due diligence under the AML Regulations when doing verification work for the register of overseas entities. MB to review and respond in writing.

10. Any other urgent business

From 1 April 2025 there will be a change to Legalisation Services' refund policy – aimed at members of the public.

Currently, documents presented to the FCDO incorrectly, for instance photocopy birth certificates or notarial documents that have not been signed or dated, are refunded in full. As work is required to handle such documents, determine whether they can be legalised, issue rejection letters, and return the application, it currently represents a cost to the taxpayer. From 1 April 2025 refunds will no longer be given in these instances. This adjustment brings FCDO more in line with wider HMG policy on public services.

This change will not impact cases where a document is rejected through no fault of the customer, such refunds will still be issued where appropriate. It will only be where the customer presents documents to FCDO incorrectly despite appropriate guidance being available.

11. Date of Next Meeting

- 10 June 2025 (in person)
- 2 September 2025 (hybrid)
- 9 December 2025 (in person)

AGENDA PART II – CLOSED ISSUES

(None to report)