



Consultation on the draft
Code of Practice Chapters

(i) Electronic Documents and Electronic Notarial Acts and (ii) Remote appearance
November 2025

The Faculty Office is consulting on two new chapters to its Code of Practice:

- 1. Electronic documents and electronic notarial acts.*
- 2. Remote appearance (ie conducting notarial acts using videoconference).*

If the chapters are approved by the Master of the Faculties, notaries will need to have regard to them.

The purpose of the chapters is to provide high level guidance, state which outcomes the notary should set out to achieve and to give examples of good practice and bad practice. The guidance is not intended to be prescriptive about detailed practice matters.

The Faculty Office should be grateful to receive any comments about the proposed chapters, either as to their accuracy or their appropriateness.

Please respond by noon on Monday 2nd February 2025. Subject to comments, the chapters will then be made by the Master and have immediate effect.

Send your responses to consultations@1thesanctuary.com

Please put "CODE OF PRACTICE CONSULTATION" in the subject line of your email.

Electronic Documents and Electronic Notarial Acts

Notaries may be instructed to authenticate electronic documents and/or asked to issue **notarial acts** in electronic form.

Authenticating Electronic Documents

A **document** is anything in which information of any description is recorded. An **electronic document** is information stored in an electronic form.

A notary who is instructed to authenticate an **electronic document** should take steps to ensure that the document is genuine before issuing a notarial act confirming the authenticity of that document, or certifying a copy of that document in the same way as the notary would with a paper document. If an **electronic document** is not issued in the notary's presence physically or via remote appearance, the steps taken to authenticate the document will normally involve contacting the person or authority that issued the document and recording that person's or that authority's confirmation that the document is genuine.

A notarial act relating to an **electronic document** may be in the traditional paper-based format (attaching a printout of the **electronic document**) or in electronic format (attaching/integrating a copy of the electronic document).

Electronic Signatures

A **signature** is any mark inserted into a document in order to authenticate it with the intention of doing so. An **electronic signature** is data in electronic form which is attached to or logically associated with an **electronic document**. An electronic signature can take a number of forms and there may be specific requirements for the form of a signature in particular jurisdictions. Notaries should take care to ensure that an **electronic signature** has been applied to the **electronic document** in question by the signatory with the intention of authenticating it (executing a deed or a contract, issuing a letter or certificate, etc.), and that the form of the signature complies with any known requirements in the receiving jurisdiction.

Electronic Notarial Acts

An **electronic notarial act** is a **notarial act** that is issued in purely electronic form, whether or not any underlying documents were originally issued or signed in electronic form.

Notaries should apply the same document-security standards to **electronic notarial acts** as are applied to paper-based notarial acts by using an **electronic signature** that is certified to the highest available level, currently a Qualified Electronic Signature. This is necessary to allow trust to be placed in the **electronic notarial act** as set out in Chapter 5 of this Code.

Electronic notarial acts are not universally acceptable at present, and notaries should, prior to issuing an **electronic notarial act**, take steps to ascertain that this will be acceptable for the stated purpose.

The Faculty Office may from time-to-time issue guidance, standards and/or approved processes relating to **electronic documents** and/or **electronic signatures**. Notaries should have proper regard to and take due account of such guidance in their practice.

Outcomes

- You authenticate **electronic documents** on an equal footing with paper-based documents, applying the same standards of verification and issue notarial acts that provide confirmation of the authenticity of the document in question.
- You deal with **electronic signatures** in your notarial practice in a way that allows you to reliably authenticate such signatures.
- Your **electronic notarial acts** are issued using an **electronic signature** that is certified to the highest available standard.
- Your **clients**, relevant authorities and all other persons placing legitimate reliance on your **notarial acts** can place the same level of trust in your **electronic notarial acts** as they can in your paper-based **notarial acts**.
- Your **notarial acts**, including **electronic notarial acts**, comply with all known requirements for formal validity and registration.
- You have registered your electronic signature with the UK FCDO Legalisation office so that e-Apostilles can be applied to your **electronic notarial acts**.

Positive Indicators

- You use a Qualified Electronic Signature when issuing electronic notarial acts.
- You take appropriate steps to identify the person who has applied an electronic signature to a document and to establish that the signature was applied with the intention of authenticating,

executing or issuing the document in question.

- You comply with all known formal validity and registration requirements in relation to **electronic notarial acts** in the relevant receiving jurisdiction.
- In your practice, you have proper regard to and take due account of Faculty Office and/or industry body guidance, standards and/or approved processes relating to **electronic documents** and/or **electronic signatures**.

Negative Indicators

- You use an **electronic signature** that is **not** certified or is certified to a level lower than a Qualified Electronic Signature level when issuing electronic notarial acts.
- You rely on a certification issued by or via a signature platform to confirm the identity of a signatory.
- You issue an electronic notarial act without taking steps to ascertain if there are any formal validity and registration requirements for an **electronic notarial act** in the relevant receiving jurisdiction.
- In your practice, you fail to have proper regard to and take due account of Faculty Office and/or industry body guidance, standards and/or approved processes relating to **electronic documents** and/or **electronic signatures**.

Remote Appearance

In this chapter:

- **remote technologies** means hardware and software which facilitates the appearance of a **remote appearer** before the notary and (in appropriate cases) the signing of documents on a remote basis and includes **video conferencing technology** and **electronic signature platforms**.
- **remote appearer** means an individual who is not in the physical presence of the notary who wishes to have the signing or execution of a document authenticated by a notary or seeks the performance of another notarial act.
- **video conference technology** means any electronic device or process that facilitates communication of visual images and audio in real time between a notary and a remotely located individual, including a remotely located individual who has a visual, hearing or speech impairment.

Your notarial faculty is limited to the territory of England and Wales. Therefore, you must not issue notarial acts if you are physically located outside of this territory.

Notarial acts must not contain misleading statements. A **notarial act** should therefore not state or imply (by statement or omission) that an individual was physically present with the notary if that individual has “appeared” using video conference technology.

When using digital tools to facilitate remote appearance, you should retain sufficient control over the signing and appearing processes so as to allow you to issue a **notarial act** in which trust can be placed as set out in Chapter 5 of this Code.

You may wish to make use of digital tools to facilitate the identification of a **remote appearer**. The use of such tools does not operate to the exclusion of your duty to verify identity of the appearer and you remain solely responsible for the identification of the **remote appearer**.

When selecting a tool to use, you should ensure that the verifications carried out by it are of a sufficiently high standard as to allow you to comply with your duty to identify the **appearer** and to mitigate the risks of fraud and impersonation of your **client**, particularly by the use of forged identity documents and “deepfake” video performances.

Where possible, you should take steps to mitigate any relevant situational risk factors in a manner appropriate to the situation and the level of risk. Where it is not possible to sufficiently mitigate such situational risk factors you should decline to issue a **notarial act** on the basis of remote appearance. Notaries should be aware of and take into account limitations to their own abilities to assess situations when relying on **remote technologies**.

In all cases when you issue a **notarial act**, there must be a sufficient connecting factor to your jurisdiction of England and Wales.

The physical appearance of an individual before you within England and Wales is a sufficient connecting factor.

In other cases, connecting factors with England and Wales include (but are not limited to):

- the residence, nationality or place of business or incorporation of the **client**,
- the location of any person or asset to which the **notarial act** relates, and
- the governing law of the transaction to which the **notarial act** relates.

Whenever you are asked to issue a **notarial act**, you should consider the relevant connecting factor with England and Wales when deciding whether or not to act. If there is no sufficient connecting factor, you should decline the instruction.

Remote appearance is not universally acceptable at present, and notaries should, prior to issuing a **notarial act** on the basis of remote appearance, take steps to ascertain that this will be acceptable for the stated purpose.

The Faculty Office may from time-to-time issue guidance, standards and/or approved processes relating to remote appearance. Notaries should have regard to and take due account of such guidance in their practice.

You should not carry out acts involving remote appearance without having first carried out and documented a risk assessment in relation to remote appearance the use of technology in facilitating remote appearance.

Outcomes

- You make proper use of available technology to issue **notarial acts** in a flexible and appropriate manner according to the needs of your clients and the relevant requirements of the recipients of your acts.
- Your use of remote technologies ensures that all your notarial acts warrant the same degree of trust on the part of your clients and all persons placing legitimate reliance on them.

Positive Indicators

- You only issue **notarial acts** when you are physically located in England or Wales.
- You make clear on the face of your **notarial act** when a signatory is a **remote appearer**.
- You retain sufficient control over the signing and appearing processes when using digital tools to facilitate remote appearance.
- You issue **notarial acts** involving remote appearance where there is a sufficient connecting factor to the jurisdiction of England and Wales.
- You use digital tools in an appropriate manner to facilitate the identification of a **remote appearer**.
- You comply with your duty to mitigate the risk of fraud and impersonation in all your notarial acts.
- You decline to act on the basis of remote appearance where situational risk factors cannot be adequately addressed or mitigated.
- Where appropriate, you comply with any known formal validity and registration requirements in relation to **notarial acts** issued on the basis of remote appearance.
- You regularly update your knowledge and review your understanding of remote technologies.
- In your practice, you have proper regard to and take due account of Faculty Office and/or industry body guidance, standards and/or approved processes relating to remote appearance.
- You carry out a risk assessment in relation to remote appearance the use of technology in facilitating remote appearance.

Negative Indicators

- You issue **notarial acts** when you are physically located outside of England and Wales.
- You fail to make clear on the face of your **notarial act** when a signatory is a **remote appearer**.
- You fail to retain sufficient control over the signing and appearing processes when using digital tools to facilitate remote appearance.
- You issue **notarial acts** involving remote appearance in circumstances where you have been

informed or are otherwise aware that this is invalid or unacceptable.

- You issue **notarial acts** involving remote appearance without there being a sufficient connecting factor to the jurisdiction of England and Wales.
- You fail to apply the same standards as for in-person appearers when identifying a **remote appearer**.
- You act on the basis of remote appearance where there are situational risk factors that cannot be adequately mitigated.
- You do not take steps to ascertain any formal validity and registration requirements in relation to remote appearance in any relevant receiving jurisdiction before issuing a **notarial act** involving remote appearance.
- You use technology that has become outdated or obsolete where this poses a risk to the security of your client's or the appearer's personal data or the reliability of your processes when dealing with a remote appearer.
- In your practice, you fail to have proper regard to and take due account of Faculty Office and/or industry body guidance, standards and/or approved processes relating to remote appearance.
- You fail to carry out a risk assessment in relation to remote appearance the use of technology in facilitating remote appearance.