

DRAFT NOTARIES (POST-ADMISSION SUPERVISION AND TRAINING) RULES 202619

We ROSALIND MORAG ELLIS CHARLES RICHARD GEORGE One of His Majesty's Counsel Commissary or Master of the Faculties of the Most Reverend Father-Mother in God Sarah Elisabeth Justin Portal by Divine Providence Lord Archbishop of Canterbury Primate of all England and Metropolitan in exercise of the powers conferred by section 57 of the Courts and Legal Services Act 1990 and of all other powers Us enabling hereby make the following rules:-

Citation and Commencement

1. These Rules may be cited as the Notaries (Post-Admission Supervision and Training) Rules 202619 and shall come into force on the 1st day of June 2019.....

~~2. Rule 11(1A) was inserted and came into force on 01 January 2022.~~

Interpretation

~~3.2.~~ In these Rules

"authorised person" means a person who is authorised to carry on the relevant activity by a relevant approved regulator in relation to the relevant activity (Legal Services Act 2007, s18(1)(a));

"The Faculty Office" means the Registry of the Court of Faculties;

"The Master" means the Master of the Faculties;

"The Registrar" means the Registrar of the Court of Faculties.

Supervisors

3. (1) There shall be a register of supervisors maintained by the Registrar and only those notaries and other authorised persons entered in the register may undertake the functions set out in rules 4 to 7.

(2) A supervisor shall be:

(i) in relation to notarial activities, a notary who holds a current practising certificate issued out of the Faculty Office pursuant to rule 3 of the Notaries (Practising Certificates) Rules 2012 and who has been in continuous unsupervised practice as a notary for a period of 5 years immediately prior to commencement of a period of supervision as provided for under rule 4; or

~~(2)~~ (ii) in relation to conveyancing or probate, an authorised person and who has been in continuous unsupervised practice as such for a period of 5 years

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immediately prior to commencement of a period of supervision as provided for under rule 4.-

- (3) A supervisor shall undertake to comply with the reporting obligations under rule 7 and to follow such guidance as may be issued from time to time by the Master under rule 9.
- (4) A supervisor who undertakes the supervision of a notary carrying out conveyancing as part of their notarial practice shall have carried out conveyancing as a substantial part of their practice in the previous 5 years whether as a notary or other authorised person. They shall also have regard to the requirements of other relevant approved regulators.
- (5) A supervisor who undertakes the supervision of a notary carrying out probate as part of their notarial practice shall have carried out probate as a substantial part of their practice in the previous 5 years whether as a notary or other authorised person. They shall also have regard to the requirements of other relevant approved regulators.
- (6) A supervisor supervising the practice of a notary pursuant to rule 4 shall make themselves available to that notary for the purpose of giving advice and counsel on all matters covered by the supervision at reasonable times, subject to the professional obligations of the supervisor, and shall make enquiries of the supervised notary at least once in every three months as to the notary's progress and on a continuous basis as regards a notary supervised for conveyancing or probate or both and any matters of concern to the supervised notary and shall keep a record of such enquiries.

Period of practice under supervision

4. (1) This rule shall apply to all notaries admitted to practise in England and Wales (other than notaries admitted for ecclesiastical purposes only) from the date these rules come into force.
- (2) A notary to whom this rule applies shall be required to complete a period of practice under supervision in accordance with these rules which shall commence from the date of acceptance by the supervised notary of an instruction to carry out their first ~~notarial act~~ instruction as a notary.
- (3) Subject to paragraphs (4) and (5) of this rule, the duration of the period of practice under supervision shall be two years, ~~save that:~~

~~(a) — A notary admitted to practise from the date these rules come into force who~~

~~carries out conveyancing in their capacity as a notary shall be required to complete a period of practice under supervision of three years commencing no later than the first date that instructions for conveyancing are accepted by the notary in their capacity as a notary.~~

~~(b) A notary admitted to practise from the date these rules come into force who carries out probate in their capacity as a notary shall be required to complete a period of practice under supervision of three years commencing no later than the first date that instructions for probate are accepted by the notary in their capacity as a notary.~~

~~(c) If a notary has already completed a period of supervision under this rule but that supervision did not comply with rules 4(3)(a) or 4(3)(b) (additional supervision for notaries carrying out conveyancing and probate) and wishes to accept instructions to carry out conveyancing or probate in their capacity as a notary they shall apply to the Master to set a period of supervision of three years or less relating solely to conveyancing or probate or both.~~

(4) The Master on the application of a notary who has already fulfilled the supervision requirements of the regulator of another profession of lawyer authorised to conduct conveyancing or probate or both may dispense the notary from the requirements of undergoing supervision in conveyancing or probate or both as a notary the Master considers such prior supervision to have been satisfactory.

(4)(5) The Registrar on behalf of the Master may direct that the period of practice under supervision be extended in any particular case:

- (a) as a condition of approving a change of supervisor under rule 5(7); or
- (b) following their consideration of a report submitted pursuant to rule 7(1) or 7(2); or
- (c) following disciplinary proceedings under the provisions of the Notaries (Conduct & Discipline) Rules 2015[.....]; or
- (d) where the period of notarial practice has been interrupted; or
- (e) where the supervisor has recommended the period be extended.

Selection of supervisor

5. (1) During the period of practice under supervision a notary to whom this rule applies (a "supervised notary") shall practise as a notary only under the supervision (as defined in rule 4) of another notary (a "supervisor") (as defined in rule 3) and shall

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notify the Faculty Office of the identity of their supervisor before the period of supervision commences.

- (2) For the purposes of ~~rules 4(3)(a) and 4(3)(b)~~supervision for conveyancing or probate or both a supervised notary may have more than one supervisor.

~~(3) A supervised notary to whom either or both of rules 4(3)(a) and 4(3)(b) applies may obtain supervision from an authorised person who has been in practice as such for a minimum period of five years.~~

- ~~(4)~~3 If for the purposes of ~~rules 4(3)(a) and 4(3)(b)~~supervision for conveyancing or probate or both a supervised notary has more than one supervisor each of those supervisors shall carry out the full extent of supervision required by these rules save that an additional supervisor may restrict their supervision to supervising the conveyancing or probate practice of the supervised notary (or both) for which reason they have been appointed.

- ~~(4)~~ Subject to rule 5(5) a notary ~~(or authorised person where paragraph (3) of this rule applies)~~ acting as a supervisor shall be located within a reasonable distance from the office at which the supervised notary proposes to practise so as to enable the supervisor to visit that office from time to time as required by rule 6.

- (5) When acting as a supervisor of conveyancing or probate or both the supervisor shall be located in the same office at which the supervised notary proposes to practise to enable the supervisor to have constant supervision of the supervised notary's conveyancing or probate work or both.

- (6) A supervised notary shall, upon the death or retirement from practice of their supervisor, forthwith make arrangements for another notary (or authorised person in the case of conveyancing or probate) qualified under rule 3 to supervise their practice for the remainder of the required period; and any time between the death or retirement of the former supervisor and the coming into effect of such arrangements shall not count towards the period of supervised practice.

- (7) If, for any reason other than the death or retirement of the supervisor, either party wishes the appointment of a particular supervisor to be terminated before the expiry of the required period of supervised practice application shall be made for that purpose to the Registrar who may terminate the supervision upon such conditions as they shall think fit subject to any directions of the Master.

Extent of supervision

6. (1) The supervisor shall meet with the supervised notary on at least five occasions

during the period of supervision as follows:

- (a) First, at the office of the supervisor before any period of supervision commences and after completion of the Office Practice Course required by Rule 10.5 and schedule 5 of the Notaries (Qualification) Rules 2017;
- (b) Second, at the office of the supervised notary within one month after the supervised notary has carried out their first notarial act having first notified the supervisor and the Faculty Office of having accepted the instruction in respect of that act;
- (c) Third, at the office of the supervisor no later than six months after the visit in (b) above;
- (d) Fourth, at the office of the supervised notary within twelve months of the date of the visit in (c) above;

Fifth, at the office of the supervisor no later than six months from the date of the visit in (d) above and not less than two years from commencement of the period under supervision.

~~(e)~~

- (2) In respect of a supervised notary to whom rule 4(3)(a) and/or rule 4(3)(b) notary supervised for conveyancing or probate or both applies, the supervisor is to have constant supervision of the supervised notary's conveyancing or probate work in addition to meeting with the supervised notary as required by rule 6(1), additionally;

~~(3) First, at the office of the supervised notary within twelve months of the date of the visit in (1)(e) above; and~~

~~(4) Second, at the office of the supervisor no later than six months after the date of the visit in (b) above.~~

~~(5)~~ (3) On each visit specified in this rule the supervised notary shall produce to the supervisor for inspection the records and accounts of the supervised notary.

~~(6)~~ (4) The supervisor may vary the venue of the visits required under (1) (d) and (1) (e) ~~and (2)(b)~~ at their discretion on reasonable grounds.

~~(7)~~ (5) Where a supervised notary practises as a notary at more than one office, the supervisor shall ensure they visit each of those offices at least once during the period of supervision.

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~~(6)~~ The supervisor shall take particular care to ensure (so far as they are able) that the supervised notary is aware of, and complies with, all Rules and Orders made by the Master under section 57 of the Courts and Legal Services Act 1990 including any Code or Codes of Practice approved by the Master pursuant to rule 5 of the Notaries Practice Rules 2019 (as amended from time to time).

~~(7)~~ If it appears to a supervised notary that papers relating to the business of a particular client cannot be shown to their supervisor without causing a breach of the duty of confidentiality owed to that client (whether on account of a relationship between the client and the supervisor, or because the supervisor is known to act for a person in competition with the client, or for any other reason), they shall inform the Registrar of that fact. The Registrar may nominate another notary (qualified to be a supervisor under rule 3 (but not subject to the same objections of confidentiality in respect of the client concerned) and the notary nominated shall, if willing to act, have the supervisor's rights and duties in relation to those papers.

Reporting and Record

7. (1) A report in the format prescribed in schedule 1 of these rules of every visit and inspection made pursuant to rules 6(1) and 6(2) shall be made by the supervisor, lodged at the Faculty Office and inserted in the protocol kept by each notary pursuant to rule 24 of the Notaries Practice Rules 2019 (as amended).
- (2) Upon completion of the required period of practice under supervision (or upon the retirement from practice of a supervisor during such a period) the supervisor shall lodge a final report in the format prescribed in schedule 2 of these rules at the Faculty Office and (in the case of a report made upon completion of the required period of supervision) indicate whether in their opinion the supervised notary should thereafter be permitted to practise without supervision. The supervisor and the supervised notary shall respond in writing to any questions put by the Registrar or the Master in relation to the period of supervision and produce to the Faculty Office such documents as may be requested.
- (3) A record of any advice given by the supervisor under the provisions of rule 3(6) and rule 6 shall be retained by the supervisor for a period of not less than twelve years.

Fees

8. A notary agreeing to act as a supervisor shall be entitled to charge the supervised notary a fee for each visit prescribed under rules 6(1) and 6(2) not exceeding the level prescribed from time to time in an Order made by the Master (which may include provision for

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expenses) together with the amount of any Value Added Tax due thereon. If for any reason the appointment of the supervisor ceases before the end of the period of supervision, the fee shall be apportioned pro rata or as the Master may direct.

Guidance and supervision

9. The Faculty Office shall from time to time issue guidance to supervisors upon aspects of a notary's practice which should form part of the supervision carried out pursuant to rule 6 and which shall include, but not be limited to, the following:

Record keeping, accounts and billing and regulatory compliance including the Rules, Regulations and Orders made by the Master currently in force.

Continuing education and training

10. Every supervised notary shall during each year of their period of practice under supervision attend;
- (1) a Continuing Education Course approved by the Master and which shall provide a minimum of 4 hours of tuition in each course, the content of such courses to be approved from time to time by the Master; and
 - (2) if the supervised notary is carrying out conveyancing ~~pursuant to rule 4(3)(a) as a notary~~ a course in conveyancing comprising not less than 4 hours of tuition approved by the Master; and
 - (3) if the supervised notary is carrying out probate ~~pursuant to rule 4(3)(b) as a notary~~ a course in probate comprising not less than 4 hours of tuition approved by the Master.

Resuming practise after career break

11. (1) Any notary who has ceased to practise as such for any reason for a period of five years or more shall complete such period of supervision and continuing education to the extent and for such period specified by the Master and on such terms as the Master may direct.

~~(1A)~~ The Master may direct that a notary who has ceased to practise as such for any reason for a period of two years or more shall complete such period of continuing education to the extent and for such period that the Master considers suitable.

~~(2)~~(3) The Registrar shall only issue a practising certificate to such notary pursuant to rule 3 of the Notaries (Practising Certificate) Rules 2012 in accordance with the directions of the Master given under rule 11-(1).

Mandatory inspection

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12. On a notary ceasing to be required to practice as a notary without supervision on completion of the requirements of these rules, the Registrar shall select the notary for an inspection under the Notaries (Inspections) Regulations 2014 provided that the completion of the inspection is not to be a requirement that the notary may commence practice without supervision.

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Dispensations

~~12-13.~~ The Master may upon such application made to them as they deem sufficient and for good cause dispense any notary from the requirement of supervision under these rules or permit such lesser supervision as they consider practicable in the circumstances of any particular case.

Revocation and Savings

~~13-14.~~ (1) Subject to rule 13(2) the Notaries (Post Admission) Rules 2009 (as amended) (the "2009 Rules") are hereby revoked.

(2) Where a notary has commenced a period of practice under supervision prior to the coming into force of these rules the 20~~13~~¹⁴9 Rules shall continue to have effect in respect of that period of practice under supervision.

~~C R GEORGE~~

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MASTER

SCHEDULE 1

A: Initial Meeting Report

		YES	NO	ADDITIONAL COMMENTS
1.	Does the supervised notary have equipment including seal press ready?			
2.	Has the supervised notary made adequate arrangements for record keeping facilities?			

3.	Are all the required Data Protection measures in place?			
4.	Does the supervised notary have an appropriate anti-money laundering risk assessment and related policies in place?			
5.	Has the supervised notary prepared complaints information and created a policy on how to deliver the 'signposting' information to the client?			
6.	Has the supervised notary made arrangements to ensure the delivery of all relevant consumer contracts and rights information to the client to comply with current legislation?			
7.	What plans has the supervised notary made for advertising including, where applicable, the creation of a website?			
8.	If the supervised notary is employed, is a statement of independence in place?			
9.	Does the supervised notary's documentation (including website if applicable) make clear who regulates their practice?			

10.	Has the supervised notary considered fee paying arrangements and how they are recorded?			
11.	Is the supervised notary confident about advising on legalisation and ready to organise legalisation if their client requires it?			
12.	Is the supervised notary's office suitable and accessible, secure and sufficiently private to maintain confidentiality?			
13.	If the supervised notary is proposing carrying out notarial work in a foreign language enquire as to whether they are competent to do so and make arrangements for supervisory assistance in reviewing such foreign language documents in future meetings if the supervisor is not competent in that particular foreign language.			
14.	Has the supervised notary made adequate arrangements to comply with the requirements in the Notaries Practising Certificate Rules for professional indemnity insurance cover and fidelity insurance cover ?			

15.	Any other comments?			
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The supervisor should discuss with the supervised notary any gaps in the above report and any recommended measures or steps that the supervised notary should take. The supervisor should then send a copy of the report form to the supervised notary and to the Faculty Office.

B: Interim Reports

		YES	NO	ADDITIONAL COMMENTS
1.	Have any changes or steps recommended following the initial report been implemented?			
2.	Look at the supervised notary's register to gain an overview of the number and range of jobs carried out since the last visit and note the approximate number of private jobs and commercial jobs.			
3.	Select 3-5 matters for discussion to include at least one public form document and one company matter (in each case if the notary has dealt with an instruction of that nature). Discussion should include checking that the work has been carried out correctly, that correspondence is being dealt with in a timely manner, that identification of clients is being carried out properly and that anti money laundering regulations are being observed.			
3A.	<u>If the supervised notary is being supervised for conveyancing or probate or both select 3-5 matters for each of the conveyancing or probate work for review and discussion.</u>			
4.	If any of the matters selected are in a foreign language only with which the supervisor is not familiar, make arrangements for a colleague to inspect said document.			
5.	Record in the 'additional comments' section any problems or positives arising from the inspection of the supervised notary's records and any advice given.			

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6.	Has the supervised notary made any changes to the planned method of record keeping and if keeping records electronically, has the Faculty Office been provided with the necessary emergency security password(s)?			
7.	How is the supervised notary providing regulatory information to clients in practice?			
8.	<p>How is the supervised notary assessing fees and is this information being communicated to clients in accordance with rule 18.1 of the Notaries Practice Rules?</p> <p><u>If the notary undertakes conveyancing or probate as a notary, please answer question 8, separately with regard to these types of work.)</u></p>			
9.	<p>Is the supervised notary:</p> <p>(a) Taking adequate steps to identify their clients;</p> <p>(b) Complying with their AML/CTF risk assessment;</p> <p>(c) Reporting suspicious transactions to the National Crime Agency as necessary</p> <p>(d) Undertaking work within the meaning of regulations 12(1) or 12(2) of the Money Laundering and Terrorist Financing Regulations 2017</p>			

10.	Is the supervised notary undertaking work which is not a reserved legal activity under s12 of the Legal Services Act 2007? Do you consider their skills and knowledge are adequate to do this? E.g. is the supervised notary advising on the law and procedures of foreign jurisdictions, drafting documents for use in foreign jurisdictions, advising on matters of English law?			
11.	Inspect the accounting arrangements of the supervised notary checking bills, invoices and receipts. If they have a notarial office bank account (and where they have a notarial client's account as well) who is able to authorise transactions on these accounts? Has adequate training been given to those people?			

	If the supervised notary does not have a separate bank account, how are the notarial fees banked and disbursements and expenses paid for?			
12.	Has the supervised notary had any negative feedback from clients not already communicated to the supervisor at the time?			
13.	Any other comments?			

The supervisor should record any problems or positives from viewing the records within this report and then send the report to the supervised notary and to the Faculty Office.

SCHEDULE 2

Final Report

		YES	NO	ADDITIONAL COMMENTS
1.	Have any changes or steps recommended following the last interim report been implemented?			
2.	<p>Look at the supervised notary's register to gain an overview of the number and range of jobs carried out since the last visit and note the approximate number of private jobs and commercial jobs.</p> <p><u>If the supervised notary is undertaking conveyancing or probate or both as a notary review the supervised notary's list of files to get an understanding of the size and variety of the work.</u></p>			
3.	<p>Select 3-5 matters for discussion to include at least one public form document and one company matter (in each case if the notary has dealt with an instruction of that nature). Discussion should include checking that the work has been carried out correctly, that correspondence is being dealt with in a timely manner, that identification of clients is being carried out properly and that anti money laundering regulations are being observed.</p> <p><u>3A. If the supervised notary is being supervised for conveyancing or probate or both select 3-5 matters for each of the conveyancing or probate work for review and discussion.</u></p>			
4.	If any of the matters selected are in a foreign language only with which the supervisor is not familiar, make arrangements for a colleague to inspect said document.			

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5.	Record in the 'additional comments' section any problems or positives arising from the inspection of the supervisee's records and any advice given.			
6.	Has the supervised notary made any changes to the planned method of record keeping and if keeping records electronically, has the Faculty Office been provided with the necessary emergency security password(s)?			
7.	How is the supervised notary providing regulatory information to clients in practice?			
8.	How is the supervised notary assessing fees and is this information being communicated to clients in accordance with rule 18.1 of the Notaries Practice Rules? <u>If the notary undertakes conveyancing or probate as a notary, please answer question 4, separately with regard to these types of work.)</u>			
9.	Is the supervised notary: (e) Taking adequate steps to identify their clients; (f) Complying with their AML/CTF risk assessment; (g) Reporting suspicious transactions to the National Crime Agency as necessary (h) Undertaking work within the meaning of regulations 12(1) or 12(2) of the Money Laundering and Terrorist Financing Regulations 2017.			

10.	Is the supervised notary undertaking work which is not a reserved legal activity under s12 of the Legal Services Act 2007? Do you consider the supervised notary's skills and knowledge are adequate to do this? E.g. are they advising on the law and procedures of foreign jurisdictions, drafting documents for use in foreign jurisdictions, advising on matters of English law?			
11.	Inspect the accounting arrangements of the supervised notary checking bills, invoices and receipts. If the supervised notary has a notarial office bank account (and where they have a notarial client's account as well) who is able to authorise transactions on these accounts? Has adequate training been given to those people?			

	If the supervised notary does not have a separate bank account, how are the notarial fees banked and disbursements and expenses paid for?			
12.	Has the supervised notary successfully completed the compulsory continuing education requirements during the supervision period?			
13.	Has the supervised notary had any negative feedback from clients not already communicated to the supervisor at the time?			
14.	Does the supervisor consider that the supervised notary has had sufficient experience in a wide range of matters and dealt with a sufficient number of acts as would be reasonable to expect given the geographical location of the supervised notary?			

15.	If the supervisor is happy to recommend that the supervised notary is ready to practise unsupervised please set out in the 'additional comments' section a statement to that effect and include any elements of the supervised notary's practice that have been particularly noteworthy and any aspects of their attitude and work methods that make them particularly successful as a notary.			
16.	If the supervisor is not happy to recommend the supervised notary is ready to practise unsupervised following the completion of their initial supervision period please set out the reasons why in the 'additional comments' box and the suggested period of additional supervision recommended by the supervisor.			

The supervisor should refer this final report to the supervised notary for their comments prior to submitting it to the Faculty Office.

