

Summary of decision

The purpose of this summary sheet is to provide a high level and accessible synopsis of the Legal Services Board's ("the LSB") decision. Readers are recommended to read the formal decision notice below for further detail. **This summary is not and should not be taken as a formal part of the LSB's decision notice under the Legal Services Act 2007 ("the Act").**

The LSB's decision is to grant in full the application from the Faculty Office to make changes to its regulatory arrangements to:

- introduce Transparency Rules that provide for price, service and redress information to be published on a notary's website, made available to clients on accepting instructions, and on request
- ensure its disciplinary rules are aligned with the requirements to prevent money laundering and terrorist financing, and other minor changes.

Following the assessment of the Faculty Office's application, the LSB has concluded that the changes do not meet the refusal criteria in the Act. Consequently, the LSB considers that there is no reason to refuse this application.

Decision notice

The Faculty Office's application for approval of changes to its regulatory arrangements to introduce Transparency Rules and amend its Disciplinary Rules

The Legal Services Board (“**LSB**”) has granted an application from the Faculty Office (“**FO**”) on behalf of the Master of Faculties (“**the Master**”) for approval of changes to its regulatory arrangements to introduce Transparency Rules on price, service and redress (“**Transparency Rules**”) into its Notaries Practice Rules 2014 (as amended July 2017), recast as the Notaries Practice Rules 2019 (‘2019 Rules’), and anti-money laundering and terrorist financing requirements into its Notaries (Conduct and Discipline) Rules 2015 (as amended) (‘Disciplinary Rules’).

1. This notice sets out the decision taken, including a brief description of the changes.
2. The LSB is required by Part 3 of Schedule 4 to the Legal Services Act 2007 (“the Act”) to review and grant or refuse applications by approved regulators to make alterations to their regulatory arrangements. The Master is an approved regulator and the FO is the regulatory arm to which the Master has delegated its regulatory functions. The notes at page 7 of this notice explain the statutory basis for the decision.
3. The chronology for the LSB's handling of this application is also set out below.

Chronology

- The LSB confirmed receipt of an application from the FO on 2 May 2019.
- The 28 day initial decision period for considering the application ended on 29 May 2019.
- On 23 May 2019 the LSB issued an extension notice, which extended the initial decision period to 30 July 2019.
- This decision notice is effective from 25 July 2019.
- The decision notice will be published on the LSB's website by 29 July 2019.

Background

4. On 2 May 2019, the FO submitted an application to the LSB for approval of changes to its regulatory arrangements to introduce Transparency Rules on price, service and redress by amending its Practice Rules. Within this application, it also submitted for the LSB's approval proposed changes to align its Disciplinary Rules with the Transparency Rules, as well as with requirements to prevent money laundering and terrorist financing.
5. Notaries are the only type of lawyer entitled to undertake notarial activities. There are around 775 notaries in England and Wales. The majority of notarial acts are used to facilitate international trade between multi-national commercial enterprises. Most individuals or small businesses are unlikely to require the services of a notary but for those that do, it tends to be a single one-off purchase, as they will have been directed to have a document notarised by a foreign lawyer acting on their behalf or an organisation or company that they have dealings with.

Transparency Rules

6. At a high level, the FO is proposing changes, through new Transparency Rules to introduce requirements for:

- price service and redress information to be published on a notary's website or made available in writing upon request by a client or potential client
 - price, service and redress information to be provided to clients on accepting instructions.
7. Further, the proposed rules make clear that if a notary engages with third party intermediaries to advertise his/her practice it shall be his/her responsibility to ensure price, service and redress information is provided.

CMA market study report into legal services

8. The proposed Transparency Rules follow the Competition and Markets Authority (“**CMA**”) market study published in December 2016¹ which made recommendations to address its conclusion that competition in the market is not working well for consumers.
9. The CMA recommended that the legal services regulators deliver a step change in standards of transparency *“to help consumers (i) understand the price and service they will receive, what redress is available and the regulatory status of their provider and (ii) to compare providers. Regulators should revise their regulatory requirements to set a new minimum standard for disclosures on price and the service provided and develop and disseminate best practice guidance. Importantly, this should include a requirement for providers to publish relevant information about the prices consumers are likely to pay for legal services”*.¹

Disciplinary rules

10. In its application, the FO also submitted the changes to its Disciplinary Rules for LSB approval. These are set out in full in paragraph 22 below.
11. The proposed changes to the Disciplinary Rules were prompted by the Office for Professional Body Anti-Money Laundering Supervision (OPBAS) review in 2018. The review prompted FO to consider its suspension provisions and to introduce an obligation to notify the FO of criminal charges, criminal convictions or bankruptcies.

Consultation

12. The FO consulted on transparency measures in autumn 2017 and has stated in its application that the majority of consultee supported its proposals. It also consulted on the proposed changes to its disciplinary rules in early 2018. In addition to responses from the Society of Scrivener Notaries and the Notaries Society the FO received 22 responses from individual notaries.

Proposed changes

Proposed Transparency Rules

13. As set out above, the FO is proposing to introduce certain new requirements to all notaries. The proposed requirements are explained in further detail below.

Rules on price, service and redress information before receiving instructions

¹ <https://assets.publishing.service.gov.uk/media/5887374d40f0b659370001a/legal-services-market-study-final-report.pdf>

14. If a notary has a website or also practises as an authorised legal practitioner of another profession and their services as a notary are included on a website owned by a firm, as a minimum the website must display the following information:
- The basis on upon which the notary calculates fees for their services
 - An outline of the services the notary provides (both reserved legal activities and non-reserved legal activities) setting out the key stages of the work (if more than one stage) and usual timescales for each of these stages
 - The level of insurance a notary holds under his/her professional indemnity policy
 - Confirmation that the notary is covered by a formal complaints procedure and explanation on how to make a complaint
 - Confirmation that the notary is 'Regulated by the Master of Faculties through the Faculty Office of the Archbishop of Canterbury'.
15. If a notary does not have a website, the notary must provide the above information in writing upon request.

Additional rules on price, and service transparency upon accepting instructions

16. The proposed Transparency Rules require that upon accepting instructions from a client, the notary must as soon as reasonably practicable, provide the client in writing with the following:
- The amount of a fixed fee to be charged or the basis upon which the fee will be calculated and an estimate of the total fee likely to be charged for the service provided.
 - The services which are provided for the fee or quoted fee and details of any additional work required that the client (or agent) will undertake him/herself
 - The likely cost of all disbursements to be charged to the client and an explanation of them
 - The total amount of VAT to be charged on the fee and the disbursements to be charged to the client that attract VAT
 - A brief explanation of the circumstances which are likely to give rise to a variation in the fee or fee estimate and/or disbursements quoted.
17. The proposed rules exempt from the above requirements a notary who is instructed regularly by a client or with whom he/she has a service agreement for the supply of notarial services on a continual basis.

Rules on price, service and redress transparency regarding third party intermediaries

18. Where a notary engages with third party intermediaries (online or otherwise) to advertise their practice, the proposed rules stipulate that the notary will remain responsible for ensuring the minimum information is displayed and complies with the Transparency Rules set out in paragraph 14 above and that it is accurate.
19. The proposed rules regarding third party intermediaries state the following:
- the proposed rules on information to be provided upon accepting instructions (set out in paragraph 16 above) also apply
 - the client should be provided with details on any commission, referral fee or benefit payable by or to the notary

- the notary shall ensure that he/she and the third party intermediary comply with the existing rules regarding introductions and referrals (r16 of the Notaries and Practice Rules 2019).

Proposed Disciplinary Rules

20. The FO has also proposed changes to its Disciplinary Rules. These changes are primarily as a result of the OPBAS review.
21. The first set of changes require the FO to publish the following on its website to improve transparency on redress:
- advance notice of disciplinary hearings at least 14 days prior to the hearing (unless the court has held that the hearing should be held in private)
 - a note (or link to) any disciplinary findings with the searchable details of a notary.
22. In addition, the FO has proposed the following changes to its disciplinary suspension rules:
- imposing an obligation on a notary to notify the Registrar of the Faculty Office if he/she is convicted of an offence, is charged with committing an offence, or is declared bankrupt, within 28 days of the conviction, arrest or declaration of bankruptcy
 - widening the definition of notarial misconduct to include conduct unbecoming of a notary which may include being convicted of a criminal offence (other than a minor road traffic offence) and
 - widening the circumstances where an interim suspension order may be made to include where a notary is charged with committing an offence (in any jurisdiction).

Proposed Practice Rules

23. The FO has also proposed a change to its Notaries (Practice) Rules 2014 in order to address minor practical concerns. This change is to amend the persons who may supervise a notary office to include consultants and locum tenens (but who must be notaries).

FO changes to the proposed regulatory arrangements during the LSB assessment

24. During the course of the LSB's assessment the FO proposed an amendment to its Transparency Rules on price before accepting instructions. The change was to accommodate the publication of the fixed fee (prescribed by the Commissioner for Oaths (fees) Order 1993/2297) for the administration of an oath. Although the publication of this information will not facilitate shopping around, it will make clear to consumers that the fee to be charged is a prescribed fixed fee (£5 for an affidavit, declaration or affirmation and £2 for each exhibit).

Key issues considered in the assessment

25. The LSB broadly welcomes the FO's proposed Transparency Rules, which seek to implement the recommendations made by the CMA. In the long term, the LSB considers that this should help to promote competition, promote and protect the interests of the consumer and contribute to improving access to justice.
26. The FO has argued in developing its proposal that the bespoke nature of notarial acts means that it is very difficult to set out a table of fees and disbursements, prior to receiving instructions, which would be meaningful and accessible to consumers. Therefore it has

proposed publishing/providing the basis for calculating fees (either fixed fee or hourly rate). Consultees supported this approach. The exception to this is the fixed fee for statutory declarations, which will be published in advance.

27. The LSB is satisfied that the FO's proposal to require the advance publication or provision of the basis for calculating fees is an adequate starting point, however it hopes that those regulated by the FO will go beyond this where possible.
28. In reaching this view, the LSB notes that most of the notarial acts are used to facilitate trade between multi-national commercial enterprises rather than small businesses and individuals.

Monitoring and evaluation by the FO

29. In making its decision, the LSB also acknowledges that the FO has stated in its application that together with the Society of Scrivener Notaries and the Notaries Society it will seek constructive engagement with members of its regulated community who need support to implement the changes. The FO notes that a large number of notaries are also practising solicitors who may be subject to the SRA's transparency requirements. The FO will review compliance primarily through its inspection programme and will initially focus its review on the compliance of notaries undertaking conveyancing and probate (45 notaries) by reviewing their websites. If necessary, the FO may provide guidance to notaries through feedback as part of the annual inspection regime.
30. The FO has informed the LSB that it has recently monitored 25 notary websites for content. The FO has made a commitment to monitor these again six months after the implementation of the Transparency Rules to ensure compliance. Thereafter a programme of checks on websites will be undertaken by the FO and remedial action will be taken if necessary. The LSB also notes the FO's intention to request more detailed information about First Tier complaints against notaries to ascertain how many are based on transparency.
31. The LSB views these commitments to monitoring and evaluation as an important component to the new regulatory arrangements. Through its regulatory performance framework the LSB will ensure that these commitments are carried through and that the FO responds to the evidence that it gathers.

Decision

32. The LSB has considered the FO's application against the criteria in paragraph 25(3) of Schedule 4 to the Act. It accordingly grants the application in full.
33. **Annex A** to this decision notice contains the amended Notaries Practice Rules 2019 and Notaries (Conduct and Discipline) Rules 2015 that are approved by the LSB.

Notes:

1. The LSB is required by Part 3 of Schedule 4 to the Act to review and grant or refuse applications by approved regulators to make alterations to their regulatory arrangements.
2. Paragraph 25(3) of Schedule 4 to the Act explains that the LSB may refuse an application setting out a proposed change to the regulatory arrangements only if it is satisfied that
 - (a) granting the application would be prejudicial to the regulatory objectives
 - (b) granting the application would be contrary to any provision made by or by virtue of this Act or any other enactment or would result in any of the designation requirements ceasing to be satisfied in relation to the approved regulator
 - (c) granting the application would be contrary to the public interest
 - (d) the alteration would enable the approved regulator to authorise persons to carry on activities which are reserved legal activities in relation to which it is not a relevant approved regulator
 - (e) the alteration would enable the approved regulator to license persons under Part 5 [of the Act] to carry on activities which are reserved legal activities in relation to which it is not a licensing authority, or
 - (f) the alteration has been or is likely to be made otherwise than in accordance with the procedures (whether statutory or otherwise) which apply in relation to the making of the alteration.
3. The designation requirements referred to in paragraph 2(b) above are set out in paragraph 25(4) of Schedule 4 to the Act and are
 - (a) a requirement that the approved regulator has appropriate internal governance arrangements in place
 - (b) a requirement that the applicant is competent, and has sufficient resources to perform the role of approved regulator in relation to the reserved legal activities in respect of which it is designated, and
 - (c) the requirements set out in paragraphs 13(2)(c) to (e) of Schedule 4, namely that the regulatory arrangements are appropriate, comply with the requirements in respect of resolution of regulatory conflict (imposed by sections 52 and 54 of the Act) and comply with the requirements in relation to the handling of complaints (imposed by sections 112 and 145 of the Act).
4. In accordance with paragraphs 20(1) and 23(3) of Schedule 4 to the Act, the LSB has made rules² about the manner and form in which applications to alter regulatory arrangements must be made. Amongst other things, the rules highlight the applicant's obligations under section 28 of the Act to have regard to the Better Regulation Principles. They also require applicants to provide information about each proposed change and details of the consultation undertaken.
5. If the LSB is not satisfied that one or more of the criteria for refusal are met, then it must approve the application in whole, or the parts of it that can be approved.

² LSB's Rules for applications to alter regulatory arrangements – Version 2 April 2018

[https://www.legalservicesboard.org.uk/what_we_do/regulation/pdf/New%20folder%20\(2\)/FINAL_Rules_for_applications_to_alter_regulatory_arrangements.pdf](https://www.legalservicesboard.org.uk/what_we_do/regulation/pdf/New%20folder%20(2)/FINAL_Rules_for_applications_to_alter_regulatory_arrangements.pdf)

Annex A

NOTARIES PRACTICE RULES 2019

WE CHARLES RICHARD GEORGE One of Her Majesty's Counsel Commissary or Master of the Faculties of the Most Reverend Father in God JUSTIN PORTAL by Divine Providence Lord Archbishop of Canterbury Primate of All England and Metropolitan in exercise of the powers conferred by section 4 of the Public Notaries Act 1843 and section 57 of the Courts and Legal Services Act 1990 and of all other powers Us enabling hereby make the following Rules:

ARRANGEMENT OF RULES

PART I: PRELIMINARY

1. Citation and Commencement
2. Interpretation

PART II: PRACTICE AS A NOTARY

3. Oath of Office and Recognition of Notarial Acts
4. General Principles
5. Code of Practice
6. Bankruptcy and Conviction or Arrest
7. Obtaining Instructions
8. Information to be Provided on Receiving Instructions
9. Conflicts of Interest
10. Duty to Act Impartially in respect of Notarial Acts
11. Employed Notaries
12. Language
13. Undertakings
14. Publicity, Websites and Third Party Intermediaries
15. Scrivener Notaries
16. Introductions and Referrals
17. Offering Services other than as a Notary

18. Fees
19. Name of a Notary's Practice
20. Investment Business
21. Supervision of a Notary's Office
22. Continuing Professional Education

PART III: RECORDS AND INSPECTIONS

23. Duty to Keep Records
24. Inspection of Records and Practice
25. Notaries Ceasing to Practice
26. Application to Ecclesiastical Notaries

PART IV: MISCELLANEOUS

27. Waivers
28. Repeals and Savings

PART I: PRELIMINARY

1. Citation and Commencement

1.1 These rules may be cited as the Notaries Practice Rules 2019.

1.2 These rules shall come into force on 1st ^C 2019

2. Interpretation

In these rules:

- **“approved regulator”** has the meaning given to it in section 20 of the Legal Services Act 2007;
- **“arrangement”** means any express or tacit agreement between a notary and another person whether contractually binding or not;
- **“client”** means any person who has instructed a notary or on whose behalf instructions have been given to carry out a reserved legal activity or other legal activity in respect of which the notary will charge a fee;
- **“firm”** includes a sole practitioner and professional partnership (which expression shall include a limited liability partnership and any other body corporate) the members of which are authorised to conduct legal practice as such;
- **“holding company”** and **“subsidiary company”** have the meanings assigned to them by the Companies Act 2006, and two companies are **“associated”** where they are subsidiary companies of the same holding company;
- **“the Master”** means the Master of the Faculties;
- **“notarial act”** means any act that has validity by virtue only of its preparation performance authentication attestation or verification by a notary and includes any such act carried out by electronic means;
- **“notary”** includes a firm of notaries;
- **“performance”** includes execution completion and carrying out;
- **“person”** includes a body corporate or unincorporated association or group of persons;
- **“principles”** means the general principles set out in rule 4;
- **“qualified legal practitioner”** means
 - (i) a person qualified to provide legal services to the public in England and Wales; or
 - (ii) a person qualified to provide legal services to the public under the laws of any other jurisdiction who practises as such in England and Wales;
- **“the Registrar”** means the Registrar of the Court of Faculties;

- **"reserved legal activity"** and **"legal activity"** have the meanings assigned to them by Section 12 of the Legal Services Act 2007;
- **"third party intermediary"** means an individual partnership or corporate body who or which advertises, compares or provides access to the services of a notary but who is not a qualified legal practitioner and includes any individual partnership or corporate body who or which deals with the notary as agent for the client.

2.2 for the purposes of these rules:

2.2.1 a notary's practice includes the preparation and performance of notarial acts and any other service undertaken as a notary whether or not such service may only be undertaken by a notary;

2.2.2 for the avoidance of doubt the Interpretation Act 1978 applies to these rules as it applies to an Act of Parliament;

2.2.3 reference to any other rules or regulations which govern the practice of a notary in England and Wales and made by the Master shall include any rules and regulations made in substitution therefor;

2.2.4 words importing the masculine gender shall include the feminine gender and words importing the singular shall where the context so admits include the plural and vice versa

PART II: PRACTICE AS A NOTARY

3. Oath of Office and Recognition of Notarial Acts

- 3.1 A notary shall exercise the office of public notary in accordance with the Oath or Declaration made by him at the time of the grant of his Notarial Faculty as set out in section 7 of the Public Notaries Act 1843 and shall offer appropriate notarial services to any person lawfully and reasonably requiring the same.
- 3.2 A notary in possession of a valid practising certificate issued pursuant to the Notaries (Practising Certificate) Rules 2012 may issue notarial acts in the public or private forms intended for use in England and Wales and in any other jurisdiction.

4. General Principles

- 4.1 Without prejudice to rule 3.1 above a notary shall exercise his office at all times in accordance with the principles set out below and these rules shall be read in accordance with such principles.
- 4.2 A notary shall:
 - 4.2.1 uphold the rule of law and the proper administration of justice;
 - 4.2.2 act with integrity;
 - 4.2.3 maintain his independence and impartiality;
 - 4.2.4 provide a prompt and proper standard of service for all clients;
 - 4.2.5 act in a way that maintains the trust in the office of notary which the public may reasonably expect;
 - 4.2.6 comply with all legal and regulatory obligations and cooperate with the Master and any persons or body appointed by him in exercise of the Master's regulatory functions;
 - 4.2.7 operate his notarial practice in accordance with proper governance and sound financial and risk management principles; and

- 4.2.8 operate his notarial practice in such a way as to provide equality of opportunity and respect for diversity.

5. Code of Practice

- 5.1 A notary shall at all times have regard to any code or codes of practice approved by the Master from time to time.
- 5.2 Failure to comply with this rule may amount to "Notarial Misconduct" as defined by rule 2 of the Notaries (Conduct and Discipline) Rules 2015.

6. Bankruptcy and Conviction or Charge

- 6.1 A notary who is bankrupt may not practise as a notary on his own behalf or as the sole member of a professional partnership until he is discharged from bankruptcy, provided that this rule shall not prevent him from practising as the employee of another notary.
- 6.2 A notary who (whether in England and Wales or elsewhere) is convicted of an offence or is charged with committing an offence or who is declared bankrupt shall be under a duty, within the period of twenty-eight days following the conviction or arrest or the declaration of bankruptcy, to inform the Registrar.

7. Obtaining Instructions

A notary shall not directly or indirectly obtain or attempt to obtain instructions for professional work or permit another person to do so on his behalf, or do anything in the course of practising as a notary, in any manner which compromises or impairs or is likely to compromise or impair any of the following:

- 7.1 the principles;
- 7.2 a person's freedom to instruct a notary of their choice;
- 7.3 the notary's ability to act in the best interests of the client;
- 7.4 the good repute of the notary or of the notarial profession;
- 7.5 the notary's proper standard of work;
- 7.6 the notary's duty of care to persons in all jurisdictions who may place legitimate reliance on his notarial acts.

8. Information to be provided on receiving instructions

8.1 When a notary accepts instructions from a client for professional work or changes the terms on which he is acting he must as soon as reasonably practicable provide the client in writing with:

8.1.1 price information in accordance with rule 8.2;

8.1.2 service information including a brief outline of the service the notary will be providing setting out the key stages of the work (if more than one) and the likely timescales for each key stage;

8.1.3 redress information setting out the sum insured under the notary's professional indemnity policy;

8.1.4 complaint information using the form of words prescribed by the Master from time to time (the "prescribed form of words") which explains that the client has a right to make a complaint under Part III of the Notaries (Conduct and Discipline) Rules 2015 and how to make such a complaint; and

8.1.5 regulatory information confirming that the notary is 'Regulated by the Master of the Faculties through the Faculty Office of the Archbishop of Canterbury'

and such other information as may be prescribed in rules or orders of the Master made under this sub-rule.

8.2 A notary may charge a professional fee for all notarial work undertaken by him (whether for a reserved legal activity or other legal activity) and upon receiving any new instruction from a client the notary must confirm:

8.2.1 either

(a) the amount of a fixed fee to be charged for the work done; or

(b) the basis upon which the fee will be calculated and a proper estimate of the fee likely to be charged for the work done;

8.2.2 the services which are covered by the fee or fee estimate quoted and (if applicable) details of any additional work required to complete the work but which the client (or other agent) will need to, or has indicated that he intends to, undertake himself;

8.2.3 the likely cost of all disbursements to be charged to the client together with an explanation of all such disbursements;

8.2.4 the total amount of Value Added Tax to be charged on the fee and such of the disbursements as attract Value Added Tax; and

8.2.5 a brief explanation of any circumstances which are likely to give rise to a variation in the fee or fee estimate and/or disbursements quoted.

8.3 The information required to be provided by rule 8.1 may be provided to the client

electronically.

8.4 Nothing in this rule shall require a notary to supply a client with the information required by rule 8.1 on each occasion where the notary is instructed by a client from whom the notary receives regular instructions or with whom the notary has a service agreement for the supply of notarial services on a continuing basis

9. Conflicts of Interest

9.1 Conflicts of Interest (General)

9.1.1 In the conduct of his practice a notary shall not favour the interests of one client over those of another and shall not favour his own interests or those of any other person over those of his clients.

9.2 Conflicts of Interest (Conveyancing Transactions)

9.2.1 A notary conducting a conveyancing transaction in the capacity of a solicitor, or a licensed conveyancer, or member of another professional body with an approved regulator, is subject to the rules and any guidance relating to (a) conflicts of interest and (b) relations with third parties laid down by the approved regulator of that professional body, and should comply with such rules and have regard to any such guidance accordingly.

9.2.2 A notary conducting a conveyancing transaction in the capacity of a notary must not act for both seller and buyer in a transaction relating to property situated in England and Wales unless:

- (a) the notary is satisfied that no conflict of interest exists or is likely to arise during the course of the transaction, whether or not the transaction is between parties at arm's length; and
- (b) both parties are established clients in that they have instructed the notary on previous occasions; or
- (c) the consideration does not exceed £10,000 in an individual transaction; and
- (d) both clients are informed of the advantages of separate representation before they give their written consent to the notary acting for both of them; and
- (e) both parties consent in writing.

9.2.3 For the avoidance of doubt this rule shall apply to a notary acting for one party in his capacity under rule 9.2.1 and another party in his capacity under rule 9.2.2.

9.3 Relations with third parties

9.3.1 A notary shall not communicate directly by any means whatsoever with any other party to a conveyancing transaction where that party is represented by a lawyer except:

- (a) to obtain information about the name and address (including e-mail address) of that lawyer; or
- (b) with the consent of that lawyer; or
- (c) after notifying the lawyer of the intention to contact the party direct because the other party's lawyer has refused or without good reason failed to pass on messages or to reply to communications; or
- (d) in exceptional circumstances where it is impracticable to contact that party's lawyer;

provided that any communication under (a) to (d) of this rule shall be in writing.

9.3.2 A notary who is dealing with any unrepresented party to a conveyancing transaction must not take unfair advantage of that party, and where it is necessary for practical reasons to communicate orally with an unrepresented party the notary should immediately thereafter make a written note of the communication and should as soon as possible confirm the substance of it in writing to the unrepresented party.

9.4 Conflicts of Interest (notarial activities other than conveyancing transactions)

9.4.1 In respect of notarial activities other than conveyancing transactions, a notary may act for both parties to a transaction but only if:

- (a) each party has consented in writing to the notary so acting; and
- (b) the notary is satisfied that there is no conflict of interest between the parties.

9.4.2 For the avoidance of doubt a notary does not act for both parties to a transaction merely by preparing or authenticating a notarial act in his capacity as a public certifying officer even though that act may concern two or more parties.

10. Duty to Act Impartially in respect of Notarial Acts

A notary must act impartially and in particular must not perform any notarial act which involves or may affect:

- 10.1 his own affairs, including matters in which he is personally interested jointly with another person;
- 10.2 the affairs of his spouse or partner or a person to whom the notary is engaged to be married (for the purpose of this sub-rule, "partner" means a person with whom the notary cohabits or with whom he has a sexual relationship and includes a partner of the same sex);
- 10.3 the affairs of a person to whom he is directly and closely related;
- 10.4 the affairs of a person with whom he is in a professional partnership or by whom he is employed or from whom he receives a benefit by being provided with office accommodation or other facilities for his notarial practice;

- 10.5 the affairs of a person who has appointed the notary to be his attorney which concern a matter within the scope of the power of attorney granted;
- 10.6 the affairs of a trust of which he is a trustee or of an estate where he is a personal representative of the deceased;
- 10.7 the affairs of a body corporate of whose board of directors or governing body he is a member;
- 10.8 the affairs of an employee of the notary;
- 10.9 the affairs of a partnership of which he is a member or of a company in which the notary holds shares either exceeding five percent of the issued share capital or having a market value exceeding such figure as the Master may from time to time specify.

11. Employed Notaries

- 11.1 Save as permitted by rule 11.2 a notary who is the employee of a non-notary shall not perform any notarial act as part of his employment or do or perform any notarial act for his employer or his employer's holding, associated or subsidiary company.
- 11.2 A notary may act for a person who is also the client of the qualified legal practitioner or firm of qualified legal practitioners by which he is employed but he shall take all proper and reasonable steps in the exercise of his notarial practice to maintain his independence of his employer and in particular he shall:
 - 11.2.1 ensure that his independence and integrity as a notary is fully recognised in writing in any contract of employment entered into by him; and
 - 11.2.2 annually send to his employer a written statement of professional independence in a form approved by the Master from time to time, and shall declare in his application for a notarial practising certificate that he has complied with this rule.

12. Language

- 12.1 Notarial acts shall normally be drawn up in the English language.
- 12.2 A notary may upon request or in appropriate circumstances prepare a notarial act in a language other than English if he has sufficient knowledge of the language concerned.
- 12.3 A notary may not authenticate by means of a notarial act a document drawn up in a language other than English unless he has satisfied himself as to its meaning but this does not prevent a notary from authenticating the execution or signature of a document in any language.
- 12.4 A notary may not certify the accuracy of a translation that has been made by someone other than himself unless he has knowledge of the language sufficient to satisfy himself as to the accuracy of the translation but this does not prevent a notary from attesting a translator's affidavit or authenticating a verification.

13. Undertakings

- 13.1 Any notary giving an undertaking, whether oral or in writing, shall be personally liable for that undertaking, and the implementation of any such undertaking is required as a matter of conduct. Save in exceptional cases a failure by a notary to honour an undertaking will constitute Notarial Misconduct as defined in rule 2 of the Notaries (Conduct and Discipline) Rules 2015.
- 13.2 An undertaking given by a notary in writing or confirmed in writing shall be signed by the notary giving it.

14. Publicity, Websites and Third Party Intermediaries

- 14.1 A notary may advertise his practice and seek to obtain directly or indirectly clients and business in any manner and through any medium whether informative or promotional (with the exception of unsolicited telephone calls or unsolicited visits to persons or organisations) provided that:
- 14.1.1 the principles are upheld;
 - 14.1.2 the client's freedom to instruct a qualified person of the client's choice is not thereby unduly restricted;
 - 14.1.3 the notary's good reputation for integrity and professional standards of work is not thereby damaged;
 - 14.1.4 he complies with any relevant non-statutory code of advertising standards and practice currently in force;
 - 14.1.5 any communication in writing including by electronic means shall include the regulatory information set out at rule 8.1.5 provided that this requirement shall not extend to an entry in any directory which lists solely the name and contact details of the notary;

but nothing in this rule shall be construed as authorising the use of the word "notary" or any word designating or indicating notarial services in any publicity for activities which are not a reserved legal activity or a legal activity or otherwise of a notarial nature.

- 14.2 If a notary has a website any such site shall comply with rule 14.1 above and additionally shall include as a minimum the following information:
- 14.2.1 the basis upon which the notary calculates his fees for his services (price information);
 - 14.2.2 a brief outline of the services the notary provides (both reserved legal activities and other legal activities) setting out the key stages of the work (if more than one) and the normal timescales for each key stage (service information);
 - 14.2.3 the level of insurance which the notary carries under his professional indemnity policy (redress information);

- 14.2.4 confirmation that the notary is covered by a formal complaints procedure in the event that a client is dissatisfied with the service provided and an explanation of how to make such a complaint (complaint information); and
- 14.2.5 confirmation that the notary is 'Regulated by the Master of the Faculties through the Faculty Office of the Archbishop of Canterbury' (regulatory information).
- 14.3 Whether or not a notary has a website the information set out in rule 14.2 shall be made available in writing to a client or potential client upon request.
- 14.4 If a notary also practises as an authorised legal practitioner of another profession in his own account (and for some areas of his practise is regulated by another approved regulator) or is a partner, member, director, employee or consultant of a firm of authorised legal practitioners and his services as a notary are included on a website owned or managed by such a firm he must ensure that the section(s) of the site concerning the functions discharged by him as a notary comply in all respects with the provisions of rule 14.2.
- 14.5 If a notary opts to engage with third party intermediaries (whether online or otherwise) in order to advertise his practice or to obtain directly or indirectly clients and business or his practice it shall be the responsibility of the notary to ensure:
- 14.5.1 that the information provided by such third party intermediary is accurate and complies with rule 14.1; and
- 14.5.2 that upon receipt of any instruction received through or as a result of such engagement the client is provided with:
- (a) the information required by rule 8.1 direct by the notary himself; and
- (b) details of any commission, referral fee or benefit payable by or to the notary in accordance with rule 16.1 and the notary shall ensure that he and the third party intermediary comply with rule 16 in all respects
- And for the avoidance of doubt the client shall at all times be the person for whom the reserved legal activity or legal activity is carried out and not the third party intermediary himself or itself.

15. Scrivener Notaries

No notary shall describe himself professionally as a Scrivener or a Scrivener notary unless he holds the qualifications to practise as a Scrivener notary from time to time prescribed by the Incorporated Company of Scriveners.

16. Introductions and Referrals

When a notary enters into an arrangement with another person for the introduction of clients to the notary or by the notary to the other person he must ensure:

- 16.1 that the client is informed in writing of the arrangement and of any commission or other

benefit the notary may be receiving or pay;

- 16.2 that he either obtains the client's written agreement as to the destination of the commission or accounts to the client for the commission;
- 16.3 that he remains able to advise the client independently in accordance with these rules and continues to do so regardless of his own interests.

17. Offering Services other than as a Notary

- 17.1 Where a notary by himself or with any other person operates, actively participates in or controls any business, other than a notary's practice, the notary shall ensure:
 - 17.1.1 that the name of that business has no substantial element in common with the name of any practice of the notary;
 - 17.1.2 that the words "notary", "notaries," "attorney(s)" or "lawyer(s)" or any words designating or indicating a notarial or legal practice are not used in connection with the notary's involvement with that business;
 - 17.1.3 that any client referred by any practice of the notary to the business is informed in writing that, as a customer of that business, he does not enjoy any protection attaching to the client of a notary, and that where that business shares premises or reception staff with any practice of the notary, every customer of the business is informed in writing that, as a customer of that business, he does not enjoy the protection attaching to the client of a notary.
- 17.2 Rule 17.1 does not apply to the practice of a qualified legal practitioner.

18. Fee Sharing

18.1

18.1 Subject to rule 18.2 and 18.3 below a notary shall not share or agree to share his professional fees with any person not entitled to act as a notary; provided that this rule shall not prohibit the payment of any allowance or allowances, sum or sums of money, that are or shall be agreed to be made or paid to the widows or children of any deceased notary or notaries, by any surviving partner or partners of such deceased notary or notaries.

18.2 A notary who also practises as a qualified legal practitioner either in a professional firm or as an employee may share professional fees provided that:

- 18.2.1 his professional partners or employer are also qualified legal practitioners;
- 18.2.2 the notary shall keep accounts which enable the income and expenditure arising from his practice as a notary to be distinguished from the income and expenditure arising from his practice or employment as a qualified legal practitioner; and
- 18.2.3 shall furnish the Faculty Office with such additional information as to his professional partnership and accounting arrangements or his employment as

may be prescribed in rules or orders of the Master.

18.3 A notary who practises as such within or on behalf of a limited company or limited liability partnership may share his professional fees, or collect them through, that company or partnership provided that the equity of that company or partnership is wholly owned by the notary or notaries who are the directors or partners of the company or partnership.

19. Name of a Notary's Practice

19.1 A notary shall notify the Registrar of the name under which he practises, or the firm of notaries within which he practises:

19.1.1 at the time of his admission;

19.1.2 at any time the name is to change; and

19.1.3 annually when he applies for a practising certificate pursuant to rule 4 of the Notaries (Practising Certificates) Rule 2012.

19.2 A notary shall not practise under a name which is likely to mislead (whether intentionally or unintentionally) or bring the notarial profession into disrepute.

20. Investment Business

20.1 In this rule “appointed representative”, “investment” and “regulated activity” have the meanings assigned to them by the Financial Services and Markets Act 2000 and the Financial Services and Markets Act 2000 (Regulated Activities) Order 2001 as extended by the Financial Services Act 2012

20.2 A notary shall not in connection with any regulated activity:

20.2.1 have an exclusive arrangement with a provider of financial services nor with a provider of financial services advice (whether of independent advice or restricted advice or both) under which the notary could be constrained to recommend, introduce or refer clients or effect for them (or refrain from so doing) transactions or contracts:

a. in some investments or markets but not others;

b. with some persons or companies but not others;

c. through the agency of some persons or companies but not others.

20.2.2 be an appointed representative.

20.3 Notwithstanding any provision in rule 17 a notary shall not by himself or with any other person set up, operate, actively participate in or control any separate business which is an appointed representative.

20.4 For the avoidance of doubt a notary shall comply with this rule in connection with regulated

activity carried on within England and Wales and in any other jurisdiction

21. Supervision of a Notary's Office

21.1 A notary shall take reasonable steps to ensure that every office where he practises is and can be seen to be:

21.1.1 open, save exceptionally and for a good reason, during normal office hours for the provision of appropriate notarial services to members of the public; and

21.1.2 properly supervised.

In particular a notary shall ensure that he or another notary holding a Practising Certificate shall spend sufficient time at such office to ensure adequate control of the staff employed there and afford requisite facilities for consultation with clients. Such notary may be a principal, employee or consultant of the firm or a locum tenens.

21.2 In determining whether or not there has been compliance with the requirement as to supervision in rule 21.1, account shall be taken of, inter alia, the arrangements for the principals to see or be apprised of incoming communications.

21.3 Where the operation or supervision of a notary's office in accordance with this rule is prevented by illness, accident or other sufficient or unforeseen cause for a prolonged period, suitable alternative arrangements shall be made without delay to ensure compliance.

21.4 In cases where a notary is not in attendance on days when his office is normally open to the public, he shall make adequate arrangements to ensure the provision of notarial services to persons requiring the same.

21.5 A notary shall not employ within his professional practice a person who is, or has been, a member of a Specified Profession within the meaning of rule 24 and the Schedule to the Notaries (Conduct and Discipline) Rules 2015 without the express written permission of the Registrar where that person has had a finding of professional misconduct made against him by the Relevant Body of the Specified Profession.

22. Continuing Professional Education

22.1 After commencing practice and having satisfactorily completed the required period of supervision, a notary shall, within every such successive period as shall be determined by the Master, participate in such programmes, courses or seminars approved by the Master as may be necessary to acquire the number of credit points determined by the Master.

22.2 Upon determination by the Master of the periods and number of credit points, they shall be included in regulations made by the Master under this rule from time to time.

23 Acting as a Commissioner for Oaths

23 Where a notary is instructed by a Client to act as a Commissioner for Oaths only and for which the statutory fee in force from time to time is to be charged then rules 8, 18 and 24 shall not apply to such instruction PROVIDED THAT where a notary does offer the services of a Commissioner for Oaths the amount of the said statutory fee shall be set out on any website in addition to the information required by rules 14.2 and 14.4 or in accordance with rule 14.3.

PART III: RECORDS AND INSPECTIONS

24. Duty to Keep Records

- 24.1 A notary shall keep proper records of his notarial acts in accordance with this rule.
- 24.2 The records so kept must clearly identify:
- 24.2.1 the date of the act;
 - 24.2.2 the person at whose request the act was performed;
 - 24.2.3 the person or persons, if any, intervening in the act and, in the case of a person who intervened in a representative capacity, the name of his principal;
 - 24.2.4 the method of identification of the party or parties intervening in the notarial act, and in the case of a party intervening in a representative capacity, any evidence produced to the notary of that party's entitlement so to intervene;
 - 24.2.5 the nature of the act;
 - 24.2.6 the fee charged.
- 24.3 In the case of a notarial act in the public form, the notary shall place an original of the act or a complete photographic copy of the same in a protocol which shall be preserved permanently by the notary and for the avoidance of doubt such preservation may be by means of a suitable digital or other electronic system providing for the storage of documents in an indelible and unalterable format.
- 24.4 Records of acts not in public form kept in accordance with rule 24.2 shall be preserved for a minimum period of twelve years and for the avoidance of doubt such preservation may be by means of a suitable digital or other electronic system providing for the storage of documents in an indelible and unalterable format.
- 24.5 A notary who preserves records by means of a digital or other electronic system in accordance with rules 24.3 and 24.4 shall notify the Registrar of any username and password required for access to such digital or electronic system and the Registrar shall keep such information confidential.
- 24.6 A copy of a notarial act or of the record of a notarial act preserved in accordance with rules 24.3 and 24.4 shall, upon payment of a reasonable fee, be issued upon the application of any person or authority having a proper interest in the act unless prevented by order of a competent court.
- 24.7 Any question as to whether a person has a proper interest in an act for the purposes of rule 24.6 shall be determined by the Master.

25. Inspections of Records and Practice

- 25.1 A notary's premises, records and practice may be inspected from time to time on behalf of the Master and as directed by him
- 25.2 The records which may be inspected in accordance with rule 25.1 shall include all documents in the notary's possession relating in any way to his practice as a notary, whether or not they also relate to non-notarial matters, and shall include documents stored by means of a digital or other electronic system.
- 25.3 Copies of documents inspected in accordance with rule 25.1 may be taken for onward transmission to the Master where requested by the person carrying out the inspection.
- 25.4 Inspections shall be carried out in accordance with regulations to be made by the Master from time to time under this rule.

26. **Notaries Ceasing to Practise**

- 26.1 When a notary ceases to practise as such then he, or failing him his continuing notarial partners or the person having possession or custody of the records maintained by him pursuant to rule 24, shall arrange for such records to be transferred:
 - 26.1.1 to another notary in practice appointed by him or by his continuing notarial partners;
 - 26.1.2 to another notary in practice appointed, with the approval of the Master, by the persons having possession or custody of the records; or
 - 26.1.3 to any archive designated for the purpose under regulations made by the Master from time to time;and the persons making such transfer shall give written particulars to the Registrar of the date of transfer and the person or archive to which the records were transferred.
- 26.2 The provisions of rules 24 and 25 shall apply to a notary or archive to which the records of any notary are transferred pursuant to this rule as they apply to the notary himself.

27. **Application to Ecclesiastical Notaries**

The provisions of this Part shall apply to notaries appointed for ecclesiastical purposes only subject to the following modifications:

- 27.1 The requirement of rule 24 to keep a record of notarial acts shall apply only to such ecclesiastical acts as law or custom requires to be performed in the presence of a public notary and recorded in writing.
- 27.2 Any act or transaction properly recorded in the Act Book of any Archbishop or Bishop, or in the Minute Book of any Cathedral Chapter, shall be deemed to have been properly recorded in accordance with rule 24.
- 27.3 Rule 26 shall not apply to ecclesiastical notaries, but upon a person ceasing for any reason to hold the office in respect of which he was appointed an ecclesiastical notary, any records kept by him pursuant

to this Part shall be transferred to the succeeding holder of that office (being an ecclesiastical notary) upon his appointment.

PART IV: MISCELLANEOUS

28 **Waivers**

The Master shall have power to waive any of the provisions of these rules in any particular case or classes of case for the purpose expressed in such waiver, and to revoke such waiver.

29 **Repeals and Savings**

29.1 Subject to rule 29.2 the Notaries Practice Rules 2014 are hereby revoked.

29.2 Rule 29.1 does not absolve any notary from the duty to comply with the Notaries Practice Rules 2014 prior to the coming into force of these rules and records maintained by a notary in accordance with rules 23-25 of the Notaries Practice Rules 2014 prior to the coming into force of these rules shall continue to be so maintained by him and rules 24.5, 24.6, 25, 26 and 27 of these rules shall apply to such records.

NOTARIES (CONDUCT AND DISCIPLINE) RULES 2015 (AS AMENDED)

WE CHARLES RICHARD GEORGE One of Her Majesty's Counsel Commissary or Master of the Faculties of the Most Reverend Father in God Justin Portal by Divine Providence Lord Archbishop of Canterbury Primate of All England and Metropolitan in exercise of the powers conferred by section 4 of the Public Notaries Act 1843 and section 57 of the Courts and Legal Services Act 1990 and of all other powers Us enabling hereby make the following Rules:

ARRANGEMENT OF RULES

~~Part~~PART I: PreliminaryPRELIMINARY

- ~~1.~~ 1. Citation and Commencement
- ~~2.~~ 2. Interpretation

PART II: THE COURT AND ITS OFFICERS

~~Part II: The Court and its Officers~~

- ~~3.~~ 3. Permanent Officers of the Court
- ~~4.~~ 4. Assessors
- ~~5.~~ 5. Composition of the Court
- ~~6.~~ 6. Nominated Notaries and their functions

~~Part~~PART III: Complaints GenerallyCOMPLAINTS GENERALLY

- ~~7.~~ 7. Complaints Resolution Procedures
- ~~8.~~ 8. Handling of Allegations
- ~~9.~~ 9. Interim suspensions by the Registrar
- ~~10.~~ 10. Referral of Allegations by Designated Societies

~~Part~~PART IV: Disciplinary ProcedureDISCIPLINARY PROCEDURE

- ~~11.~~ 11. Making of complaints of Notarial Misconduct
- ~~12.~~ 12. Respondent's reply to complaint
- ~~13.~~ 13. Further statements or allegations

- ~~14.~~ 14. Agreed statements
- ~~15.~~ 15. Withdrawal of complaints
- ~~16.~~ 16. Hearing and case management directions
- ~~17.~~ 17. Witnesses and witness evidence
- ~~18.~~ 18. Procedure
- ~~19.~~ 19. Standard of proof
- ~~20.~~ 20. Service of documents
- ~~21.~~ 21. Interim suspension by the Court
- ~~22.~~ 22. Disciplinary sanctions
- ~~23.~~ 23. Costs
- ~~24.~~ 24. Specified Professions and Relevant Bodies

~~Part~~ PART V: Reviews REVIEWS

- ~~25.~~ 25. Application for Review

~~Part~~ PART VI: Supplementary SUPPLEMENTARY

- ~~26.~~ Revocation, Savings and Consequential Amendments
 - ~~26.~~ Schedule
 - Appendix

PART I: PRELIMINARY

~~1.~~ 1. Citation and Commencement

- ~~1.1~~ These rules may be cited as the Notaries (Conduct and Discipline) Rules 2015
- ~~1.2~~ The rules come into force on the 1st day of November 2015
- ~~1.3~~ Rule 19 was amended on the 20th day of September 2017 and came into force on the 1st day of October 2017
- ~~1.4~~ Rules 9, 18 and 22 were amended on the ^C day of ^C 2019 and came into force on the ^C day of ^C 2019

~~2.~~ 2. Interpretation

- ~~2.1~~ In these rules:-:

- '1993 Rules' means the Public Notaries (Conduct and Discipline) Rules 1993.
- '2000 Rules' means the Notarial Appeals and Hearings Rules 2000.
- '2009 Rules' means the Notaries (Conduct and Discipline) Rules 2009.
- '2011 Rules' means the Notaries (Conduct and Discipline) Rules 2011.
- '2012 Rules' means the Notaries (Practising Certificate) Rules 2012.
- 'Approved Procedure' means a complaints resolution procedure approved under Rule 7 of these rules, Rule 3 of the 1993 Rules, Rule 3 of the 2009 Rules or Rule 3 of the 2011 Rules.
- 'Client' includes any person who has instructed a notary to carry out a reserved legal activity or other legal activity within the meaning of section 12 of the Legal Services Act 2007 and any person who has placed legitimate reliance on a Notarial Act.
- 'Commissary' and 'Deputy Commissary' mean respectively the Commissary and Deputy Commissary appointed by the Archbishop of Canterbury under section 3 of the Ecclesiastical Licences Act 1533 to be the Commissary and Deputy Commissary for the purposes of these rules.
- 'Competent Complainant' means:
 - (1) (1) A Nominated Notary, or
 - (2) (2) A Client where the complaint relates to Notarial Misconduct arising from notarial acts or other professional services performed by the notary in question.
- 'The Contingency Fund' means the fund referred to in the Notarial Contingency Fund Rules 1981.
- 'The Court' means the Court of Faculties.
- 'Designated Society' means the Notaries Society and the Incorporated Company of Scriveners and such other bodies as the Master may from time to time designate for the purposes of these rules.
- 'Document' means anything in which information of any description is recorded.
- 'Lay Assessor' means an Assessor who is not a notary.
- 'The Master' means the Master of the Faculties.
- 'Nominated Notary' means a notary appointed by the Registrar under Rule 6 of these rules.
- 'Notarial Act' means any act that has validity by virtue only of its preparation performance authentication attestation or verification by a notary and includes any such act carried

out by electronic means.

•• ‘Notary Assessor’ means an Assessor who is a notary.

•• ‘Notarial Misconduct’ means

- (1) Fraudulent conduct,
- (2) Practising as a notary without a valid Notarial Practising Certificate or in breach of a condition or limitation imposed on a Notarial Practising Certificate, or
- (3) serious misconduct which may *inter alia* include failure to observe the requirements of these rules or of the Notaries Practice Rules 2014 or falling seriously below the standard of service reasonably to be expected of a notary or persistent failure to provide the standard of service reasonably to be expected by a notary, or
- (4) conduct unbecoming of the office of notary which may *inter alia* include being convicted of a criminal offence (other than a minor Road Traffic Offence)

•• ‘The Registrar’ means the Registrar of the Court of Faculties or an officer of the Court acting with the Registrar's authority.

•• ‘Specified Profession’ and ‘Relevant Body’ have the meanings specified in Rule 24.

•• ‘Statement’ means a written statement (including a witness statement) containing a statement of truth.

•• ‘The Schedule’ and ‘the Appendix’ mean respectively the Schedule and the Appendix to these rules.

~~2.2~~ References in these rules to a “notary” are references to a public notary enrolled on the Roll of Notaries maintained by the Court.

~~2.3~~ Reference to any other rules or regulations made by the Master shall include any rules and regulations made in substitution therefor.

~~2.4~~ References in these rules to forms are to the forms set out in the Appendix, references in Part IV (Disciplinary Procedure) to the Complainant and the Respondent are to the person bringing a complaint and the notary against whom a complaint is brought respectively and references in Part V (Reviews) to the Applicant and the Respondent are to the notary applying for review and the person or body appointed to act as respondent to the application respectively.

~~2.5~~ The Interpretation Act 1978 applies to these rules as it applies to an Act of Parliament.

PART II: THE COURT AND ITS OFFICERS

~~PART II: THE COURT AND ITS OFFICERS~~

~~3.~~ Permanent officers of the Court

- ~~3.1~~ The Commissary shall be the principal judge of the Court for the purposes of these rules.
- ~~3.2~~ If for any reason the Commissary is unable or unwilling to perform his functions under these rules in relation to any matter, that matter shall be assigned by the Registrar to a Deputy Commissary.
- ~~3.3~~ Where a matter has been assigned under these rules to a Deputy Commissary that Deputy Commissary shall perform all of the functions in relation to that matter which would have been performed by the Commissary.
- ~~3.4~~ The Registrar shall act as the clerk of the Court.

4. Assessors

- 4.1 There shall be established a panel of assessors comprising at least six persons of whom one half shall be notaries who have held a Notarial Practising Certificate for not less than ten consecutive years at the date of their appointment and one half shall be persons of good standing who are not notaries.
- 4.2 The members of the panel shall be appointed by the Master for a term of five years (which may be renewed for further terms of five years on expiry) but an Assessor who is involved in an appeal or hearing shall continue in office until the conclusion of that appeal or hearing notwithstanding the expiry of his term of office.
- 4.3 An Assessor's appointment may be terminated by the Master with the consent of the Commissary for gross misconduct.

~~5.~~ Composition of the Court

- ~~5.1~~ In respect of an appeal or hearing to which these rules apply interlocutory issues shall be dealt with by the Commissary but the matter will be heard by the Commissary sitting with two Assessors chosen by him, one being a Notary Assessor and the other being a Lay Assessor.
- ~~5.2~~ Where the Commissary is sitting with Assessors questions of law shall be determined by the Commissary alone but all other issues shall be determined by a majority decision.
- ~~5.3~~ Where the Master is required to hear any application, appeal or other matter whether under rules made by him or under his inherent jurisdiction he may direct that the matter shall be heard by the Commissary.
- ~~5.4~~ Where the Master has made a direction under Rule 5.3 the Commissary shall determine whether to hear the matter alone or with Assessors.
- ~~5.5~~ On assessment of costs the Commissary shall determine whether to make the assessment alone or with Assessors.

6. Nominated Notaries and their functions

- ~~6.1~~ A Nominated Notary appointed by the Registrar under these rules shall be a notary who holds a Notarial Practising Certificate and has held such a Certificate for not less than five years.
- ~~6.2~~ A Nominated Notary may be appointed by the Registrar to carry out the functions conferred on a Nominated Notary by these rules.
- ~~6.3~~ A Nominated Notary appointed under this Rule shall be independent of and not personally acquainted with the notary who is the subject of the allegation of Notarial Misconduct to be investigated.
- ~~6.4~~ If the Registrar is unable to identify a Nominated Notary who fulfils the requirements in Rule 6.3 the Master shall appoint an independent person, who need not be a notary, to act in place of a Nominated Notary for the purposes of Rule 6.1, and that person shall carry out all functions conferred on a Nominated Notary by these rules.
- ~~6.5~~ Subject to Rule 6.6 on order by the Master a Nominated Notary shall have the power in the course of an investigation to inspect Documents in the power possession or control of or believed to be in the power possession and control of the notary who is the subject of the allegation or evidence of Notarial Misconduct.
- ~~6.6~~ A Nominated Notary may not use a Document or Documents or the information contained therein obtained pursuant to the power given by Rule 6.5 for any purpose other than in the investigation of the allegation or evidence and shall not disclose such Document or Documents or information except to the Court without the leave of the Court unless necessary:

- ~~6.6.1~~ 6.6.1 _____ for the prevention or detection of crime,
~~6.6.2~~ 6.6.2 _____ the investigation of a criminal offence or
~~6.6.3~~ 6.6.3 _____ the conduct of a prosecution either nationally or internationally

in which case such Document, Documents or information may be disclosed by the Nominated Notary to the law enforcement and prosecuting authorities.

PART III: COMPLAINTS GENERALLY

7. Complaints Resolution Procedures

- ~~7.1~~ The Master may from time to time approve by written notice a complaints resolution procedure produced by a Designated Society or any amendment or variation thereof and may at any time by written notice withdraw approval of any procedure or amendment or variation.
- ~~7.2~~ An Approved Procedure may include provision:-
- 7.2.1 for the informal resolution of disputes between members of the public and notaries concerning notarial acts done by a notary or the conduct of a notary's practice,
 - 7.2.2 for the informal resolution of disputes between members of the public and notaries concerning the charges made by notaries for notarial services,
 - 7.2.3 for dealing with complaints referred to a Designated Society by the Registrar about the conduct or practice of a notary who is a member of that Designated Society,
- and for such other matters as the Master may from time to time specify.
- 7.3 Where a dispute with or complaint against a notary is dealt with in accordance with an Approved Procedure it shall be a duty of the notary to cooperate with the Designated Society in the operation of the procedure.
- 7.3.1 7.3.1 At the end of the Approved Procedure a notary shall comply with any reasonable action proposed by the Designated Society in its conclusion unless the notary does not accept on reasonable grounds the action proposed.
 - 7.3.2 7.3.2 A notary shall offer the client an alternative remedy which is reasonable in the circumstances of the complaint if he does not accept on reasonable grounds the conclusion of the Designated Society.
 - 7.3.3 7.3.3 An apology, an offer of treatment or other redress shall not of itself amount to an admission of Notarial Misconduct.
- 7.4 A notary shall give the Office of Legal Complaints all such assistance requested by that Office in connection with the investigation, consideration or determination of complaints under the ombudsman scheme established under section 115 of the Legal Services Act 2007 as he is reasonably able to give.
- 7.5 Where a dispute with or complaint against a notary is received by the Registrar and there is no Approved Procedure available to deal with the complaint, the Registrar shall refer the matter to a member of a panel of not less than four notaries each of whom has held a Notarial Practising Certificate for a minimum of ten years appointed for this purpose by the Registrar to carry out the functions set out in Rule 7.2.

- 7.5.1 the notary carrying out these functions shall be entitled to a fixed fee to be specified by the Master from time to time which shall be payable by the notary complained against,
- 7.5.2 the notary carrying out these functions may not be appointed a Nominated Notary under Rule 8.2 in relation to the same dispute or complaint.

8. Handling of Allegations

~~8.1~~ Where the Registrar receives evidence or an allegation concerning the conduct or practice of a notary which in his opinion does not amount to an allegation of Notarial Misconduct or where the precise nature of the allegation is unclear he shall refer the matter to a Designated Society or to a notary appointed under Rule 7.5, to be dealt with in accordance with an Approved Procedure.

~~8.2~~ Where the Registrar receives evidence of or an allegation concerning the conduct or practice of a notary which appears to him to amount to an allegation

8.2 of Notarial Misconduct he shall appoint a Nominated Notary to investigate pursuant to Rule 8.3.

8.3 A Nominated Notary appointed under Rule 8.2 shall diligently and expeditiously investigate evidence of or an allegation of Notarial Misconduct and shall make a complaint under Rule 11.1 and prepare and prosecute disciplinary proceedings against a notary in the Court under Part IV of these rules, if after investigation, the Nominated Notary reasonably believes that there is a *prima facie* case of Notarial Misconduct to be answered.

8.4 If the Nominated Notary upon investigating the evidence or an allegation of Notarial Misconduct considers that there is not a *prima facie* case of Notarial Misconduct he shall make a written report to the Registrar stating the reasons for his decision.

8.5 The Master on the application of the Registrar may discharge a Nominated Notary from his investigatory and prosecutorial functions with respect to a specific allegation or evidence of Notarial Misconduct if the Registrar considers that the Nominated Notary is not acting uprightly, diligently or expediently in fulfilling his duties in the matter and appoint another Nominated Notary in his place.

9. Interim suspensions by the Registrar

~~9.1~~ Where the Registrar receives evidence concerning a notary which amounts to *prima facie* evidence of Notarial Misconduct, or a notary is charged with committing an offence (whether in England or Wales or elsewhere), the Registrar, if he is satisfied that it is required for the protection of the public, may make an interim order to suspend the notary from practice or restrict or limit or impose conditions on the notary's practice pending the conclusion of disciplinary proceedings under Part IV of these rules.

~~9.2~~ A suspension given under this Rule may be renewed by the Registrar for any number of times but each suspension shall be for no longer than a period of three months.

- ~~9.3~~ The notary may appeal to the Master against the Registrar's decision within seven days of the issue of that interim order and on such appeal the Master shall have the same power as the Registrar has under this Rule 9.1.
- ~~9.4~~ The Registrar's power under this Rule 9 shall not be exercisable after the receipt by the Registrar of the answer in Form 4 or the end of the twenty-one day period specified in Rule 11.5 (time for delivery of reply to complaint), whichever is the earlier.
- ~~9.5~~ If following appointment by the Registrar:
- ~~9.5.1~~ 9.5.1 the Nominated Notary decides not to bring a complaint under Rule 11.1 and makes his written report to the Registrar in accordance with Rule 8.5 or
~~8.5 or~~
- ~~9.5.2~~ .2 a complaint is withdrawn with the leave of the Court under Rule 15 or
- ~~9.5.3~~ 9.5.3 the decision is taken by the Court that disciplinary proceedings are to cease in respect of the complaint, the suspension and/or any conditions imposed on the notary's practice shall automatically lapse.
- 9.6 Any interim order made under this Rule 9 may be discharged or varied by the Commissary on application made to him after the end of the twenty-one day period specified in Rule 11.5.

~~10.~~ Referral of Allegations by Designated Societies

Where an allegation against a notary comes to the attention of a Designated Society (whether or not in the course of the operation of an Approved Procedure) and it appears that such allegation amounts to an allegation of Notarial Misconduct the Designated Society shall refer the allegation to the Registrar for consideration in accordance with Rule 8.2.

PART IV: DISCIPLINARY PROCEDURE

~~11.~~ Making of complaints of Notarial Misconduct

~~11.1~~ A complaint of Notarial Misconduct may be made to the Court by any Competent Complainant.

~~11.2~~ Where:

- 11.2.1 Evidence of or an allegation of misconduct concerning the practice of a notary has been received by or brought to the attention of the Registrar and he has not appointed a Nominated Notary to investigate that evidence or allegation under Rule 8.2 of these rules within 28 days of receiving the evidence or allegation, or
- 11.2.2 The Registrar has appointed a Nominated Notary to investigate that evidence or allegation and the Nominated Notary has determined not to make a complaint of Notarial Misconduct to the Court in respect of the allegation or has not so made a complaint within 112 days of his appointment or the referral of the allegation (as

the case may be);

_____ then a complaint of Notarial Misconduct in respect of that allegation or evidence may be made to the Court by any notary who holds a Notarial Practising Certificate and such notary shall be deemed to be a Competent Complainant for the purposes of these rules.

- 11.3 A complaint of Notarial Misconduct howsoever arising shall be made to the Registrar by a written complaint in form 1 delivered to the Registrar and shall be supported by a Statement setting out the allegations and the facts and matters supporting the complaint and each allegation in form 2.
- 11.4 On receiving a written complaint and Statement in support the Registrar shall issue the complaint and serve a copy of each document together with notice of proceedings in form 3 on the Respondent.
- 11.5 Within twenty-one days of service of the notice of proceedings on him the Respondent shall deliver to the Registrar an answer to the complaint in form 4 stating whether or not the Respondent intends to contest the proceedings in whole or in part and if only part which part and on receipt of an answer the Registrar shall serve a copy on the complainant.

~~12.~~ Respondent's reply to complaint

Within forty-two days of service of the notice of proceedings on him and provided the Respondent has delivered to the Registrar an answer the Respondent shall, if he intends to continue to contest the proceedings, deliver to the Registrar a Statement in reply to the complaint stating which facts in the complaint are agreed and which are not and on receipt of such Statement the Registrar shall send a copy to the complainant.

~~13.~~ Further Statements or allegations

- ~~13.1~~ 14.1 With the leave of the Court the Complainant may file supplementary Statements with the Registrar containing additional facts or matters on which the complainant seeks to rely in support of the complaint or containing further allegations and facts or matters in support of the further allegations. Any supplementary Statement containing further allegations against the Respondent shall be treated as though it were a complaint for the purposes of Rule 12.
- ~~13.2~~ 14.2 On receiving a supplementary Statement the Registrar shall serve a copy on the Respondent.

~~14.~~ Agreed statements

- ~~14.1~~ 14.1 _____ The Respondent and Complainant may engage in "without prejudice" communications between themselves with a view to determining whether the parties can come to an agreed settlement as to facts and issues of the complaint.
- ~~14.2~~ 14.2 _____ If under this Rule the Respondent and the Complainant agree on certain facts

and issues of the complaint they may set these down in writing and by mutual agreement present the agreed statement to the Court.

~~14.3~~ 14.3 The agreed statement under this Rule may contain an admission by the Respondent of Notarial Misconduct and propose a sanction to be imposed upon the Respondent and/or an offer of redress to be made by him.

~~14.4~~ 14.4 Except in circumstances where the agreed statement under this Rule is clearly wrong, the Court shall accept the veracity of the statement and shall have regard to it as evidence when making its findings but the Court shall retain full discretion to find whether or not the Respondent is guilty of misconduct and, if so, what order should be made by penalty or otherwise in consequence of the finding.

~~15.~~ Withdrawal of complaints

The complainant may withdraw the complaint with the leave of the Court.

~~16.~~ Hearing and case management directions

~~16.1~~ If the Respondent fails to deliver an answer within the time prescribed by Rule 12 the Registrar shall appoint a date for the hearing of the complaint, where possible with the agreement of the parties or, failing that, by direction of the Court and give notice to both parties in form 5.

~~16.2~~ If the Respondent delivers an answer and the reply pursuant to Rule 12 within the time prescribed the Registrar shall refer the papers to the Commissary who shall make such directions for the future conduct of the complaint as he thinks fit including directions:-

~~15.2.1~~ 16.2.1 for the filing and service of further evidence including the Statement evidence of witnesses,

~~15.2.2~~ 16.2.2 for the preparation and disclosure of lists of documents and for the inspection of such documents,

~~15.2.3~~ 16.2.3 for the filing of skeleton arguments,

~~15.2.4~~ 16.2.4 for a preliminary hearing to consider any point of law or procedure which may be raised by the proceedings or to consider the making of further directions,

~~15.2.5~~ 16.2.5 for the hearing of the complaint and the attendance of witnesses at the hearing,

and the Registrar shall serve a copy of the Commissary's directions and notice of any hearing (which shall be in form 5) on each party.

~~17.~~ Witnesses and witness evidence

~~17.1~~ If a party to the complaint requires the witness to any Statement filed to attend at the hearing of the complaint he shall give notice to the Registrar and to the other party not less than fourteen days before the date appointed for the hearing.

~~17.2~~ If a witness who has been so required to attend the hearing does not attend the onus shall be on the party seeking to rely on the evidence of that witness contained in the Statement to show why the Statement should be accepted in evidence.

~~18.~~ Procedure

~~18.1~~ Whether on application or of its own motion the procedure adopted at the hearing shall take such form as the Court thinks fit in all the circumstances of the case but shall ensure that both parties are given an opportunity to state their

18.1 case to the Court and to cross-examine any witnesses giving evidence in person at the hearing.

18.2 The Court may dispense with any requirements of these Rules in respect of notices, Statements, witnesses, service or time in any case where it appears to the Court to be just so to do.

18.3 The Court may issue practice directions under the authority of the Commissary concerning the practices or procedures of the Court as are consistent with these Rules and as shall seem appropriate.

18.4 The complaint shall be decided on the basis of the Statements filed and the evidence of any witnesses.

18.5 At any time prior to the conclusion of a hearing the Court may, if it thinks it expedient to do so, adjourn the hearing and give such further directions as it thinks fit.

18.6 After hearing the complaint the Court may give its decision at the hearing or reserve judgment and the Registrar shall give notice to the parties of the Court's Order in form 6. In either case the Court's decision will be delivered or handed down in such a way that its contents are made public (this may include making the decision available to access on the website of the Court).

18.7 The forms set out in the Appendix with such variations or additions thereto as the Master may from time to time approve shall be used in all proceedings before the Court to which these rules relate.

18.8 Forms 3, 5, 6, 8 and 10 set out in the Appendix shall be issued by the Registrar under the seal of the Court but any omission to affix the seal of the Court shall not invalidate a form or any proceedings to which it relates.

18.9 The hearing of a complaint or application under these rules shall take place at such venue as the Commissary may direct and each party shall be entitled to be present and to be represented by a notary, a solicitor or counsel or (but only with the permission of the Court) any other person.

18.10 Every hearing shall take place in public unless:

~~18.10.1~~ 18.10.1 The Court considers that a hearing in public will cause exceptional hardship or exceptional prejudice to a party, a witness or any person affected by the application, or

~~18.10.2~~ 18.10.2 in the Court's view a hearing in public would be prejudicial

to justice

in which case the hearing or part of it may be held in private and the Court shall make such order as shall appear to it to be just and proper.

18.11 The Registrar shall publish notice of a hearing on the website of the Faculty Office at least 14 days ahead of the date of the hearing unless the Court has directed that the hearing shall be held in private pursuant to Rule 18.10.

~~18.11~~18.12 It shall be within the discretion of the Registrar to grant to a party to proceedings before the Court such extension to any of the time limits contained in Parts IV and V of these Rules as appears to him to be reasonable.

19. Standard of proof

~~19.~~ The Court shall make findings of fact on the balance of probabilities.

20. Service of documents

20.1 Any notice or document required by these rules to be delivered to the Registrar shall be delivered to him at the Court of Faculties, 1 The Sanctuary, Westminster, London SW1P 3JT and shall be deemed to be delivered on the day on which it is actually received by the Registrar.

20.2 Any notice or document required by these Rules to be served by the Registrar may be served:

~~20.2.1~~ 20.2.1 personally or

~~20.2.2~~ 20.2.2 by sending it by ordinary first class post or

~~20.2.3~~ 20.2.3 document exchange or

~~20.2.4~~ 20.2.4 the Royal Mail's Special Delivery service

_____ to such address as may have been specified by the party concerned as _____ his address for service or, if no such address has been specified for a _____ notary, to the address appearing for him on the Roll of Notaries, and _____ any notice or document so sent shall be deemed to have been served _____ on the second working day after dispatch by post or document- _____ exchange and in the case of personal service, the next working day.

21. Interim suspension by the Court

21.1 If the Complainant wishes to apply to the Court for an order suspending the Respondent from practice or restricting or limiting or imposing conditions on the Respondent's practice pending the determination of the complaint he shall make the application in form 7, and shall lodge a Statement in support of the application.

21.2 Subject to Rule 21.8, on receiving an application in form 7 and Statement in support the Registrar shall serve a copy of each document on the Respondent and appoint a date for the hearing of the application (which shall be not less than fourteen days after the date on which the documents are served on the Respondent) and shall give notice to the parties in form 8.

21.3 If the Respondent wishes to oppose the application he shall, within seven days of its service

upon him, deliver to the Registrar a Statement in response and the Registrar shall serve a copy of the response on the Complainant.

- 21.4 When the application has been determined by the Court the Registrar shall give notice to the parties of the Court's order in form 6.
- 21.5 Unless the Court orders otherwise the costs of the parties to the application shall be reserved to the hearing of the substantive complaint.
- 21.6 An application under this Rule shall be heard by the Commissary or a Deputy Commissary alone and when the application has been heard by the Commissary or a Deputy Commissary the Commissary or (as the case may be) the Deputy Commissary in question shall not sit on the hearing of the substantive complaint.
- 21.7 At the hearing of an application under this Rule the Court may, if it considers it appropriate to do so, give directions under Rule 15.2 for the hearing of the substantive complaint.
- 21.8 Where it appears to him to be necessary for the protection of the public the Commissary or Deputy Commissary to whom an application under this Rule is referred may direct such modifications to the procedure as he thinks fit including the making of an interim order to suspend the Respondent from practice or restrict or limit or impose conditions on the Respondent's practice pending the hearing of the application pursuant to Rule 21.2.

21.9 Where a complaint against a notary has been made to the Court under Rule 11.1 and the notary has been struck off or suspended from legal practice by a Relevant Body, as defined in Rule 24, following a finding of misconduct, the Court may of its own initiative, or on the application of the Complainant, suspend the notary from practice or make an order restricting or limiting or imposing conditions on the notary's practice pending the determination of the complaint, provided that the Court first considers any representations which the notary wishes to make about any such suspension or order.

~~22.~~ Disciplinary Sanctions

- 22.1 Where the Court after hearing a complaint of Notarial Misconduct against a notary finds that it has been proved it may:
- 22.1.1 Order that the notary be struck off the Roll of Notaries,
 - 22.1.2 Order that the notary be suspended from practice as a notary for a specified period or until certain conditions have been met or indefinitely,
 - 22.1.3 Impose conditions as to the future scope or conduct of the notarial practice of the notary or conditions relating to the monitoring or supervision of his practice and direct that his Practising Certificate be endorsed,
 - 22.1.4 Impose conditions as to the training that the notary must complete or further examination or examinations that he must pass before he may continue or resume practice as a notary, or
 - 22.1.5 Order that the notary be admonished.
- 22.2 In addition to imposing any of the penalties listed in Rule 22.1 above the Court may order that

the notary:-

22.2.1 Indemnifies any Client of the notary whom the Court finds to have suffered actual loss as a result of the Notarial Misconduct in question and;

22.2.2 Pays a monetary sum not exceeding £10,000 (or such higher sum as the Master may from time to time specify for the purpose of these rules) such sum to be paid to whomsoever the Court may direct.

22.3 The Respondent shall be entitled to make any submissions by way of mitigation in respect of any sanction (including any order for costs) which the Court may impose.

22.4 The Registrar may decide to (or, at the direction of the Court, shall) advertise any sanction against a notary under this Rule in a newspaper circulating in the area of the notary's practice or former practice or in the London Gazette, a publication of a Designated Society, or in any other relevant publication as the Registrar sees fit.

22.5 The Registrar shall cause to be published on the website of the Faculty Office (with a link to the notary's entry on the list of practising notaries on the website) the Order imposing any sanction against a notary under this Rule and the Court shall stipulate the period of time (whether indefinite or limited) for such publication.

23. Costs

23.1 Subject to Rule 23.3 it shall be within the discretion of the Court to order:

23.1.1 that the costs of either party arising from or incidental to the complaint be paid by the other party,

23.1.2 that the costs of the Court be paid by either party or by both parties (whether in equal or unequal shares),

23.1.3 that costs incurred unnecessarily be disallowed,

23.1.4 that the costs of either party or of the Court shall be paid from the Contingency Fund,

23.1.5 that a party against whom an order for Costs is made shall, instead of paying those costs to the other party or the Court, pay them into the Contingency Fund, and

23.1.6 that either party pay a sum to the Contingency Fund for monies paid out to a Nominated Notary acting in the exercise of his functions under these rules,

in relation to costs incurred at any time after the earlier of the appointment of the Nominated Notary or the making of a complaint under Rule 11.1.

23.2 The Court may make an order as to costs under this Rule where any application is withdrawn including the complaint itself.

23.3 The Court shall not make any order for costs against a Nominated Notary who shall in all cases be entitled to an order for costs in his favour such costs to be paid from the Contingency Fund.

23.4 The Master shall by Order, after consultation with the Commissary, approve a table of costs

which will be applied by the Court, save in exceptional cases, in relation to orders for costs made under this Rule, and may, after consultation with the Commissary, issue directions or guidance about the manner in which such a table is to be applied by the Court.

23.5 Where a Nominated Notary investigates an allegation of Notarial Misconduct referred to him by the Registrar but such investigation does not lead to the issue

of disciplinary proceedings in the Court the Nominated Notary shall be entitled

23.5 to be paid such fixed fee as may have been previously authorised by the Registrar or such fee as the Registrar may determine should be paid for work properly done after considering a bill and other representations submitted by the Nominated Notary and such fee shall be paid by the Registrar out of the Contingency Fund.

24. Specified Professions and Relevant Bodies

24.1 For the purposes of these rules a 'Specified Profession' means a profession specified in the Schedule and in respect of a Specified Profession 'Relevant Body' means the disciplinary body named for that profession in the Schedule.

24.2 The Master may by order add to or amend the Schedule.

24.3 It shall be the duty of any notary who is also a member of a Specified Profession and against whom a complaint has been made to the Relevant Body, and where such complaint has been found by that body to be substantiated (whether in part or in whole), to report such finding forthwith to the Registrar (whether or not a penalty is imposed by the Relevant Body and without regard to the nature of such penalty).

24.4 Where it comes to the attention of the Registrar that a Relevant Body has found a complaint against a notary to be substantiated, the Registrar shall appoint a Nominated Notary to investigate the matter and if he thinks fit to prepare and prosecute disciplinary proceedings as if he were acting under Rule 8.

24.5 In proceedings under these rules the written decision of a Relevant Body shall be evidence of the facts stated in that decision.

PART V: REVIEWS

25. Application for Review

25.1 Where as a result of an Order made under these rules or the 1993 Rules, or the 2009 Rules or the 2011 Rules a notary:

25.1.1 has been struck off the Roll of Notaries other than pursuant to proceedings under Rule 10 of the 1993 Rules, under Rule 10 of the 2009 Rules, or under Rule 10 of the 2011 Rules or under Rule 24 of these rules, and a period of not less than twelve months has elapsed since the date of striking off, or

25.1.2 has been suspended from practice for a period exceeding twelve months or for an indefinite period and a period of not less than twelve months has elapsed since the

- 25.1.3 date of the suspension,
has had conditions imposed as to the future scope or conduct of his notarial practice, or conditions relating to the monitoring or supervision of his practice, or ~~25.1.4~~ has been struck off the Roll of Notaries pursuant to proceedings under Rule 10 of the 1993 Rules, or under Rule 10 of the 2009 Rules, or under Rule 10 of the 2011 Rules, or under Rule 24 of these rules, and
- ~~25.1.4~~ has since been restored to the Roll of Solicitors, or, where relevant, the equivalent record of practitioners maintained by a Specified Profession,
- the notary may apply to the Court to review the Order.

25.2 In the case of an application under Rule 25.1.1, Rule 25.1.2 or Rule 25.1.4 above it shall be for the notary to prove to the satisfaction of the Court that circumstances have changed since the Order was made and that it is not contrary to the public interest or the interest of the notarial profession that the order be reviewed and, in the case of a petition under Rule 25.1.3, it shall be for the notary to prove to the satisfaction of the Court that as a result of a change in circumstances the conditions imposed are no longer necessary or desirable in the public interest.

25.3 An application under this Rule shall be made in form 9 and shall be accompanied by a Statement or Statements setting out in full the grounds of the application and the evidence in support.

25.4 On receiving an application brought under this Rule the Registrar shall appoint a Nominated Notary to act as Respondent to the application.

25.5 Upon receiving an application and Statements in support the Registrar shall issue the application and serve a copy of each document on the Nominated Notary appointed as Respondent under Rule 25.4 and the Registrar shall also serve on both parties notice of hearing of the application in form 10.

~~25.6~~ Where the Order which the applicant is seeking to review was made as a result of a complaint brought by a person who was a Competent Complainant as a person who had been a Client of the notary the Registrar shall also send copies of the above documents and notice and any Statement delivered under Rule

~~25.6~~ 25.3 to the Complainant who shall be entitled to attend the hearing and (if the Court so permits) to address the Court.

~~25.7~~ The Registrar may decide to advertise the notary's application under this Rule in a newspaper circulating in the area of the applicant's practice or former practice or in the London Gazette, a publication of a Designated Society or in any other relevant publication as the Registrar sees fit.

~~25.8~~ Any person may, no later than 10 days before the hearing date of an application to which this Rule applies, serve on the Court and the parties to the application notice of his intention to oppose the grant of the application and the Court may allow that person to appear before the Court at the hearing of the application, call evidence and make representations upon which the Court may allow him to be cross-examined.

~~25.9~~ The function of the Respondent shall be to ensure that the applicant is put to

proof of his case and to bring to the attention of the Court all such facts and matters as the Respondent thinks should be before the Court and if the Respondent wishes to present to the Court a Statement or Statements in reply to the application he shall deliver the same to the Registrar not less than twenty-

25.9 eight days before the date of the hearing and the Registrar shall forthwith serve copies on the applicant.

25.10 At the hearing the Court shall consider all documents and evidence which were before the Court before making the order which the applicant is seeking to review and shall consider the Statement filed in support of and any Statements filed in answer to the application and the applicant may give evidence in person. The Court shall also consider representations made to it by the parties.

25.11 If the Court is satisfied that notice of the hearing was served on the applicant in accordance with these Rules, the Court shall have the power to hear and determine an application notwithstanding that the applicant fails to attend in person or is not represented at the hearing.

25.12 After hearing the petition the Court may give its decision at the hearing or reserve judgment and the Registrar shall give notice to the parties of the Court's Order in form 6.

25.13 Except in exceptional circumstances the costs of the Respondent to an application brought under this Rule and of the Court shall be paid by the applicant regardless of the outcome; in all other respects the provisions of Rule 23 shall apply mutatis mutandis.

25.14 Upon hearing an application brought under this Rule the Court may:

- 25.14.1 In the case of an application under Rule 25.1.1 or 25.1.4 order that the notary be restored to the Roll of Notaries either immediately or on some specified future date;
- 25.14.2 In the case of an application under Rule 25.1.2 order that the suspension be lifted either immediately or on some specified future date;
- 25.14.3 In the case of an application under Rule 25.1.3 order that the conditions imposed be lifted or that different conditions be imposed;
- 25.14.4 Impose such conditions upon any order or require such undertakings to be given by the petitioner as it thinks fit, or
- 25.14.5 Dismiss the application.

~~26.~~ Revocation, Savings and Consequential Amendments

26.1 Subject to Rule 26.2 the 2011 Rules and the 2000 Rules are hereby revoked.

26.2 Where any proceedings before the Court had been commenced under the 2011 Rules or the 2000 Rules prior to the coming into force of these rules the 2011 Rules and the 2000 Rules (as the case may be) shall continue to have effect in respect of those proceedings.

26.3 In Rule 3.3 of the Notaries (Prevention of Money Laundering) Rules 2007 "Public Notaries (Conduct and Discipline) Rules 2011" is omitted and "Notaries (Conduct and Discipline) Rules 201[-]" substituted therefor.

26.4 References to the 1993 Rules, the 1997 Rules and the 2011 Rules and in other rules and regulations made by the Master shall be construed by reference to the corresponding Rule in these Rules.

THE SCHEDULE

Specified Profession	Relevant Body
Solicitor of the Senior Courts of England and Wales	The Solicitors Disciplinary Tribunal
Barrister in England and Wales	A Panel or Disciplinary Tribunal operated by the Bar Standards Board
Chartered Legal Executive	The Investigating Committee or the Disciplinary Tribunal of the Chartered Institute of Legal Executives
Licensed Conveyancer	The Investigating Committee established under section 24 of the Administration of Justice Act 1985 or the Discipline and Appeals Committee established under section 25(1) of that Act <u>25(1) of that Act</u>
Avocat or other legal practitioner in a country outside England and Wales	The body responsible for exercising disciplinary regulation over the avocat or other legal practitioner in the country in question <u>question</u>
Any other Authorised Person as defined by Section 18 of the Legal Services Act 2007 authorised to carry out reserved legal services	The body responsible for exercising disciplinary regulation over the Authorised Person in question with respect to that reserved legal service <u>reserved legal service</u>

APPENDIX

APPENDIX

Form 1: Written Complaint

IN THE COURT OF FACULTIES

In the Matter of [AB] a notary and

In the matter of the Notaries (Conduct and Discipline) Rules 201[-] ~~To~~ _____

~~the Registrar~~ To the Registrar

I, the undersigned [CD] of [address] do hereby make complaint that the said [AB] of [address] has been guilty of Notarial Misconduct within the meaning of the said rules in that he/she has ...(insert summary of allegation(s) of misconduct).

.....

Details of my complaint are contained in the statement of truth which accompanies this written complaint.

DATED this day of _____

20... ~~Signed~~ Signed

Address for service

Form 2: Statement of truth in support of Written Complaint

IN THE COURT OF FACULTIES

In the matter of [AB] a notary and

In the matter of the Notaries (Conduct and Discipline)

Rules 201[-] ~~IN THE COURT OF FACULTIES~~

~~In the matter of~~ [AB] a notary and

~~In the matter of the Notaries (Conduct and Discipline) Rules 201[-]~~ I [CD] of [address] make the following statement as follows:-

1. I am a **Competent Complainant** within the meaning of the said rules as [specify how the deponent is a **Competent Complainant**].
2. I make this statement in support of my written complaint against the above named [AB] a notary of [address]
3. [Here state the facts concisely in numbered paragraphs and show the complainant’s means of knowledge.]
4. I believe that the facts stated in this [witness] statement are true.

Form 3: Notice of Proceedings

IN THE COURT OF FACULTIES

In the matter of [AB] a notary and

In the matter of the Notaries (Conduct and Discipline)

Rules 201[-] **TO:**

~~IN THE COURT OF FACULTIES~~

~~In the matter of [AB] a notary and~~

~~In the matter of the Notaries (Conduct and Discipline) Rules 201[-] **TO:** [AB] a notary of
[address]~~

TAKE NOTICE that a written complaint has been received by the Court alleging that you have been guilty of Notarial Misconduct. A copy of the complaint and the statement of truth supporting it are attached to this notice.

You are required:-

1. Within twenty-one days of service of this notice upon you to deliver to me an answer to the complaint in the form prescribed by the above rules, and
2. If you intend to contest these proceedings, to deliver to me within forty-two days of service of this notice upon you a statement of truth in reply to the complaint.

If you fail to comply with these requirements I will proceed to appoint a date for the hearing of the complaint.

All communications should be addressed to "The Registrar, The Court of Faculties, 1 The Sanctuary, Westminster, London SW1P 3JT".

DATED this day of 20...

Form 4: Answer to Complaint

IN THE COURT OF FACULTIES

In the matter of [AB] a notary and

In the matter of the Notaries (Conduct and Discipline)

Rules 201[-] To the Registrar

I, [AB] in answer to the complaint of [CD], say that:-

~~1~~ 1. I intend to contest the complaint OR I intend to contest the following parts of the complaint:- [specify] OR I do not intend to contest the complaint [and I consent to being struck off the Roll of Notaries] [delete as applicable]

~~2~~ 2. My address for service is

DATED this day of 20...

Form 5: Notice of Hearing

IN THE COURT OF FACULTIES

In the matter of [AB] a notary and
In the matter of the Notaries (Conduct and Discipline) Rules 201[-]
To the above named respondent [AB] of [address] and to the complainant [CD] of
[address]-TAKE NOTICE that this complaint will be heard by the Court on

.....
..... day
the day of
at [time] of day] at

..... when you are required to attend.
If you do not attend the hearing may proceed in your absence.

DATED this day of 20...

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Form 6: Order

IN THE COURT OF FACULTIES
In the matter of [AB] a notary and
In the matter of the Notaries (Conduct and Discipline) Rules 201[-]
~~To the above~~
~~named [respondent/petitioner]~~ [AB] of [address
] and to the [complainant/respondent] [CD] of [address]

The Court having heard this [complaint] [application] on the day of ~~200..~~
~~200..~~

THE COURT ORDERS as follows:-
DATED this day of 20...

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Form 7: Application for Suspension etc pending determination of Complaint

IN THE COURT OF FACULTIES

In the Matter of [AB] a notary and

In the matter of the Notaries (Conduct and Discipline) Rules 201[-]

~~In the matter of the Notaries (Conduct and Discipline) Rules 201[-]~~ To the Registrar I, the undersigned complainant [CD] of [address] apply to the Court for an order that pending the determination of this complaint [the said respondent [AB] of [address] be suspended from practice as a notary] OR [the practice of the said respondent [AB] of [address] be restricted or limited as follows: *[specify restrictions or limitations]* OR [the following conditions be imposed on the practice of the said respondent [AB] of [address]: *[specify conditions]*]

The grounds of this application are contained in the accompanying statement of truth.

DATED this day of 20...

Signed

Address for service

Form 8: Notice of Hearing of Application

IN THE COURT OF FACULTIES

In the matter of [AB] a notary and

In the matter of the Notaries (Conduct and Discipline)

Rules 201[-] ~~In the matter of the Notaries (Conduct and~~

Discipline) Rules 201[-]

To the above named respondent [AB] of [address] and to the complainant [CD] of [address] TAKE NOTICE that the complainant's application that the respondent be suspended from practice as a notary or that the practice of the respondent be restricted or limited or that conditions be imposed on the practice of the respondent will be heard by the Court on

..... day
the

.....
day of

..... at [time of day] at..... when you are
required to
attend.

..... day the
..... day of at [time of
..... day] at when you are required to attend.

The Court may also give directions for the hearing of the substantive complaint. If you do not attend the hearing may proceed in your absence.

DATED this day of 20...

Signed ~~Registrar~~
Registrar

Form 9: Application under Rule [-]

IN THE COURT OF FACULTIES

In the matter of [AB] a notary and

In the matter of the Notaries (Conduct and Discipline)

Rules 201[-] To the Registrar

I [AB] of [address for service] apply to the Court as follows:-

1. By an Order of the Court made on [date] it was ordered that [set out the terms of the Order other than terms as to costs]
2. I now apply that the said Order be reviewed pursuant to Rule [-] of the said rules.
3. The grounds of this application and the evidence in support of it are fully set out in the accompanying statement[s] of truth

DATED this day of

..... 20... Signed

~~Petitioner~~

Petitioner

Form 10: Notice of Hearing of Petition under Rule [-]

IN THE COURT OF FACULTIES

In the matter of [AB] a notary and

In the matter of the Notaries (Conduct and Discipline) Rules 201[-]

To the above named applicant [AB] of [address] and to [CD] of [address] appointed to act as respondent to this application.

TAKE NOTICE that this application will be heard by the Court on.....
day the

_____ day of _____ 20... at [time of day] at _____
_____ when
_ you are required to attend. If you do not attend the hearing may proceed in your absence.
DATED this _____ day of _____ 20...
Signed
Registr
ar

.....
MASTER