

NEW ZEALAND SOCIETY OF NOTARIES INCORPORATED

COUNCIL MEETING

Friday, 15 February 2019 at 12.30pm
held at the offices of
AJ Park, Level 14, AMP Centre, 29 Customs Street West, Auckland CBD

MINUTES

The Chair, Stewart Germann, opened the meeting at 12.30pm.

Present: Stewart Germann (Chair); Don Thomas, Allen Mazengarb, Mike Scannell, Julie Hutton, and Tracey Merlini (Minutes)

1. **Apologies:** Bruce Stewart, Ken Lord

2. **Health and Safety:**
Exit points were discussed in the event of an emergency.

3. **Minutes of previous Council meeting:**

Motion: That the minutes of the previous council meeting on 18 August 2018 be approved.

Moved: Stewart Germann

Seconded: Mike Scannell

Carried

4. **Matters arising from Minutes**

The Chair reviewed the actions points from the previous minutes and confirmed all in order. Of particular note:

- Tracey to continue to check for notaries who have been suspended or struck off;
- Don reported that he had met with DIA recently on a visit to Wellington; they are struggling with staff at present and have a heavy workload;
- Stewart agreed to liaise with DIA on a more regular basis;
- It was agreed further mentors were not required for South Island;
- Tracey will follow up with Owen Williams in relation to a refund of overpaid tax on interest earned;
- Julie will make one more contact with Jane Duncan on the West Coast to see if she might continue with her application.

There were no further matters arising.

5. **Financial Matters**

• **Latest statements as at 8/2/19**

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|---|-------------|
| Society Cheque | \$9,973.12 |
| Fastsaver | \$1,005.21 |
| Commercial Term Deposit (matures 13/3/19) | \$22,000.00 |
| Term Deposit | \$11,014.57 |

- **Debtors**

Unpaid subs were followed up in November and again in February. Remaining debtors amount to 7 and Council will contact the following personally to ascertain if there is any reason for non-payment:

Action: Council to follow up with notaries.

6. **Notarial applications**

- The Applicant was concerned regarding the current criteria to be a partner and his experience as a partner previously and potentially becoming a consultant for his current firm was discussed. Council agreed once he was a partner his application could be reviewed.
- Council agreed that although the Applicant would normally be an excellent candidate her application should be declined on the basis that she is an in-house lawyer. Council agreed that as the Master had frowned upon the appointment of in-house lawyers appointed as notaries previously, their policy on this has been reviewed.
- Council reviewed the purposes of the monthly Skype meetings and agreed it should primarily be to discuss and approve notarial applications. Any matter which is urgent and cannot wait until the next scheduled six-monthly face-to-face meeting can be added to the agenda to be addressed at the monthly skype meetings. The next Skype meeting is on 13 March 2019 at 9.30am.

Action: Mike to send a Skype link for all meetings scheduled which will be added to the Skype invitation.

- It was noted there were currently several applicants waiting for tutorials. Assistance in the South Island and North Island for Bob Eades has been arranged. Tutorials for the South Island applicants are due to be conducted in Christchurch in March.
- The current criteria for applications was discussed and it was agreed all applicants must be a partner **at the time of application** and have 10 years' post-admission experience and 5 years' experience as a partner or principal.
- After further discussion a vote was taken and all, but one, agreed Council would no longer approve in-house lawyers for notary applications.
- The need or demand for notaries in an area was discussed and Council agreed that this was a less significant criteria and was in place largely due to the Master's requirements in the notarial application to the Master. Christchurch was discussed as an example of having a sufficient number of notaries however Council needs to exercise discretion and be aware of aging notaries who may be due to retire and be aware of particular areas of a region or city where there may be a need; for example West Auckland only have four notaries out of 80 Auckland-wide and the demand for notaries in West Auckland is very high.

Action: Julie will speak with Ken about the current lawyer in Christchurch which he has encouraged to apply and revert to Tracey.

7. **Foreign language documents and English language documents and non-English speaking clients**

Julie provided a draft response to a Notary's query on the forum regarding the best way to ensure a non-English speaking client understands an English language document. Council concurred with Julie's draft response and it was agreed it should be published on the forum.

In addition to the above matter, discussion took place regarding documents in foreign languages and the notary's requirement to understand the contents of the foreign document. The notary's obligation is not to understand the content but to check the authenticity of the document and establish that the person signing the document can be identified. A certificate can be produced and attached to the foreign document stating that the person signing understands the contents and is the person who signed it. A template of the certificate should be added as a precedent on the website.

Council agreed that it was important that the Notary use its best judgment in relation to foreign documents and if in any doubt at all, to decline notarising until a translation of the document, preferably by NZSTI, can be produced.

8. **Communications with the Faculty Office**

A copy of a letter dated 14 September 2018 from the Master in relation to the new Code was tabled along with the President's response of 30 November 2018 in its final form; a draft response having previously been reviewed by Council before it was sent. It was noted that the Master had asked for a complaints' register to be compiled and a copy sent to the Master each year.

Action: Tracey to instigate a Complaints Register.

9. **ANZCN**

Ken Lord attended the ANZCN conference in Singapore in October 2018. He reported that it "was a really outstanding event". Ken also presented a paper on *Risk Management in the Paper World and Dealing with Clients from Hell* which is posted on the Society's website under [News/Singapore Conference 2018](#).

Recent correspondence between the President and ANZCN Board of Governors was tabled. Also tabled were minutes of the College AGM held on 21 December 2018 and the accompanying Chairman's Report. It was noted there is now no NZ Society representative on the Board of Governors and while the Society and College agree a close association between the two is necessary, Council accepted the NZ Society has no control of College operations nor can it suggest changes to the College constitution. It was agreed the issue has been drawn to the College's attention by the NZ Society and it is now in the hands of the College to address it.

10. **Website**

- **Forums**

The forum is up and running however it was noted there was not a lot of activity yet. A Notary had emailed to advise that she had posted a comment and had only received one view to her post so didn't find it very helpful. It was agreed that Tracey would email members reminding them to view the forum and advising them of the benefits of signing up for notifications of posts.

- **Precedents**

Don advised that four precedents were very nearly complete and would be available by March. He advised there was a considerable amount of work from the sub-committee (as volunteers) in re-writing precedents in plain English, editing and proofing. It was agreed that sub-committee were authorised to load completed precedents directly to the website as soon as possible.

11. Education and training

- **Mentoring**

Two new notaries have been appointed and their mentors assigned. The mentors' role was discussed; that being to introduce themselves to new mentors and be available to assist should the new notaries have any queries or difficulties.

Action: Tracey will update Council with the list of new notaries and their assigned mentors.

- **The NZ Notary**

The update of *the NZ Notary* is a work in progress and will be the focus of the precedents sub-committee after they complete the precedents.

Action: Don to progress with Bob and Richard.

12. General Business

- **Availability of notaries over Christmas/New Year**

Feedback had been received from a member of the public regarding the unavailability of notaries over the Christmas/New Year. Julie advised that Christchurch notaries' availability over this time was collated and made available to any notaries calling her office reception over that period. It was agreed Tracey could send an email out prior to Christmas asking notaries to advise their availability over this time and collate a summary of available notaries to be posted on the website during the December/January holiday period.

- **Geographical coverage of notaries – response to Law Talk**

Tracey reported that there was a flood of immediate responses to the article placed in Law Talk regarding shortages of notaries in rural areas. However, most have not followed through with an application with some commenting on the bureaucratic process and prohibitive cost of an application to the Master in London. Applications have increased in the South Island and Auckland however there are still gaps on the West Coast and certain other rural areas.

- **Stamps Plus website**

It had come to the attention of Council that Stamps Plus were promoting the use of pre-embossed stickers for notary public use. While Stamps Plus provide a great service for other notary public products, Council regard the use of pre-embossed stickers to replace the use of a seal as dangerous practice and discourages it. Further it was noted that a notary had advocated the use of the pre-embossed seals on the Stamps Plus website in the form of an online reference.

Action: Stewart will speak with both Stamps Plus and Hamish Kennedy regarding the content on the Stamps Plus website.

- **WON**

Stewart reported that the new president, Leo Mangan, was doing a good job and WON was much more active under his presidency. Minutes of a WON meeting and a Forum of Commonwealth Notaries meeting, which took place in Singapore after the ANZCN conference in October 2018, were tabled. Ken Lord as NZ representative attended.

A WON directors' meeting will be held in Dublin in March and Stewart Germann will attend.

- **ADLS – NZ Lawyers' Directory**

The latest ADLS publication of the New Zealand Lawyers' Directory is out of date. Tracey has written to them drawing the discrepancies to their attention and asking them to contact her for the latest updates prior to their publications.

