



Notarial Work

This Client Guide is intended to help you understand the work that a Notary Public will do on your behalf. We hope that it will save you time and expense. It is not exhaustive and not every point covered will apply in every case.

This Client Guide also sets out the basis and terms upon which the Notary agrees to act as a Notary on your behalf. Please read this Guide carefully as it contains important information and forms the basis of the Notary's retainer by you. All Notary work is undertaken on the terms and conditions set out in this Client Guide, even if you have instructed FDR Law to carry out other legal work on your behalf.

Who is the Notary at FDR Law?

Stephen Poyner is dual qualified as a solicitor and Notary Public and practices in this dual capacity as a Partner at FDR Law. FDR Law is a trading name of Forshaws Davies Ridgway LLP which is a limited liability partnership registered in England and Wales, under registered number OC310548, with its registered office at 1 Palmyra Square, Warrington, Cheshire, WA1 1BZ. Any reference to a Partner in relation to FDR Law or Forshaws Davies Ridgway LLP means a Member of Forshaws Davies Ridgway LLP. Our website www.fdrlaw.co.uk also contains further information about us which you may find useful.

If the Notary is unavailable for any reason you should leave a message on our voice mail service or speak to the Notary's secretary, whose name is Tracy Curwen. She will take a message from you and she may well be able to answer any general enquiries you may have about the conduct of your matter in any event. If you wish to contact the Notary by email the address is stephen.poyner@fdrlaw.co.uk.

What is a Notary Public?

A Notary is a qualified lawyer – a member of the third and oldest branch of the legal profession in the United Kingdom. Notaries are appointed by the Archbishop of Canterbury and are subject to regulation by the Court of Faculties. The rules which govern Notaries are very similar to the rules which govern solicitors. Notaries must be fully insured, maintaining cover for the protection of clients and the public. They must keep clients' money separately from the business and comply with stringent rules of practice, conduct and discipline. A Notary Public in England has many of the same responsibilities as Notaries in European countries. However, anyone who has dealings with a Notary Public in the USA may be surprised at the different formalities and costs here in the UK. The role and responsibilities of the Notary Public in the USA are very different. Most Notaries in the UK are also qualified as solicitors, but the two roles are different.

What is the function of a Notary Public?

Nowadays the main function of a Notary in the UK is to "notarise" documents (i.e. to formally witness and/or verify them) generally in situations where the document is required for international use. This is **NOT** a mere rubber-stamping exercise. The international duty of a Notary involves a high standard of care. This duty is not only owed to you as the client but also to anyone who may rely on the document, and this may include Governments or officials of other countries. Those people are entitled to:

- assume that a Notary will ensure full compliance with the relevant requirements both here and abroad; and
- rely on the Notary's register and records.

Great care is essential at every stage to minimise the risks of errors, omissions, alterations, fraud, forgery or money laundering. The Notary will, for instance, require identification evidence from you to guard against the use of a false identity.

Is a Notary independent?

Notaries must act independently; their overriding duty is “to the transaction” rather than the individual client.

What will the Notary need from me?

It will save you time and expense, and avoid mistakes if, a few days before your appointment with the Notary, you let us have the originals or photocopies of the following documents:

- The documents to be notarised; and
- Any letter or other form of instruction which you have received about what has to be done with the documents; and
- Your identification evidence (see below); and
- Any other documents and information indicated in this Client Guide (see below).

What identification evidence is required?

You must produce to the Notary by way of formal identification the originals of:

1. Your current passport

AND

2. A utility bill or bank statement (issued within the last 3 months) addressed to you and showing your current address.

If your passport is not available the Notary may be able to accept your current driving licence (i.e. a photocard licence) in place of your passport but this cannot be guaranteed and you should make every effort to supply your original passport.

If the above documents are not available we may accept at least two of the following:

3. A current driving licence (i.e. paper version without photo);
4. Other formal means of identification such as an ID card issued by an EU country or a shotgun or firearms certificate;
5. Any other means of ID specified in the papers sent to you as being required;

If any of the documents referred to at 3, 4 or 5 above does not incorporate a good photographic likeness of you, please provide a recent passport-style photograph for the Notary to retain with his records.

In every case we must be satisfied as to your identity and the Notary will not notarise a document if he is not satisfied.

Even if you produce the above documents this does not necessarily mean that the Notary will notarise your document. Furthermore in some jurisdictions a passport (rather than driving licence) is essential in order for the Notary to proceed.

What happens if I use a different name than that shown in the document to be notarised?

In a case where the name on the document to be notarised is different from the name you are currently using, or there has been a variation in the form of spelling of the name over the years, you must provide us with evidence of your proper name (e.g. Certificates of Birth, Baptism, Marriage or a Divorce Decree.) If there has been a formal change of name, then the Notary will need to see a copy of the Deed Poll or Statutory Declaration which dealt with it.

Why are all these formalities necessary?

Notarisation of a document is accepted as a safeguard under international law. The signature and seal of the Notary on the relevant are recognised as a link in the chain of evidence relating to international documents. We may seem to be a bit fussy over minor details, but this is necessary due to the responsibility which is placed on the Notary.

Careful examination by the Notary is required to check whether both the document to be notarised and your personal ID are original, genuine, valid, complete, accurate and unaltered.

What happens if the document is incomplete?

The Notary has to check that each document to be notarised is fully completed. Unfortunately, many documents produced as ready for signature have blank spaces left in them, not always intentionally! This occurs even when other lawyers or professional advisers have prepared them. If you can help in identifying the information needed to complete any blanks in documents, it will save time when we meet. However, you must NOT mark or insert anything in the document itself until the Notary has seen it.

Will the Notary provide any advice on the proposed transaction or the document?

When you bring a document to us to be notarised the Notary will advise you as to the formalities required for completing it. However, the Notary will NOT advise you about the transaction itself, or the interpretation or legal effect of the document. You must seek such advice from your own lawyers or the persons asking you to have the document signed before the Notary. Neither the Notary nor FDR Law can accept any liability whatsoever for the underlying transaction or matter for which you require the document to be notarised, or the content or interpretation of the relevant document(s).

The overall assessment of the terms of any transaction or arrangement and any decision on whether to proceed has to be made by you in the light of your own financial, commercial or personal assessments and we cannot be responsible for such assessments.

Are there any special requirements if the document is not in English or it is in a language that I do not understand?

It is important that you understand what you are signing and sometimes a professional translation of the document is required. Unless you have a good understanding of the relevant language used in the document, an informal or amateur translation is rarely satisfactory. If the document is in a foreign language, which you do not appear to understand sufficiently, the Notary may insist that a professional translation is obtained. If we arrange for a translation a further fee will be payable for this service.

If you arrange for a professional translation of the document, the translator must:

1. include in the translation his/her name, address, relevant qualification and a signed certificate stating:
“Document [X] is a true and complete translation of document [Y], to which this translation is attached.”
AND
2. provide a statutory declaration or affidavit sworn by the translator verifying the translation.

Most professional translators should be aware of these notarial requirements (if you explain the purpose for which the translation is required) but it may avoid delay and potential problems if we arrange the translation.

What happens if I cannot speak English?

If the Notary and the proposed signatory/client cannot understand each other because of a language difficulty, the Notary may have to make arrangements for a professional interpreter to attend the interview. An additional fee will be payable for this service. We regret that it is not normally appropriate for a family member, friend or business colleague to act as your interpreter in these circumstances as the Notary must be fully satisfied that the advice and instructions given to you by the Notary (in English) at the interview have been properly explained to you and that you have understood.

Does the Notary have to witness me signing the document?

The Notary should normally witness you actually signing your signature on the relevant document(s). Please do not “jump the gun” by signing the document(s) in advance of your appointment.

Are there any special requirements if I am signing the document on behalf of a company or partnership etc?

If a document is to be signed by you on behalf of a company, a partnership, a charity, club or other incorporated body, there are further requirements on which we may have to insist. Please be prepared for these and if necessary you should telephone to discuss with the Notary any point of difficulty before attending the appointment.

In each such case the Notary will require all of the following:

- Identification evidence for you, as the authorised signatory (see above)
- A copy of the current letterhead for the relevant organisation (showing the registered office if it is a company)
- A Letter of Authority signed by a Director or similar officer or a Minute of a Board meeting, Company Resolution or Power of Attorney authorising you (i.e. as the authorised signatory) to sign the document on behalf of the relevant organization.

In some instances we may also require a copy of the latest Annual Accounts, Tax assessment and quarterly VAT Return.

Additionally, in the case of limited companies we will require all of the following:

- Certificate of Incorporation and of any Change of Name.
- A copy of the Memorandum and Articles of Association.
- Details of Directors and Secretaries.

In the case of partnerships, clubs, charities etc we will also require:

- The Partnership Agreement; or relevant Trust Deed; or Charter; or Constitution/Rules.

The Notary may have to insist on seeing originals of these documents. If you provide photocopies, they would have to be certified on behalf of the person holding the originals and who may not be able to release them. The certificate should be in the following form:

“I certify that this (with the following [] pages) is a true and complete copy of the original document which is currently held by me.

Full name of signatory:

Who certifies in his/her capacity as:.....

Signature Date”

How do you fix your charges?

The Notary has a current hourly rate of £245 plus VAT. Once the Notary has seen any document(s) and any instructions sent to you about the document(s), we should be able to give you a firm estimate of the likely notarial charges (subject to any additional services such as the appointment by us of a translator or interpreter (see above) being identified at a later date.) We will add VAT to our charge at the rate that applies when the work is done.

If it is a simple matter of witnessing a document, a fixed fee will be charged. If the matter is more complicated or we are required to draft any document or obtain legalisation via the Foreign and Commonwealth Office or a foreign embassy, the charge will be based upon the actual time spent. This may include telephone calls made or received, letters sent and received, time spent in interview, on drafting and on preparing the necessary entries in the Notarial Register.

Special factors which might result in an increase in our usual charges include:

- Complexity or novelty
- The number and importance of the documents
- If the work has to be done away from the FDR Law offices
- Special urgency.

Are there any other fees or expenses payable?

Depending on the documents to be notarised we may have to pay fees to third parties on your behalf. These might include:

- legalisation fees payable to the Foreign & Commonwealth Office and/or a foreign Embassy;
- translation or interpreter’s fees;
- verification fees charged by professional bodies, universities or examination boards (if you have instructed us to notarise professional qualifications, degree or examination certificates);
- travelling expenses.

We will notify you in advance of any such fees that will be payable and you will normally be required to pay all these fees to us in advance.

When are these charges and fees payable (and how)?

Our notarial charges are normally payable upon signature of the document requiring notarisation. We reserve the right to retain any completed document until full payment has been received.

We will require you to pay to us any third party fees in advance.

We can accept payment by cash (up to a maximum of £250), BACS, debit or credit card. We accept most major credit cards but a handling charge of up to 2.5% may be added to your payment. We do not accept payment by American Express.

Will you keep my affairs confidential?

We appreciate that clients using Notarial services will want to keep their personal or business affairs confidential and we will always seek to preserve client confidentiality so far as it is practicable or permissible for us to do so. However, when performing a Notarial service the Notary is essentially carrying out a public service and is frequently authenticating a signature or document for a public or official purpose. The Notary is required to maintain a formal register of all Notarial work undertaken, which is kept by the Notary as a permanent and public record. A copy of the notarised documentation will be retained with that record.

In the case of “public” documents the Notary will keep a copy of the document bearing your original signature on it so he can issue further certified copies if requested to do so in the future by you. The Notary may be required to deal with queries about the notarisation from foreign lawyers, Land Registries or Embassies and to confirm the fact that you saw the Notary. The Notary is therefore under no duty of confidentiality in respect of the Notarial service undertaken or the content of any notarised document, and may release details of that document to any person who has a legitimate reason for requesting such information, without your prior agreement.

What Terms of Business apply to Notarial Work?

Notaries undertake specialist services which are very different from normal legal work and they undergo specialist training and examinations to qualify as a Notary. They are also separately regulated (see below). Consequently, although the Notary is also a partner in FDR Law, any Notarial work is undertaken solely on the terms set out in this Guide and the Terms and Conditions of Business applicable to FDR Law will not apply.

Is your liability as a Notary limited in any way?

As explained already in this Guide the Notary is essentially undertaking a public service and the role and duty of the Notary is limited to:

- Verifying the identity, so far as reasonably practicable, of the person required to sign or provide the document being notarised;
- Being satisfied that the relevant person understands the content of any document he or she is signing;
- Where appropriate, verifying so far as reasonably practicable, any formal certificate or similar document with the relevant issuing authority;
- Advising on the formalities of how any document should be signed;
- Witnessing your signature and/or affixing the notarial seal to the document which is being signed or verified and maintaining the appropriate notarial record of that document.

The Notary has no liability to you or any other party, authority or agency in respect of the underlying transaction, matter, application or circumstances for which the relevant document is required.

Accordingly the Notary’s liability is limited to £1 million and this sum shall be applied as an aggregate cap on the **liability*** of the Notary in any circumstances whatsoever, whether in contract, tort, under statute or otherwise and howsoever caused (including negligence or non-performance) for any **Losses** arising from or in connection with the services provided by the Notary for each matter upon which the Notary acts for you.

In this section of the Guide:

Liability* means that, regardless of any terms set out in this Guide specifying the extent to which the liability of the Notary is limited or excluded, nothing in these terms of business shall limit or exclude the Notary’s liability for:

- Death or personal injury arising out of negligence;
- Fraudulent misrepresentation; or

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- Any other matter which cannot be limited or excluded by law.

Losses means all losses, liabilities, fines, damages, costs and expenses including legal fees on a solicitor/client basis and disbursements and costs of investigation, litigation, settlement, judgement, interest and penalties.

Where **Losses** arise in or are calculated in a currency other than the currency in which a limit on the Notary's liability is applicable in accordance with this Guide, the Notary's liability* to you shall be discharged and satisfied by payment to you of the lesser of:

- the amount of the Losses adjudged, ordered, awarded or agreed due to you in such other currency; and
- the amount of the applicable limit converted into such other currency at the rate of exchange applicable in London on the date of payment.

Where the sum specified as the limit on liability is less than such amount as is prescribed by any applicable law or regulatory requirements under which a Notary's liability may not be limited then the specified sum shall be increased to the minimum sum permitted under such applicable law or regulatory requirements.

Does the Notary carry any Professional Indemnity Insurance?

All Notaries must hold suitable professional indemnity insurance of not less than £1million plus fidelity insurance. As a solicitor practicing with FDR Law the Notary is insured under FDR Law's own professional indemnity policy and this policy includes notarial work and fidelity. Details of FDR Law's Professional Indemnity Insurance are published on FDR Law's website at <http://www.fdrlaw.co.uk/> or can be supplied by the Notary upon request.

How are Notaries regulated?

When the Notary undertakes any notarial work he is regulated by the Faculty Office of the Archbishop of Canterbury (rather than the Solicitors Regulation Authority which regulates the work of solicitors.)

Regulator's address:

The Faculty Office

1 The Sanctuary

Westminster

London SW1P 3JT

Telephone 020 7222 5381

Email: Faculty.office@1thesanctuary.com

Website: www.facultyoffice.org.uk

What should I do if I wish to make a complaint about a Notarial service?

If you are dissatisfied with the notarial service you have received you should contact the Notary in the first instance. If the Notary is unable to resolve the matter you may then complain to the Notaries Society (of which the Notary is a member) which operates a Complaints Procedure approved by the Faculty Office. This procedure is free to use and is designed to provide a quick resolution to any dispute.

If you wish to make a complaint you should send (but do not enclose any original documents) full details of your complaint to:-

The Secretary

The Notaries Society

Old Church Chambers

23 Sandhill Road

St James

Northampton. NN5 5LH

Email secretary@thenotariessociety.org.uk

Tel: 01604 758908

If you have any difficulty in making a complaint in writing you can call the Notaries Society or the Faculty Office for assistance.

Finally, if you have your complaint considered under the Notaries Society Approved Complaints Procedure and if you are not happy with the result, you may at the end of that procedure, or after a period of eight weeks from the date you first notified us that you were dissatisfied, make a complaint to the Legal Ombudsman.

Legal Ombudsman

PO Box 6806

Wolverhampton

WV1 9WJ

Email: enquiries@legalombudsman.org.uk

Website: www.legalombudsman.org.uk

If you decide to make a complaint to the Legal Ombudsman you must refer your matter to the Legal Ombudsman within six months from the conclusion of the Notaries Society complaint process.

This Guide is not intended to be comprehensive. It highlights and explains the common legal issues relevant to this topic. It should also help you to understand any steps we take on your behalf and the terms we and other professionals involved in your matter may use. Please read this Guide carefully and contact the lawyer dealing with your matter if you do not understand anything in it. We will not repeat the advice or information provided in this Guide when we meet you or write to you unless we need your specific instructions on some aspect of it.