



What is a Notary?

Notaries form a completely separate legal profession, even though most of them already practice as solicitors, or occasionally barristers. They are regulated by the Archbishop of Canterbury (rather than the Law Society).

The role of a notary can be traced continuously from the Roman Empire. It passed from Roman authority to that of the Franks, and to that of the Popes as power was redistributed following the fall of Rome. The Decretal of Pope Alexander III issued in the late 12th century defines the types of notarial acts which remains in place today. The assumption at the Reformation by Henry VIII of the authority to appoint notaries, which had been vested in the Papal legates in England, and its subsequent devolution by the Ecclesiastical Licences Act 1553 from the King to the Archbishop of Canterbury, marked the moment at which the history of the English notary became separate from the history of civil law notaries. It remains the foundation of the Archbishop's Court of Faculties.

It is upon this historical sequence that the English notary derives his authority from the State through the Court of Faculties, and it is upon this basis of the intervention of the Crown that notaries can claim to be appointed and authorised by Royal authority, and so be public officers. The oath taken by the notary is set out in the Public Notaries Act of 1843 and these words are incorporated into the Faculty issued by the Court of Faculties; they include the declaration that a notary "will faithfully make contracts for or between any person requiring the same", that he will "not diminish anything without the knowledge and consent of such party or parties that may alter the substance of the fact" and "will not make or attest any act contract or instrument in which I know there is violence or fraud".

What does a Notary do?

Notaries are lawyers but they do not usually give legal advice. The notary's job is to verify signatures, documents and all sorts of transactions so that they will be acceptable in countries outside England and Wales. They do this by interviewing clients, making quite sure of their identity and their capacity to do what they want to do, and also that they understand the document or transaction properly and intend it to be effective. In most places in the world the document or transaction will be binding on the client (even though he may change his mind or dispute it later) if it has been certified by a notary. The notary acts in many ways like a Judge or Registrar of Births Deaths and Marriages; it is his job to make sure that the transaction is binding and

works, not to consider only the interests of the person who comes to see him. This is why the client is more correctly termed “the appearer”. No one ever wants to come to see a notary, they do so because what they need to accomplish cannot be achieved without him.

Practically everything that a notary does appears in the form of a document with a certificate that the notary has signed and sealed. Even if this only certifies that he has seen the client sign the document, the notary will have made some careful enquiries. If there is not enough room on the document or if it is in a foreign language, the notary will prepare a certificate and attach it.

These are some things that notaries do:

Witness a signature;

Certify the due execution of a deed or document by an individual or a Company and that it is binding in English law;

Attest a power of attorney in favour of someone overseas, making sure that it is a deed according to English law and in the form required for overseas;

Certify a copy of some document, usually after checking that the original is genuine, which he made need to check with the originator or by a company search.

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