



The Notaries Society (of England and Wales)

Luke RW Simms *Notary Public*



Terms of Business

Why a Notary Public is Required

It is almost always the case that you have been asked to contact a notary because you have a document which will be used abroad.

In the United Kingdom, a notary public is a lawyer who authenticates and certifies documents for use abroad. Notaries are internationally recognised public officers whose notarial acts are accepted by courts, registries and many other bodies worldwide.

The work of a notary demands a high standard of care. Great care and attention to detail are essential at every stage to minimise the risks of errors, omissions, alterations, fraud, forgery, money laundering, the use of false identity, and so on. It is important to bear in mind that parties other than the client may rely on documents issued by the notary.

Requests from a notary for information and supporting documentation to help prepare the notarisation may seem excessive; however, they are essential to assist the notary in meeting their responsibilities and ensure the credibility of the notarisation.

My name is Luke Robert Walthew Simms and I am a notary public authorised to practice throughout England and Wales. The address of my notarial practice is:

The Lewis Building
35 Bull Street
Birmingham B4 6AF

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The Lewis Building, 35 Bull Street, Birmingham B4 6AF
Regulated through the Faculty Office of the Archbishop of Canterbury.

United Kingdom

Appointments

I meet clients on an appointment-only basis and do not offer a drop in service. Should you attend my office without an appointment, I will be unable to assist you.

I generally offer appointments during my usual business hours. If I am required to travel to an appointment, an additional charge to cover travelling time and expenses may be made. If it is not possible to see you within the time frame you require, I may decide that I am unable to act for you. Should this be the case, I will provide you with the necessary information to locate an alternative notary.

Signatures

If a document to be notarised needs to be signed, the notary should normally witness all signatures. No one should sign documents in advance of the appointment with the notary.

Documents Required in Advance

The notarisation process cannot commence unless I receive all supporting documentation and information in electronic version sent to me by email. If this is not possible, please contact me so I may identify alternatives.

It is important to note that no appointment will be made unless all requested documentation and information as well as payment is received.

I will need:

- The document/s to be notarised;
- Any instructions you have received relating to the document/s to be notarised;
- Your evidence of identification;
- Evidence of the existence of any person or entity you represent, along with evidence of your authority to represent this entity

You will be advised of the exact documentation I require. Original versions of the documentation must be presented at the appointment.

Evidence of identity

You must prove your identity. As a minimum, I will need you to produce your original current passport. In addition, I will need you to produce at least one of the following:

- a) A current United Kingdom driving licence (with photo) or national identity card;
- b) A current government or police issue certificate bearing a photo or other formal means of identification;
- c) A utility bill, credit card or bank statement showing your current address that was posted to you and which should not be more than 3 months old or council tax bill;

I will commonly ask for more information than this, especially if meeting you for the first time. Should you have a problem providing me with the documents described above, please let me know.

You must also bring any other means of identification which may be referred to in the document to be notarised such as a foreign identity card. I may also ask to see further evidence of identity such as birth and marriage certificates and will advise you of this, if necessary.

Proof of names

If the name on the document to be notarised is different from the name appearing on your identity documents, or there has been a variation in the form of spelling of the name over the years, please provide me as appropriate with certificates of birth, marriage or divorce decree showing all the different names that you have been known by.

If there has been a change of name, then I will need to see a copy of the deed poll or statutory declaration which dealt with it.

Electronic identity checks

Electronic identity checks may be undertaken on any individual or entity associated with the transaction via a third party professional provider. By instructing me, you consent to these searches being undertaken.

Advice on the Document to be Notarised

As a notary, I act in the capacity of a public certifying officer. Documents presented by you should meet the requirements of English law, where this is required. You will be informed if they do not meet these requirements. You should seek advice on these matters from your English legal advisers.

I will aim to comply with the instructions received from your foreign advisors regarding the execution or signing requirements of documents to be used in their jurisdiction. These are a matter of local law in which your local adviser will be expert. I will be unable to advise on matters of foreign law.

Furthermore, I will be unable to advise on the legal effects of any document you present for notarisation. This is the role of your advisors. If they have not yet provided you with detailed legal advice on the effect of executing documents, you should pause the notarisation process and contact them immediately for clarification. They are responsible for advising you and owe you a professional duty to do so.

Although I am aware of the requirements for legalisation for a number of jurisdictions, this is a matter of the law in the foreign jurisdiction. As such, you should seek full details from your foreign legal advisers.

Documents Containing Foreign Language

It is preferred that documents presented by you are entirely in the English language. It is crucial that both you and the notary fully understand the document/s. Competent advisers in many jurisdictions should be able to provide English language documents.

However, this may not always be the case and I may advise you to arrange translation of the document by a translation company that I deem competent to carry out such translations. Details will be provided.

Should any person requesting notarisation not speak English, an independent oral interpreter will be required. I will provide details of interpreters we deem competent.

You will be responsible for paying for the services of the translator or interpreter.

Companies, Partnerships and other Entities

If a document is to be signed by you on behalf of a company, a partnership, a charity, club or other incorporated body, further documentary evidence will be required.

In each case I will require (where appropriate)

- Evidence of identity of the authorised signatory
- A letter of authority, minutes, resolution or power of attorney authorising you to sign the document on current company letterhead.
- Certificate of incorporation and of any change of name
- Memorandum and Articles of Association
- Details of Directors and Secretaries
- Partnership Agreement
- Trust deed
- Charter
- Constitution or other rules and regulations

In all instances I will be carrying out various company searches, which may have an effect on the level of fees charged.

Typical Stages of a Notarial Transaction:

Each notarial matter is different and the processes will vary. Even so, some of the typical key stages are likely to include:

- Receiving and reviewing the document/s to be notarised together with any instructions you may have received from your advisors
- Liaising with your advisors or other bodies to obtain the necessary documentation to deal with the document (e.g. information from Companies House or foreign registries, powers of attorney, etc)
- Verifying the identity, capacity and authority of the person who is to sign the document
- If a document is to be certified as genuine, confirming with the issuing authorities that the document/award is genuine. In the case of academic awards, this would entail obtaining verification with the appropriate academic institutions
- Meeting with the signatory to verify their identity and to ascertain that they understand what they are signing and that they are doing so of their own free will
- Drafting and affixing or endorsing a notarial certificate to the document

- Arranging for the recording of all notarised documents in accordance with the requirements of the Notarial Practice Rules in force at the time of transaction, including the storage of copies where appropriate

Legalisation

Notarised documents often require further certification by governmental bodies and / or chambers of commerce. This process is commonly referred to as legalisation. The certificate of legalisation issued by the Foreign, Commonwealth and Development Office (FCDO) is referred to as an apostille. The purpose of this further certification is to verify my signature and seal as a notary and / or the signatures and seals of other public officials.

I liaise with third parties to arrange for apostille and legalisation of notarised documents. Details can be provided upon request. If you instruct me to arrange apostille or legalisation, you consent to your documents and any information they contain being passed to these couriers/agents as well as any governmental, consular or other body necessary to complete the apostille or legalisation process.

Legalisation processing times can vary and I cannot be responsible for delays that arise after documents are submitted to third parties for legalisation.

As the apostille and legalisation processes are handled entirely by third parties, I cannot be responsible for the documents once they leave my possession.

In all instances you are free to instruct agents of your choice to carry out the apostille or legalisation process or complete the process yourself.

Notarial Charges and Expenses

I aim to always provide a fixed fee quote before any work is commenced. In order to provide a quote, I will need to review the complete documents that need to be notarised.

My notarial fee per document is usually £65 - £125 for the first document and £35-£100 for each subsequent document in the same transaction. I do not currently charge VAT on my fees. Factors that will determine the fee include:

- The complexity of the document to be notarised

- The legal personality of the appearer or instructor
- The number of signatories
- The urgency of the document
- The number of documents to be notarised

Where necessary, disbursements or expenses associated with the notarial process will be charged in addition to my notarial fees. Such charges may include translation costs, company search fees and charges associated with verifying documents.

Where I am instructed to liaise with third parties to arrange apostilles or legalisation, I will require the relevant charges to be paid in advance of the documents being submitted to the Foreign, Commonwealth and Development Office or the relevant legalisation agent. I will not charge any additional fee, other than the costs of posting the documents to the relevant recipient.

In certain unusual situations, my fee will be based on my minimum hourly rate of £150.00, subject to a minimum fee of £80.00 plus expenses and disbursements.

Where I travel to attend a client, a charge may be made for attendance.

Occasionally unforeseen or unusual issues arise during the course of the matter which may result in a revision of our fee estimate. Examples of this could include where additional documents are required to be notarised, additional translations or legalisations are needed to meet the requirements of the receiving jurisdiction, third party fees are adjusted to reflect external factors such as fuel price changes and so on. I will notify you of any changes in the fee estimate as soon as possible.

Overseas Companies

As I am based in England and Wales, my understanding of the laws of other jurisdictions is limited, as is my ability to search overseas company registries. As a result of this, notarial certificates to an overseas company will be limited.

Notarial Records and Data Protection

When I carry out my work for you, I am required to keep records in accordance with notarial practice rules. A copy of the notarised document/s may be kept as part of that record. My practice is registered with the Information Commissioner's Office.

Further details are contained in my privacy notice, which can be found on my website.

Insurance

In the interests of my clients I maintain professional indemnity insurance at a level of at least £1,000,000.00 per claim.

Termination / Your Right to Cancel

You may terminate your instructions to me at any time by giving me reasonable written notice. All fees and disbursements incurred up to the date of termination will be charged.

Consumer Cooling Off Cancellation Period – Consumer Contracts Regulations 2013 (“CCR”)

Where the CCR apply (typically where you are an individual consumer and our contract with you was concluded either at or following a meeting with you away from our office or by a form of distance communication) you have a cancellation period of 14 days after the date on which you provided me with written confirmation that you agree to our terms and conditions and my fee.

You can cancel your contract within the cancellation period by giving me a clear statement and I will reimburse all payments received from you by the same method that you used, at no cost to you, without undue delay, and not later than 14 days after the day on which you inform me of the cancellation.

If you ask me to begin work during the cancellation period, you can still cancel but you must pay me an amount in proportion to the work which we have performed and this proportion will not be reimbursed to you.

Termination

I reserve the right to terminate my engagement by you if I have good reason to do so; for example, if you do not pay a bill or comply with our request for a payment on account or you fail to provide the co-operation which we are reasonably entitled to expect.

Our Goals

My sole focus is to provide a high quality notarial service. I do not engage in any reserved legal activity other than the issuance of notarial acts.

With this in mind, I have the following targets:

- To respond to all enquiries in a timely manner
- Electronic communications should receive a reply on the same working day or the next working day
- Enquiries by telephone should be responded to during normal business hours, either the same working day or the next working day
- Any enquiries received outside of normal office hours will be treated as having been received on the next working day
- Upon confirmation from you that you wish to proceed, I will initiate the matter on the same working day or the next working day
- Upon receipt of all the requested information, documentary evidence and payment, I will contact you within two working days to arrange an appointment.
- I aim to notarise the document/s at the appointment, or within two working days following the appointment.
- Should an appointment not be required, I aim to notarise your document/s within two working days of receiving all requested information/documentation.
- Where documents are being returned to me from a third party, for instance where documents have been legalised, I aim to arrange for these to be returned to you within two working days of their return to my office. Alternatively, I will contact you within two working days to arrange for you to collect such documents from my office.
- Should adherence to the foregoing timescales not be possible, I will aim to let you know within two working days. This may be by automated message.
- As the apostille and legalisation processes are provided by third parties, I am unable to estimate processing times to these stages. However, I can relay the information I receive from our couriers on a matter-by-matter basis.

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