



The Bar Council

## **Acting as a Commissioner for Oaths, Notary Public or otherwise witnessing documents**

<b>Purpose:</b>	To advise barristers regarding their ability act as a Commissioner for Oaths, Notary Public and related matters.
<b>Scope of application:</b>	All practising barristers
<b>Issued by:</b>	The Ethics Committee
<b>Originally issued:</b>	December 2010
<b>Last reviewed:</b>	June 2020
<b>Status and effect:</b>	<b>Please see the notice at end of this document. This is not “guidance” for the purposes of the BSB Handbook I6.4.</b>

### **Commissioner for Oaths**

1. The “administration of oaths” is a reserved legal activity under the Legal Services Act 2007 (sections 12-13, and Schedule 5). Such activities may only be carried out by authorised persons.
2. Barristers with practising certificates are permitted to act as Commissioners for Oaths. Paragraph 4(4) of Schedule 5 of the 2007 Act states that a person is not authorised to carry out the reserved legal activities specified in paragraph 4(2) (which includes, in sub-paragraph 4(2)(d), the administration of oaths) unless they have “in force a certificate issued by the General Council of the Bar authorising the person to practise as a barrister”.

3. Barristers without practising certificates are therefore unable to act as a Commissioner for Oaths. Section 14 of the 2007 Act effectively makes it a criminal offence for you to undertake reserved legal activities without a current practising certificate. Barristers who are not sure whether they are entitled to a practising certificate should consult the BSB Handbook rS57 - rS68.

4. These provisions came into force on 1 January 2010 (SI 2009/3250). If you were called to the Bar before 1 January 2010, you were advised that you were entitled to administer an oath and that this did not depend on whether you had a right of audience or a practising certificate. This position has changed.

### **Notary Public**

5. The ability to act as a Notary Public is a separate qualification, regulated by the Faculty Office of the Archbishop of Canterbury under the direction of the Master of the Faculties. This qualification is not given to you by virtue of the Legal Services Act 2007, or otherwise by the Bar Standards Board. Information about becoming a Notary Public can be found on the [Notaries Society](#) website and on the official website of the [Faculty Office of the Archbishop of Canterbury](#).

### **Witnessing documents**

6. Ultimately, it is a legal question as to whether what you are being asked to do constitutes “administering an oath” under the Act or is otherwise permitted. Therefore, if in any doubt you should seek appropriate legal advice before doing so.

### **Important Notice**

This document has been prepared by the Bar Council to assist barristers on matters of professional conduct and ethics. **It is not “guidance” for the purposes of the BSB Handbook I6.4, and neither the BSB nor a disciplinary tribunal nor the Legal Ombudsman is bound by any views or advice expressed in it.** It does not comprise – and cannot be relied on as giving – legal advice. It has been prepared in good faith, but neither the Bar Council nor any of the individuals responsible for or involved in its preparation accept any responsibility or liability for anything done in reliance on it. For fuller information as to the status and effect of this document, please see [here](#).