SRA BOARD

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SOLICITORS REGULATION AUTHORITY
Minutes of the SRA Board meeting
held on 28 June 2022 at 09.00 by Zoom

Subject to final approval by the SRA Board at its meeting on 19 July 2022

Present: Anna Bradley (Chair)
Ann Harrison
Paul Loft
Lisa Mayhew
Dermot Nolan
Vikas Shah
Liz Smart
Selina Ullah
Tony Williams

In attendance: Nicola Williams (Board observer), Paul Philip, Robert Loughlin, Jane Malcolm, Juliet Oliver, Liz Rosser, Tracy Vegro, Chris Handford, Dominic Tambling

1 WELCOME AND APOLOGIES

1.1 The Chair welcomed Board members to the meeting. There were no apologies.

2 BUSINESS PLAN AND BUDGET FOR NOVEMBER 2022 TO OCTOBER 2023: CONSULTATION FEEDBACK AND NEXT STEPS

2.1 The Board was asked to consider feedback received from our stakeholders on our draft Business Plan and Budget for 2022-23, and our next steps for finalising the Plan and seeking approval of our fees from the Legal Services Board.

2.2 The Board noted that we had received 12 written responses to the consultation on our draft Business Plan and Budget for 2022-23. Through our stakeholder engagement programme, including some events in which Board members had participated, we had engaged with close to 15,000 people – the highest ever number for our business plan and budget consultation activity.

2.3 Responses had been largely positive and respondents welcomed the focus on consumers as well as different sub-sections of the profession. Respondents had been supportive of our proposals to provide greater transparency on our work under strategic objective one. There was strong support too for our proposals on technology and innovation under strategic objective two, and strong interest in lawtech, although also some questions about the practicalities of using technology products. There had also been a welcome for our proposed research activities under strategic objective three, including from the Legal Services Consumer Panel.

2.4 Board members noted that charity sector representatives at one of the engagement sessions had suggested that we might provide focused advice for use of technology by providers of legal advice in that sector. Other participants had

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noted that although there was great potential for the use of technology to improve access to services, there was still a great deal of work to do to get many who could not, because of costs, use technology at all. The draft Business Plan would be updated to reflect this feedback and new ideas.

2.5 Board members also noted that we should be cautious about only hearing from those who we were in regular contact with, and that it was important to hear from others, including those who were less supportive of our work, to try to ensure that we were not missing out on important issues through lack of engagement.

2.6 The Board noted the summary of stakeholder feedback and our intention to publish a more-detailed analysis of responses and stakeholder views and delegated authority to the Chair to approve the final business plan, after amendments in response to the consultation, and budget for publication.

2.7 The Board noted that there was no change in the proposed budget for 2022-23 as a result of the consultation, and that the Law Society Council would be asked to approve an overall practising fee requirement of £113.5m, representing an increase of £9.2m from 2021-22.

2.8 Subject to approval by the Law Society Council, the Board would be asked to approve practising fees for 2022-23 at its meeting on 19 July 2022. Based on current numbers of practising solicitors we expected to recommend an increase in the overall individual practising certificate fee from £266 to £284 for 2022-23. As previously reported, the SRA's proportion of this increase would be more than offset by a proposed decrease in the Compensation Fund contribution.

2.9 Board members debated the cost-of-living challenge and said that it was important to ensure that appropriate support was given to staff including perhaps financial planning advice. It was confirmed that services of this type were available through wellbeing services provided for staff. The Board asked for more detail about arrangements for addressing the impacts of inflation as the year progressed.

2.10 The Board approved the SRA budget for 1 November 2022 to 31 October 2023 of £60.5m, and noted the expected amount for the practising certificate fee which the Board will to be asked to consider for approval following the Law Society Council's decision.

3 POST SIX-YEAR COVER AND THE SOLICITORS INDEMNITY FUND: ESTABLISHING THE AFFORDABILITY OF A 12 MONTH EXTENSION TO THE DEADLINE FOR POST SIX-YEAR RUN-OFF CLAIMS

3.1 The Board was asked to consider a report on the areas it had asked to be taken forward to establish the affordability of a 12-month extension to the deadline for post six-year run-off claims to 30 September 2023.

3.2 The Board had agreed on 5 April 2022 to seek a 12 month extension to the 30 September 2022 deadline for notifying post six-year run off cover (PSYROC) claims to the Solicitors Indemnity Fund (SIF), to allow for further consideration of issues and options before it decided on the long term future of PSYROC and the SIF. That decision was subject to receiving confirmation from SIF Limited (SIFL) that this would be affordable, without the need to levy the profession to fund the extension.

3.3 The Chair of SIFL had confirmed that without a full actuarial assessment, which would be costly and would not be completed before September at the earliest, SIFL could not confirm affordability of a further 12-month extension unless there was an agreement to underwrite potential liabilities up to a maximum of £6m, in a form similar to that provided by the Law Society (TLS) in 2021. SIFL had suggested an extension to the current arrangement with TLS and an increase to £6million from the current maximum limit of £4million.

3.4 On 7 June 2022 the Board had been given an oral update on the ongoing work towards establishing affordability and asked for a number of actions to be taken forward, including further detail on the likely cost of contributions from the profession.

3.5 It was confirmed that we have the power to provide an Undertaking of the nature requested by SIFL, and a mechanism for funding any shortfall if this were called upon. This would be done through seeking contributions from the profession under powers set out in the SRA Indemnity Rules 2012 (the Indemnity Contribution). The Board also noted that it the unlikely event that any liabilities would be incurred, we would use our reserves to make any payment initially, and then recoup the funds from the profession through an Indemnity Contribution.

3.6 Detailed arrangements for the mechanism for gathering in an Indemnity Contribution would be considered as and when it was required. An initial assessment of the cost to firms for illustrative purposes had been undertaken, however, and on the basis that the entire undertaking was called upon, the cost per firm would be a minimum of £623.96 (on the basis of a flat fee to every law practice head office regardless of size or turnover and on current firm numbers). There were, however, other models we could adopt, such as varying the contribution based on turnover.

3.7 The Board noted that TLS had written to us to confirm its offer to jointly fund the Undertaking. This would be on the basis that should any call be made on its reserves, the funds would be recouped by us. After thorough consideration the Board agreed that although this offer was welcome it would be both right and simplest for us to provide an undertaking for the entire amount requested by SIFL. This was because, in addition to having responsibility for indemnity and insurance, including any extension to SIF provision of post six year run off cover and the application required to put it in place, we would also be responsible for collecting any indemnity contribution from the profession, if it were to be needed, regardless of the provider of the undertaking.

3.8 Following discussion the Board agreed to give an undertaking to SIFL that the SRA would underwrite any shortfall the SIF may suffer during the extended period, up to a maximum of £6 million. We would now provide the necessary undertaking

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to SIFL and submit the necessary application to the Legal Services Board (LSB) for the further 12 month extension to the SIF.

3.9 The Board Chair said that the Board would now move on at its meeting in July to further consideration of issues and options before it decided on the long term future of PSYROC and SIF. Work on this had been progressing in parallel with consideration of the undertaking to support the extension, including financial modelling of different scenarios.

NB: the paper for this item will not be published because it relates to emerging strategy or policy and includes legal or other professional advice on sensitive or confidential matters.

4 ANY OTHER BUSINESS

4.1 The Board Chair said that following discussions the Ministry of Justice (MoJ) would the following day be announcing an increase to the maximum fine we could issue internally to traditional firms, and those working in them, from £2,000 to £25,000. The change was expected to come into force by the end of July. Discussions with the MoJ on other legislative matters relating to economic crime were ongoing.

4.2 The Board noted the controversy that had been caused by recent legal decisions in the United States and an increased tendency for senior figures in law firms which operated there as well as in the UK to provide comment on what were primarily social or political matters. The Board noted that a similar situation might arise here in relation to issues such as human rights. It was agreed that further consideration should be given to this situation and whether it might be appropriate to issue any guidance to firms.

4.3 The Board noted strike action being undertaken by barristers and suggested that although there was currently no indication that similar action might be undertaken by solicitors, we should consider issuing guidance in the event that changed, as we had done on previous occasions.

4.4 The next meeting would be held on 19 July 2022.