

Memorandum of Understanding (“MOU”)

Parties

This MOU is dated 21 day of May 2010 and is made between the Legal Services Board (the “LSB”), the Solicitors Disciplinary Tribunal (the “SDT”), the Solicitors Disciplinary Tribunal Administration Ltd. (the “Administration Company”) and the Law Society (the “ Law Society”) (together “ parties” and each a “party”).

1. Purpose

- 1.1 This MOU sets out the process which the parties have agreed to follow in order to fulfill their respective obligations and duties under Section 46A of the Solicitors Act 1974 (the “SA”) inserted into the SA by Paragraph 48 of Schedule 16 to the Legal Services Act 2007 (the “LSA”) (attached at Annex A)
- 1.2 The parties agree that this MOU shall be in the public domain.

2. Definitions

Additional Funding Application – the SDT’s application to the Law Society for funding over and above the Approved Amount.

Annual Budget Application – the SDT’s annual application to the LSB setting out the amount the SDT considers necessary to operate in a calendar year.

Approved Amount – the amount of money that the LSB approves having considered the SDT’s Annual Budget Application.

Required Information – such information as the LSB might require from the SDT and the Law Society before approving any part of the SDT’s Annual Budget Application.

SDT’s Budget - the amount of money provided for the SDT to operate in a calendar year.

Statutory Procedure – the procedure contained in Section 46A of the SA.

3. The Respective Roles of the Parties

- 3.1 The LSB is responsible for overseeing legal regulators in England and Wales. It is independent of Government and of the legal profession. It oversees 10 separate bodies, the “Approved Regulators” each of whom, together with the LSB must act in a way that is compatible with the eight regulatory objectives set out in the LSA and which it considers most appropriate in meeting those objectives.
- 3.2 At the date of this MOU the SDT is constituted as a statutory tribunal under the SA. Its primary duties are to protect the public and the good reputation of the solicitors’ profession in exercise of its jurisdiction over solicitors, registered foreign lawyers, registered European lawyers, recognised bodies, persons employed or remunerated by solicitors and former solicitors and has the power, inter alia, to strike off, suspend or fine and, in the case of an unadmitted person, to order that his or her employment within the profession be restricted. It has power to restore a struck-off solicitor to the Roll, bring an indefinite period of suspension to an end and revoke an order made in respect of an unadmitted person and can order that a direction made by the Legal Complaints Service in respect of inadequate professional services be treated for the purposes of enforcement as if it were an order of the High Court. The SDT has the power to award costs. Appeals against substantive decisions of the SDT lie to the High Court.
- 3.3 The administration of the SDT, including the management of financial resources, is conducted through the Administration Company which is a company limited by guarantee. The Administration Company is obliged to comply with the Companies Acts including the obligation to file audited annual accounts with Companies House.
- 3.4 The Law Society is the professional body for solicitors in England and Wales. The Law Society represents solicitors’ interests, including through negotiation and lobbying of the profession's regulators, Government and others. The Law Society also offers training and advice to its members, and seeks generally to help, protect and promote solicitors across England and Wales. Under the LSA, the Law Society is an Approved Regulator, and is responsible for

making the arrangements for the regulation of solicitors.

4. Core Principles

4.1 The parties agree that in fulfilling their respective obligations and duties under the Statutory Procedure, they will adhere to the following core principles:

- Mutual respect and trust – each party acknowledges the other parties’ statutory basis and independence and their respective obligations and duties under the Statutory Procedure.
- Evidence-based approach – each party shall adopt an evidence-based approach in fulfilling their respective obligations and duties under the Statutory Procedure.
- Communication – the parties agree that they will use their best endeavors to ensure that they communicate meaningfully with each other in a manner which promotes an understanding of, and addresses, the other parties’ respective concerns.
- Reasonableness – all parties will act reasonably in their dealings with each other.
- Timely information provision – the parties agree to provide information to each other in a timely manner to assist the other parties’ in complying with their respective obligations and duties under the Statutory Procedure.
- Confidentiality – each party shall respect the confidentiality of any information provided to it by another party.

5. The Agreed Procedure

Annual Budget Application

5.1 The SDT must submit an annual budget application each year to the Law Society, which has been approved by the LSB (“Annual Budget Application”).

5.2 A budget for a year is a statement of the amount of money which the SDT estimates that it will require to meet all of its expenditure in the next calendar year (having regard to any amounts received but not spent).

5.3 The SDT shall submit its Annual Budget Application to the LSB in the form attached at Annex B and shall include the following:

- The amount of money being sought by the SDT to conduct its business in the following calendar year.
- The factors that are determining the SDT's likely case load for the following year. This may include consideration of the:
 - estimated case load the SDT may receive from the Solicitors' Regulation Authority;
 - estimated case load the SDT may receive from other sources (such as, cases being carried through from previous calendar years); and
 - estimated amount of time the SDT will require to consider its estimated cases.
- Explanation for individual line items of the amount of money being sought, including:
 - descriptions of what are included in the line items;
 - explanation for any variances over or under five per cent, or more than £10,000 in difference, between the current year's funding levels and the amount being sought; and
 - explanation for the addition or removal of any line items from the current year's budget.
- A comparison of the current year's actual expenditure with the funding sought in the previous year with explanation for any variances, for each line item, over or under five per cent or more than £10,000 in difference.

5.4 In preparing its Annual Budget Application, the SDT shall share such information that it considers relevant, acting reasonably, with the Law Society and the Law Society shall be entitled to make reasonable requests for further information, which the SDT can consider reasonably.

Additional Funding Applications

5.5 Under the SA, the Law Society may pay the SDT such other amounts as the Law Society considers appropriate.

5.6 If the SDT considers that additional funding is required, it will submit an additional funding application ("Additional Funding Application") to the Law

Society that shall include the following information:

- an explanation of the requirement for the additional funding;
- an explanation why the additional funding was not included in the Annual Budget Application;
- an analysis of what the likely impact of the non-approval of the additional funding will be if not approved; and
- when the SDT requires the additional funding to be approved and paid.

5.7 In preparing its Additional Funding Application, the SDT shall share such information that it considers relevant, acting reasonably, with the Law Society and the Law Society shall be entitled to make reasonable requests for further information, which the SDT can consider reasonably.

5.8 The Law Society will assess the Additional Funding Application and decide to approve, all or part of, the funding sought as soon as reasonably practicable and in any event within 40 business days from the date when it received the Additional Funding Application, giving reasons for its decision.

5.9 In making its decision whether or not to approve the Additional Funding Application, the Law Society shall consider the LSB's views on the application.

5.10 Upon its approval, in whole or in part of the Additional Funding Application, the Law Society will pay the approved Additional Funding Amount to the SDT on a date as agreed between the SDT and the Law Society, and in any event not later than 60 business days from the date of such approval.

General

5.11 The Administration Company will provide its monthly management accounts to the Law Society by the end of the month following the month to which the monthly management account relates. The Law Society may seek clarification from the Administration Company on any matters with regard to the monthly management accounts.

5.12 The Administration Company will provide copies of its annual audited accounts to the Law Society and the LSB when filing with Companies House.

- 5.13 The SDT will provide a preliminary estimate of the likely amount to be sought in its Annual Budget Application to the Law Society no later than 30th May of each year.
- 5.14 The SDT will prepare its Annual Budget Application and submit it to the LSB with a copy to the Law Society no later than 20th September in each year.
- 5.15 The SDT will develop a methodology to measure its performance, and will report to the LSB on its performance at the same time as it submits its Annual Budget Application.

6. Procedure for the approval of the SDT's Annual Budget Application

- 6.1 Upon receiving the Annual Budget Application, the LSB will assess it and decide whether to approve all, or part, of the estimated amount of funding being sought.
- 6.2 In upholding the core principles referred to in paragraph 4, the LSB will assess the Annual Budget Application on an evidence-based approach. For the avoidance of doubt, the LSB shall not approve, or shall only partially approve, the Annual Budget Application if it considers, acting reasonably, that it does not have sufficient information in respect of the matters referred to in paragraphs 5.3 and 5.15 (the "Required Information") to enable it to discharge its obligations under the Statutory Procedure and the LSA generally.
- 6.3 Under the Statutory Procedure, the LSB must consult the Law Society prior to making its decision whether or not to approve the Annual Budget Application.
- 6.4 If requested to do so by the LSB, the SDT and the Law Society will provide information to assist its understanding of the Annual Budget Application in a timely manner.
- 6.5 In making its decision, the LSB will advise the SDT and the Law Society the reasons for approving all, or part, of the estimated amount of funding being sought ("Approved Amount").

7. Payment of Funds

- 7.1 The Law Society will pay the Administration Company a quarter of the Approved Amount on each of 1st January, 1st April, 1st July and 1st October in each year, or as otherwise agreed with the SDT.

- 7.2 Should the Administration Company's expenditure prove to be lower than the funding sought the amount of the underspend may be deducted from the next due quarterly payment to be made to the Administration Company in the following year, or as otherwise agreed between the Administration Company and the Law Society

8. List of Agreed Dates

- By 30th May – the SDT to provide its preliminary budget estimate to the Law Society.
- By 20th September - the SDT to submit its Annual Budget Application to the LSB. The LSB to consult the Law Society on the Annual Budget Application, allowing no less than 28 days for comments.
- By 31st October - the LSB to approve the Annual Budget Application.
- By 30th November - the SDT to submit its approved Annual Budget Application to the Law Society.
- 1st January, 1st April, 1st July and 1st October - one quarter of the Approved Amount to be paid by the Law Society to the Administration Company on each of these dates, or as agreed between the Law Society and the SDT.

9. Contact points

- 9.1 Each party appoints the following persons to serve as the official contact and to coordinate the activities of the parties to this MOU. The parties will notify each other immediately when there is any change in the appointed person.

- Louise Catley, Finance Officer, Solicitors' Disciplinary Tribunal
Email: purefinanceservicesltd@btconnect.com
Phone: 01825 891177
- Liz Aldred, Operations Manager, Administration Company
Email: Liz.Aldred@solicitorsdt.com
Phone: 020 7329 4808
- Jules Radford, Head of Business Planning and Analysis, The Law Society
Email: Jules.Radford@lawsociety.org.uk

Phone: 020 7320 5834

- Anna Cheung, Regulatory Associate, Legal Services Board

Email: anna.cheung@legalservicesboard.org.uk

Phone: 020 7271 0072

10. Meetings

10.1 The parties will meet should any one party request this.

11. Effective date and review

11.1 This MOU may be amended only by the written agreement of all parties.

11.2 The parties will review this MOU every three years.

12. Signatures



David Edmonds

Chair

Legal Services Board

Date:



Jeremy Barnecutt

President

Solicitors Disciplinary Tribunal

Date: 12/5/2010



Jeremy Barnecutt

Chairman

Solicitors Disciplinary Tribunal

Administration Ltd

Date: 12/5/2010



Robert Heslett

President

The Law Society

Date:

Annex A

Section 46A of the Solicitors Act 1974 as inserted by Paragraph 48 of Schedule 16 to the Legal Services Act 2007

46A Funding of the Tribunal

- (1) The Tribunal must submit to the Society in respect of each year a budget for the year approved by the Legal Services Board.
- (2) A budget for a year is a statement of the amount of money which the Tribunal estimates is required to enable it to meet all of its expenditure in that year (having regard to any amounts received but not spent in previous years).
- (3) Before approving a statement for the purposes of subsection (1) the Legal Services Board must consult the Society.
- (4) The budget for a year must be submitted to the Society under subsection (1) no later than the date in the preceding year specified by the Society for the purposes of this subsection.
- (5) Before specifying a date for this purpose the Society must consult the Tribunal.
- (6) The amount specified in a budget submitted under subsection (1) must be paid by the Society to the Tribunal—
 - (a) in such instalments and at such times as may be agreed between the Society and the Tribunal, or
 - (b) in the absence of such agreement, before the beginning of the year to which the budget relates.
- (7) The Society may pay the Tribunal such other amounts as the Society considers appropriate.
- (8) In this section “year” means a calendar year.

Annex B - Budget application template

Solicitors' Disciplinary Tribunal - Budget Application					
[Previous year] reporting					
	Previous year estimate (£)	Previous year actual (£)	Variance ± 5%	Variance greater than ±£10,000	Please provide a detailed explanation for the causes for any ± 5% or ±£10,000 variance.
Salary and related costs					
[Insert line items as required]					
Salary and related costs total					
General administration costs					
[Insert line items as required]					
General administration costs total					
Building costs					
[Insert line items as required]					
Building costs total					
Contingency					
Irrecoverable VAT					
Total costs					

Table 1 – Previous year's actual reporting

Solicitors' Disciplinary Tribunal - Budget Application					
[Next year's] estimated budget					
	[Previous year] actual (£)	[Next year's] estimate (£)	Variance ± 5%	Variance greater than ±£10,000	Please provide a detailed explanation for the causes for any ± 5% or ±£10,000 variance.
Salary and related costs					
[Insert line items as required]					
Salary and related costs total					
General administration costs					
[Insert line items as required]					
General administration costs total					
Building costs					
[Insert line items as required]					
Building costs total					
Contingency					
Irrecoverable VAT					
Total costs					
Explanation for the factors that are determining the SDT's likely case load for the following year					

Table 2 – Next year's estimated costs

