

## **Application made by the Solicitors Regulation Authority Board to the Legal Services Board under Part 3 of Schedule 4 of the Legal Services Act for the approval of changes to regulatory arrangements relating to the fee structure and for the approval of consequential amendments to the SRA Practising Regulations and SRA Recognised Bodies Regulations**

### **A. Proposed Alterations**

#### ***Practising fees***

1. It is proposed that the way in which the cost of regulation is allocated among those mandated to pay practising fees is changed significantly. The changes to the fee structure will better reflect the fact that at least 60% of regulatory effort relates to firms and no more than 40% relates to individuals. It is intended that the new structure is implemented for the annual renewal exercises that are initiated from September 2010.
2. Until now, most of the cost of regulation has been met through practising certificate fees imposed on individual practising solicitors (and the equivalent fee for RELs and RFLs<sup>1</sup>).
3. Under the new structure, made possible by changes to statutory powers, approximately 40% of the cost will be met through individual practising certificate fees and the balance will be met through a new firm based fee charged to recognised bodies and recognised sole practitioners. The firm fee will be based on turnover, as a proxy for the level of regulated activity, but with a tapering percentage charge to avoid unfairly shifting the burden on to the largest firms.

#### ***Compensation Fund contributions***

4. A similar change is proposed in relation to compensation fund contributions. Until now such contributions have been collected from individual solicitors through the practising certificate renewal exercise. Statutory changes requiring entity based regulation allow for contributions to be collected from recognised bodies and recognised sole practitioners.
5. It is proposed that from 2010, 50% of the total requirement for the compensation fund should be collected from individuals and 50% from firms. This was a policy decision following consultation which indicated that both individuals and firms should contribute to the fund which promotes public confidence in the profession as a whole.
6. In addition the SRA, as a matter of policy, wish to use compensation fund contributions solely to fund the cost of claims, reserves and the direct costs of the compensation fund rather than, as now, also funding some general regulatory costs. This will

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<sup>1</sup> Registered European lawyers and Registered foreign lawyers

improve transparency and ensure that in future all general regulatory costs are met through practising fees and only costs directly attributable to the compensation fund costs are met by compensation fund contributions.

7. The figures in the draft Compensation Fund determination are not likely to change, but will not be finally made until the SRA Board meeting on 16 July. If the final figures are within a variance of 20% of these draft figures, the SRA asks that the final Compensation Fund determination made in July is an Exempt Alteration.

### ***Specific alterations***

#### **Background and overview**

8. The main statutory powers which permit the raising of annual fees to meet costs are contained in the Solicitors Act 1974, (practising certificate fees, including fees for recognised sole practitioners) and the Administration of Justice Act 1985 (recognised bodies fees). The SRA Practising Regulations and SRA Recognised Bodies Regulations contain regulations dealing with applications and other matters required to be dealt with by statute and allow for a range of fees to be prescribed under the Regulations. Each year the fees which need to be prescribed in order to raise the net funding requirement are prescribed, by resolution, in documents generally referred to as Fee Determinations.
9. Until now the practising certificate fee determination has been made by the Master of the Rolls and recognised bodies fees set by the SRA, subject to the concurrence of the Master of the Rolls. Following the Legal Services Act (s.51) all practising fees are determined by the Approved Regulator, and approved by the Legal Services Board. The arrangements provide for the Council to recommend to the LSB the overall amounts to be collected, but for the SRA to decide on the apportionment of both practising fees and Compensation Fund contributions. Compensation Fund contributions are prescribed by SRA Compensation Fund Rules made under s.36 and s.36A of the Solicitors Act. The contributions are also set by resolution, and are subject to approval by the Legal Services Board under Part 3 of Schedule 4 (as they are not practising fees subject to approval under s.51 of the Legal Services Act).
10. Most of the key decisions which make up the new fee structure have been policy decisions made by the SRA Board after consultation. These policy decisions are implemented by applying the policy to the way the fees are set in the various fee determination documents. In effect the policy provides the formula to be applied to the total funding requirement, which then results in the fee determinations. The policy is not set out in the fee determinations or the Regulations. A draft plain English fee policy document has been prepared to explain the totality of the new fee structure to stakeholders and this is attached at **Annex 1**.
11. The significance of the change makes a detailed comparison with the previous system difficult. However, **Annex 2** contains an extract from the SRA website of the fee information provided about last year's fees.

#### ***Alterations to SRA Practising Regulations and SRA Recognised Bodies Regulations***

12. The new structure has required some additional regulations to be added to both sets of Regulations in order to provide for:

- a power for the SRA to make a final determination of the fees to be paid by a recognised body or a recognised sole practitioner (Regulation 1.4 SRA Recognised Bodies Regulations, Regulation 1.5 SRA Practising Regulations).
  - a power for the SRA to provide a fee moderation process and charge an application fee (Regulation 1.5 SRA Recognised Bodies Regulations, Regulation 1.6 SRA Practising Regulations). The details of the transitional fee moderation process agreed for this year are contained in the draft fee determinations. This general power in the regulations will permit the SRA to provide, by resolution, for other moderation processes, as and when required.
  - a requirement for firms who merge or split to provide the SRA with a Notice of Succession to identify the affected firms and any agreed reallocation of the historic turnover figures between the affected firms. (Regulation 2A SRA Recognised Bodies Regulations, Regulation 4A SRA Practising Regulations.) This will then be the basis for the 2011 firm fee calculation. In future the firm fee determination will refer to the Notice of Succession. That is not possible for this first year of operation as firms have not been subject to a requirement to provide a Notice of Succession. The fee determinations for this year, therefore, include a slightly different process for determining the turnover for firms which have merged or split since 1 November 2009.
13. The changes to the Regulations as made by the SRA Board and subject to approval by the Legal Services Board are attached at **Annexes 3 & 4**. They are required as consequential changes to implement the policy decisions made following consultation. While the specific wording has not been subject to wider consultation, the Law Society has seen the changes and has confirmed that in their view no wider consultation is required as the changes reflect decisions made following consultation.

#### ***The draft Fee and Contribution Determinations***

14. The draft fee and contribution determinations are attached to this application and implement, as explained below, the policy decisions made by the Board following on from the consultations. They are currently draft designations. The fees and detail in the turnover table are based on achieving the current estimated total funding requirement for 2010/11. If this is changed either by the SRA Board or the Council then the final fee determinations will be adjusted and will need to be made by the SRA Board (subject to LSB approval) on 16 July 2010.

#### ***Annex 5: Practising Certificate fee determination***

15. This:
- sets the practising certificate fee and equivalent fees for registered European lawyers and registered foreign lawyers.
  - provides for a 50% reduction for those who are or who have been on maternity leave.
  - prescribes the firm fee for continuing recognised sole practitioners (based on turnover).

- prescribes the fee for brand new sole practitioners applying for recognition at the same time as renewal of a practising certificate.
- preserves a lower fee for RFLs who are based abroad and deals with other special cases.
- sets out the criteria for the transitional fee moderation process.

***Annex 6: Resolution to set the fee for recognition of a sole practitioner during a practising year***

16. Because of the way the Solicitors Act is drafted in providing for the recognition of sole practitioners, a separate resolution is required to set the application fee for the recognition of a sole practitioner who applies during the course of a practising certificate year.

***Annex 7: Recognised Body fee determination***

17. This:
- prescribes the firm fee for recognised bodies (based on turnover) with different provisions applying to brand new firms, continuing firms and firms who have been affected by an acquisition, merger or split in the last 12 months.
  - sets out the criteria for the transitional fee moderation process.
  - deals with special cases such as overseas offices.

***Annex 8: Compensation Fund determination***

18. This:
- prescribes the final individual and firm compensation fund contribution.

**B. Nature and effect of the existing fee structure**

19. The Solicitors Act 1974 requires practising solicitors (except for those in Government Service) to have a practising certificate which is renewable annually on payment of a prescribed fee. The cost of regulation has, therefore, been allocated to individuals through a fixed fee (with some reductions) payable by all. While this may have been sensible many years ago, it does not take into account the reality of modern day practice.
20. Generally, solicitors practice in firms or in-house (i.e. as employed solicitors) in commerce and industry, government or in the not for profit sector. Most regulatory effort is focused on private practice firms holding client money and providing services to the public.
21. The unfairness in charging the same fee to all practising solicitors has been recognised and dealt with by providing over the years for reduced fees in certain circumstances (for example, low income or maternity leave). However, under the existing system, the fact remains that firms pay for regulation simply on the basis of the number of practising solicitors they employ. While, as a general rule, larger firms

employ more solicitors than smaller firms this is not a satisfactory proxy for the level of legal activity. It can create anomalies as firms which provide a very similar level and type of legal activity may pay very different amounts in regulatory fees, e.g. if one is a partnership with a high solicitor/non-solicitor ratio and the other is a sole practitioner operating through a large number of paralegals.

22. The structure also has an effect on the in-house sector. Solicitors in commerce and industry, local government and the not-for-profit sector have long argued that the current structure is unfair in that they pay too much. An in-house team of five solicitors, not holding client money and providing legal services only to their employer rather than to the public, pay the same as a private practice firm employing five solicitors and holding client money while providing services to the public. The regulatory risk, and so effort required to regulate the two, are quite different.
23. The Legal Services Act provides in the short term for entity based regulation, legal disciplinary practice and also for some choice of regulator. In that environment the existing fee structure also provides a disincentive for solicitors to be employed in, or become “managers” in a legal disciplinary practice regulated by another approved regulator. In future, when alternative business structures are permitted, that disincentive might have a negative effect on the regulatory objective of promoting competition in the provision of legal services.

### **C. Nature and effect of the proposed change to the fee structure**

24. Broadly the changes will see a greater proportion of the costs of regulation being allocated to private practice firms, using a consistent measure which is a reasonable proxy for the amount of regulated activity and so regulatory risk or effort.
25. The increasing focus on entity-based regulation and outcome-focused regulation reflects the reality that most individual solicitors in private practice require a similar level of regulatory resource to solicitors employed in-house or in firms regulated by other approved regulators.
26. The effect will be a fairer and more logical fee structure reflecting modern practice.
27. The impact of this is to transfer approximately 15% of the cost of regulation from the in-house sector to the private practice sector.
28. The impact on private practice firms will be varied. There will be winners and losers, depending on whether firms have a comparatively low turnover for the number of solicitors within the firm, or a comparatively high turnover. The impact of the changes this year will to some extent be cushioned by the fact that we expect the overall sums required to be collected from the profession to be slightly lower than last year’s figure.
29. The second consultation on the new fee structure<sup>2</sup> contained a number of worked examples, based on estimated data and budgets, showing the impact on different firms.
30. As explained in paragraphs 10 and 11 above, **Annex 1** contains a document, developed for stakeholders, giving an overview, in plain English of the new fee

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<sup>2</sup> link to second consultation <http://www.sra.org.uk/sra/consultations/fee-policy-second-december-2009.page>

structure and **Annex 2** contains the equivalent documents from the SRA website explaining the current fee structure.

#### **D. Rationale for changing the fee structure**

31. The fee structure was in need of review for the following reasons:

- to achieve greater fairness for all in meeting the cost of regulation from 2010.
- to make the fee structure more logical and spread the cost more fairly over the various sectors of the profession (for example, between in-house and private practice).
- to more fully achieve the policy intention behind changes to statutory powers made by the Legal Services Act to require entity-based regulation as well as the regulation of individuals.
- to prepare for a fee structure that will be more compatible with the regulation of alternative business structures when they are permitted from 2011.
- to meet our strategic objectives to ensure that policies and regulations are fair and are not directly or unjustifiably indirectly discriminatory.
- to comply with our regulatory objectives, and the principles of good regulation, particularly transparency.

#### **E. Statement in respect of the Regulatory Objectives**

32. This analysis looks in more detail at the Regulatory Objectives which may be particularly impacted by the new fee structure. The new fee structure is likely to have a neutral effect on supporting the constitutional principle of the rule of law and protecting and promoting adherence to the professional principles.

#### **Protecting and promoting the public interest**

33. There is a public interest in the efficient and effective regulation of those providing legal services. This requires resources which are raised through mandatory fees charged to the regulated community. If too few resources are provided there will be a negative impact on the public interest. Too much would also have a negative impact as the cost of legal services would increase and the cost may be a barrier to entry and competition. It could be said that there is little public interest beyond the optimal overall cost of regulation. However, there is also a public interest in the allocation of the cost being fair as otherwise this could again provide a barrier to competition and have a negative impact on diversity in any particular sector. The new fee structure has been developed in line with principles and objectives which will promote the public interest in a fair apportionment of the cost of regulation.

#### **Improving access to justice**

34. The new fee structure has taken ability to pay as one of the key underlying principles. While the main objective has been to develop a structure that is fair to those who are mandated to pay for the cost of regulation, taking into account ability to pay should ensure that the structure will not be detrimental to this regulatory objective. The

equality impact assessment indicates that more BME firms will benefit from lower fees. Also the significant reduction in the individual fee will benefit the not-for-profit sector who provide access to justice through employed lawyers.

### **Protecting and promoting the interests of consumers**

35. The interest of consumers in the new fee structure is similar to the wider public interest. The main interest is that the cost of regulation is not too high or too low and that is primarily impacted not by the changes to the fee structure but rather by the overall cost of regulation. Consumers do, however, have an interest in a fair allocation of the cost ensuring that there are no barriers to particular sectors in the profession. We do not believe that the proposed structure will be detrimental to the interests of consumers.

### **Promoting competition in the provision of legal services**

36. A fairer fee structure should improve competition in the provision of legal services. The reduction in the individual fee will improve the mobility of individual solicitors, particularly in relation to working for firms authorised by other Approved Regulators. The SRA Board has considered whether particular aspects could create unnecessary barriers to entry for both individuals and firms, while developing the new structure. For example, the initial proposal was to charge a very low fee (circa £200) to brand new firms. Feedback from the profession was that this was too low, brand new firms would use regulatory resources and should not be subsidised, but equally the cost should not operate as a barrier. The proposed fee is now set at £1000 (for a full year). The new fee structure will also benefit those businesses wishing to develop in-house legal service provision as an alternative to using private practice firms.

### **Encouraging an independent, strong, diverse and effective legal provision**

37. The fairer fee structure, which is also more transparent, should help to encourage a diverse legal profession. The equality impact assessment (**Annex 9**) suggests that more BME firms will benefit from an overall reduction in fees. The proposed structure will not have a detrimental effect on other aspects of this regulatory objective.

## **F. Statement in respect of the Better Regulation Principles**

### **Proportionality**

38. The principles adopted, after consultation, to steer the development of the new fee structure have required the SRA to take a proportionate approach, as they require an appropriate balance to be made between competing or conflicting principles. For example, it is possible to improve the fairness of any fee structure by providing for a number of complex special cases. However, that can then inflate the cost of the administrative process required to collect the fees. Proportionality has to balance fairness against increased cost. Applying a fixed percentage to turnover to determine the firm fee would take ability to pay into account but that has to be balanced by fairness as it cannot be said that firms with very large turnovers require a much higher level of regulatory resource. The application of a tapering scale to calculation of fees by turnover is, therefore, more proportionate. These examples show how, in balancing the principles, in the light of responses to consultation, the SRA Board have had regard to the principle of proportionality. The consultation papers and feedback documents contain other examples.

## **Accountability**

39. A regulator must be accountable to those who are mandated to pay practising fees. It should be accountable both for collecting an appropriate amount to support efficient and effective regulation but also to allocate the cost as fairly as possible among the regulated community.
40. Transparency in decision making, supported by effective consultation and stakeholder engagement, and transparency through providing information to the regulated community will improve accountability.
41. The LSB criteria for the approval of practising fees require information to be made available to members to improve accountability. This information will show how the total funding requirement is made up giving clarity about the amount to be spent on regulation, the other permitted purposes and the amounts required for statutory levies. The SRA and the Law Society will, therefore, improve accountability through the provision of meaningful information.
42. The SRA will review the operation of the new fee structure against the principles and objectives in the light of its experience in implementing the new structure and feedback from the profession.

## **Consistency**

43. One of the biggest criticisms of the current fee structure is that it contains inconsistencies and anomalies. For example, two firms providing a similar level of legal services both in quantity and type may currently contribute significantly different amounts to the cost of regulation. This is because the current fee structure only takes into account the number of practising solicitors (RFLs and RELs) employed in the firm. The new fee structure improves consistency considerably by taking a consistent approach to the way in which firm fees are calculated based on a measure which is common to all firms and is linked to the level of activity.
44. The new fee structure also provides consistency in the post-Legal Services Act world which also provides for legal disciplinary practices, alternative business structures and a wider choice of regulator. Continuing the current structure would have, in effect, required solicitors practising in a firm regulated, for example, by the Council of Licensed Conveyancers ("CLC") to contribute to the cost of its regulation by the CLC but also to the cost of the SRA regulating SRA firms even though he or she did not work in such a firm..

## **Transparency**

45. The new fee structure has been developed through open consultation and engagement with stakeholder groups as evidenced in this application.
46. The principle of transparency, when applied to fee structures, also requires those mandated to pay for regulation to understand what they are paying for, i.e. the underlying cost of regulation, whether it is increasing or decreasing, and how their own fees have been calculated. The current system has arguably not assisted transparency in a number of ways. It has led to a concentration on the practising certificate fee itself as a measure - has it gone up or down? – rather than on a proper understanding of the underlying cost of regulation. For example, the underlying cost may have gone up while the level of the practising certificate fee has reduced because of a rise in the number of those required to pay the fee. The new structure, with the

cost being allocated through both firm and individual fees, is more likely to draw the regulated community's attention to the underlying cost rather than the headline level of the practising certificate fee.

47. The current system has allowed a considerable amount of the cost of regulation to be collected through the Compensation Fund contribution. That too has blurred the total cost of regulation and has not assisted transparency. The SRA Board has decided to increase transparency by moving to a situation (over two years) in which the cost of regulatory activity will be met through the practising fees and only costs directly associated with the Compensation Fund will be raised through compensation fund contributions.

### **Targeted**

48. Given the criticisms of the current fee structure which uses only the number of practising certificate holders in a firm as a basis for the fees, the new structure, introducing a firm fee based on turnover, is significantly more targeted. Those who provide a greater level of activity pay more. It also takes into account ability to pay and the fact that in-house solicitors (i.e. those working in not for profit organisations, commerce and industry or local government) require less regulatory resource.

### **G. Statement in relation to desired outcomes**

49. To achieve a fee structure which meets the following principles and objectives. The new fee structure should:

- be fair to fee payers;
- be efficient and economical to administer;
- ensure a predictable income to meet the cost of regulation;
- be stable so that charges should not vary considerably year-on-year;
- be as simple as possible – to enable the regulated profession to predict their likely fees;
- be based on data that can be verified;
- ensure that, where possible, the cost of processes that are not a general application should be borne by those making such applications, as far as possible, on a cost recovery basis;
- to take some account of the ability to pay in particular in relation to small and new businesses – fees should not be a deterrent to new entrants.

50. The SRA Board has made a commitment to review the new fee structure. Such a review will be necessary as part of the preparation for the regulation of alternative business structures. The SRA wish to harmonise regulation as much as possible, and, therefore, the principles and outcomes behind this fee structure will need to be tested to see if they are fit for purpose for alternative business structures. Throughout the consultation process, where concerns have been raised, the SRA Board has stated that a review would take place and the Equality Impact Assessment commits to further reviews, in the light of monitoring and improving data.

51. Current plans include:
- a “lessons learnt” exercise, following the renewal process, which will include a review of complaints/concerns raised during the process.
  - a survey, possibly including focus groups, on whether, and to what extent, the fee structure is delivering the outcomes.
  - a review of the data to show the actual impact of the new fee structure on different sectors and firms of different sizes.

## **H. Statement in relation to impact on other Approved Regulators**

52. The new fee structure will have an indirect impact on other Approved Regulators, particularly those who, like the Council for Licensed Conveyancers, also have a system of entity-based regulation and regulate firms which can be managed by and employ lawyers who are individually authorised by other Approved Regulators.
53. The Legal Services Act has provided for a choice of regulator in some cases, and this choice may increase when alternative business structures regulated by Licensed Bodies are permitted.
54. In these circumstances greater harmonisation of fee structures is sensible in order to reduce the impact that different fee structures may have on choice of regulator. In this context, it is important that there is a proper distinction between individual and firm fees to avoid regulators charging for regulation which they do not provide.
55. Other Approved Regulators have been engaged in the consultation process and understand the context and rationale for the changes. The BSB and ILEX responded formally to the first two consultation exercises. The CLC has informally responded and has since published its own consultation on Licence and Practising Fees which is in harmony with the changes which are the subject of this application.

## I. Implementation Timetable

June 2010	SRA Board made amendments to SRA Practising and SRA Recognised Bodies Regulations, subject to LSB approval. Application for approval submitted to LSB. (Amendments to come into force on date of approval by LSB.)
July 2010	SRA Board and Law Society Council finalise total funding requirements and set Practising Fees and Compensation Fund contributions.  Application for approval submitted to LSB
August 2010	Final preparations for renewal exercise including testing of necessary changes to IT.  Fee Moderation Process completed
September 2010	Practising Certificate and Recognised Body renewal forms, printed and despatched requiring payment of fees and compensation fund contributions in accordance with new structure.
October 2010 – July 2011	Applications for practising certificates and for renewal of recognition processed.

## J. Stakeholder engagement

56. In an effort to establish a fairer fee policy, the SRA carried out three consultations between June 2009 and April 2010, although the fact that such a review was required, and why, was discussed in the first strategy paper published by the SRA on implementing the Legal Services Act in November 2007.
57. All three consultations were published on the SRA website and were sent directly to key contacts and a range of equality groups and key stakeholders. In addition around 2500 members of the profession, who have registered to be alerted to consultations, were emailed to notify them of the consultations. There were also a number of publicity events and press releases and articles in legal press (including TLS Law Gazette and SRA Newsletter) and other communication channels (e.g. TLS Professional Update, SRA Update), in order to notify and encourage participation in the consultation process. A number of workshops and meetings were also held as part of the stakeholder engagement work. A list of these is set out below.

Date	Workshop
6 Oct 2009	Equality Impact Group (EIG)
17 Nov 2009	Top 100 firms
16 Dec 2009	Lawyers with Disabilities Division
14 Jan 2010	Sole Practitioners Committee
14 Jan 2010	Joint workshop for special interest groups (including External Implementation Group (EIG))
19 Jan 2010	Conveyancing and Land Law Committee
23 Jan 2010	Junior Lawyers Division
25 Jan 2010	Crime Practitioners Group and Civil Legal Aid Practitioners
9 Feb 2010	EIG workshop on the appeals process
16 Feb 2010	Top 100 firms follow up
9 March 2010	Two Transitional Arrangements workshops. All special interest groups were invited to attend either session
**Association of Women Solicitors (AWS) were offered a workshop presentation but declined	

58. The SRA website has also published FAQs on the developing structure and, recently, an on-line calculator.
59. The first consultation was a joint consultation with the Law Society which has remained fully involved in the Project Board developing the new structure. This has helped considerably in communicating the changes to the profession.

### **Summary of consultation exercises**

#### **SRA Consultation Paper 19 (June 2009) - “Moving Towards a Fairer Fee Policy”**

- The First consultation was open for twelve weeks (from 30 June -28 September 2009). 69 representative bodies responded.
- The paper posed 24 questions, critically around the various fee structure options, as well as other areas such as whether current discounts and special cases should be maintained.
- It articulated the broad principles and objectives upon which any new fee policy should be based; this received wide endorsement from respondents to the first consultation, including a cross section of the profession and a range of key stakeholders groups and representative bodies. It has further been covered in each of the workshops and meetings with different equality groups.
- It suggested three possible options for the basis of the firm fee turnover, number of fee earners, or a combination of both.
- Following feedback and views from the profession broad agreement was found on:

- the principles and objectives driving the new fee policy;
- the turnover model for the firm component of the regulatory fee;
- the Compensation Fund continuing to be a means of providing the public with confidence in the profession, and being based on both individual and entity contributions;
- the need for further assessment of the impact on the profession in order to reveal any significant positive or negative effects.

#### *Main Concerns*

- how the specific principles and objectives of the new funding system will be interpreted in the future;
- the need to provide the profession with more-detailed information on the proposed fee structure (including worked examples);
- the need to further develop the Compensation Fund model to be fairer for the profession.

#### **SRA Consultation Paper 21 (December 2009) - “Moving Towards a Fairer Fee Policy – Second Consultation”**

- We carried out a second consultation for seven weeks (from 07 December 2009 and closed on 22 January 2010) which addressed the concerns outlined in the first consultation. In particular it contained more detail and options relating to the proposed banded turnover model. We received 45 responses to the questionnaire together with 10 general responses by email and post. The responses were submitted by, or on behalf of, a range of local law societies and representative bodies as well as individual solicitors from different sectors and law firms of varying sizes.
- Following feedback and views from the profession broad agreement was found on:
  - the proposed banded turnover model as the best available option for calculating the firm fee but with suggestions that it should be a ‘stepping stone’ towards a more risk-based approach in the future
  - the Compensation Fund to be funded by both individuals and firms, and the contributions to pay only the direct costs of claims, handling of those claims and any necessary reserves
  - a one-stage renewal process (based on the turnover figures submitted during the previous year’s renewal cycle) to be the preferred option of respondents as the simplest, providing certainty to the profession and keeping the administrative costs to the minimum

#### *Main Concerns*

- a lack of clarity as to whether a particular firm or business, such as a sole practitioner or in-house team, would have to pay the firm based fee.
- whether the low income discount should be removed and the effect this might have on semi-retired and more senior members of the profession, as well as those working in disadvantaged sectors and less profitable areas of practice such as legal aid.

- The possible hardship, particularly to small firms or the legal aid sector, caused by using historic turnover data in determining the firm fee and support for consideration of a fee moderation process to facilitate a smooth transition.

**SRA Consultation Paper 22 (March 2010) - “Moving Towards a Fairer Fee Policy – transitional arrangements”**

- The third consultation on transitional arrangements (*Moving towards a Fairer Fee Policy: transitional arrangements* (number 22) closed on 16 April 2010.
- It proposed a transitional fee moderation process based on strict criteria for firm’s in-house turnover is less than £500,000. It also proposed a firm fee of £1,000 for a full year, for brand new firms.
- There was general support for a limited transitional moderation process.

**K. Further explanatory information**

Set out below are links to the key public documents including SRA Board papers, consultation papers and feedback documents. **Annex 10** contains a useful summary of SRA Board decisions, following on from the consultation exercises.

Consultation Papers and Feedback documents – Links to all 6

Shortcut to: <http://www.sra.org.uk/sra/consultations/moving-toward-fairer-fee-policy-june-2009.page>

Shortcut to: <http://www.sra.org.uk/sra/consultations/fee-policy-second-december-2009.page>

This link also provides access to the second consultation together with the responses.

Shortcut to: <http://www.sra.org.uk/sra/consultations/moving-toward-fairer-fee-policy-third-March-2010.page>

Shortcut to: <http://www.sra.org.uk/sra/consultations/moving-toward-fairer-fee-policy-transitional-arrangements-third-consultation.page>

**Links to SRA Board papers**

<http://www.lawsociety.org.uk/aboutlawsociety/how/committees/view=meetings.law?COMMITTEEID=10754>

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- Annex 1**      **Draft plain English summary of the new fee policy**
- Annex 2**      **Extract from SRA website of fee information - last year's fees**
- Annex 3**      **SRA Recognised Bodies (Determination of Fees) Amendment Regulations [2010]**
- Annex 4**      **SRA Practising (Determination of Fees) Amendment Regulations [2010]**
- Annex 5**      **Draft Practising Certificate Fee Determination [2010]**
- Annex 6**      **Draft Determination of sole practitioner fees [2010]**
- Annex 7**      **Draft Recognised Body Fee Determination [2010]**
- Annex 8**      **Draft Determination of Compensation Fund contributions [2010]**
- Annex 9**      **Equality Impact Assessment**
- Annex 10**     **Summary of SRA Board Decisions**

## Draft plain English summary of the new fee policy

### Introduction

This document explains the new fee policy for the practising year 2010/2011 which will apply to the renewal process in November 2010. The way the cost of regulation is currently allocated amongst the profession through the practising certificate fee leads to anomalies and unfairness in the context of modern legal practice. The SRA is introducing a new approach to practising fees in 2010. The SRA carried out three consultations between June 2009 and April 2010 which helped to establish a fairer fee policy.

### What are mandatory practising fees?

Our powers to charge fees are mainly contained in the Solicitors Act 1974 and the Administration of Justice Act 1975, as amended by the Legal Services Act 2007.

The majority of our funding comes from annual fees set by us each year which are now approved by the Legal Services Board (LSB)

We can charge annual fees to individuals (e.g. Practising Certificate Fee) as well as firms (Recognised Sole Practitioners and Recognised Bodies). These are mandatory and must be paid in order for individuals and firms to gain or maintain their authorisation to practise.

### What do the fees pay for?

The income from mandatory practising fees can only be used for certain purposes. These are:

- Regulatory activities (the total costs of the SRA)
- Non regulatory activities provided by the Law Society which are Permitted Purposes under the Legal Services Act (e.g. Law reform activities)
- Levies required to be paid under the Legal Services Act
  - Part of the running costs of the Legal Services Board
  - Part of the running costs of the Office for Legal Complaints (OLC)
  - Part of the start up costs for the LSB and OLC
  - Full costs of the Solicitors Disciplinary Tribunal (SDT)

All these costs make up the total funding requirement which needs to be met by the profession.

### Objectives of the new fees policy

The new fees policy aims to:

- achieve greater fairness for all in meeting the cost of regulation from 2010 (not to increase revenues from fees)
- make the fee structure more logical and spread the costs more fairly over the various sectors of the profession (i.e. between in-house and private practice). The restructure is also now possible and appropriate in the light of changes already made by the Legal Services Act 2007, through the introduction of firm based as well as individual based regulation
- make the fee structure more compatible with alternative business structures (ABSs) when they are permitted from 2011
- meet our strategic objective to ensure that our policies and regulations are fair and that they are not directly or unjustifiably indirectly discriminatory

We adopted, after consultation, the following principles, The new fee policy should:

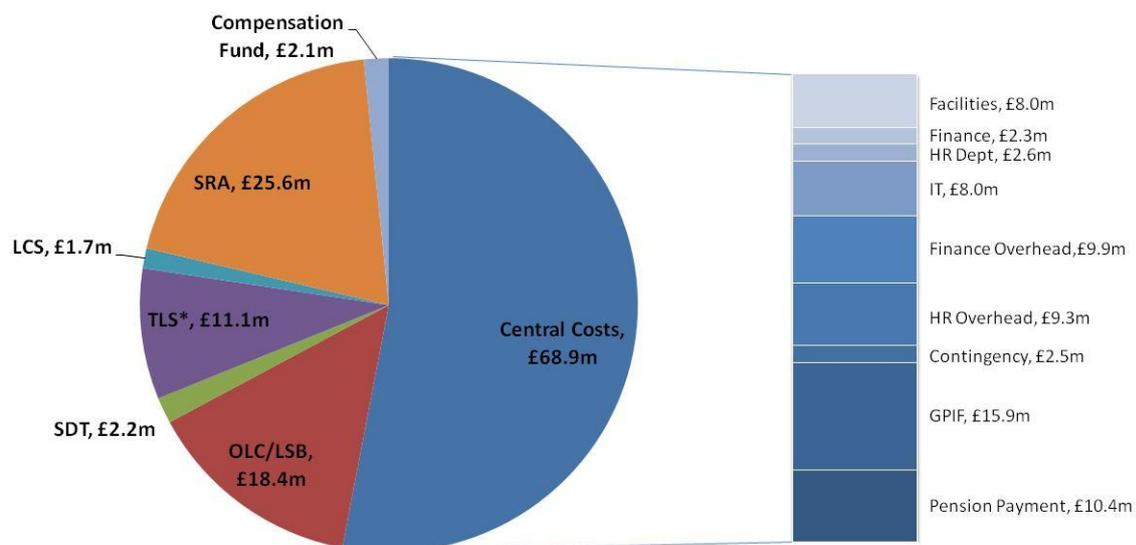
1. be fair to fee payers,
2. be efficient and economical to administer,
3. ensure a predictable income to meet the cost of regulation,
4. be stable—charges should not vary considerably year on year,
5. be as simple as possible—to enable the regulated profession to predict their likely fees,
6. be based on data that can be verified,
7. ensure that, where possible, the costs of processes that are not of general application should be borne by those making such applications, as far as possible, on a cost recovery basis,
8. take some account of ability to pay, in particular in relation to small and new businesses—fees should not be a deterrent to new entrants.

**What is the total funding requirement for this year?**

The net total funding requirement for 2010/11 is £127.9m compared to £122.2m last year. Additionally we will collect approximately £2.1m as a contribution to the Compensation Fund.

The graph below illustrates how the total funding requirement is made up this year. It also includes the funding requirement for the Compensation Fund which will be met from Compensation Fund contributions rather than practising fees:

*[This information will need to be updated in the light of the Council's decisions and to improve transparency.]*



Additional information is (will be) available online which provides additional transparency and comparative information (e.g. how this compares with the previous year).

## The New Fee Structure

The new fee structure will be made up of four main component parts:

### 1. Individual practising fee

A flat fee payable by every solicitor seeking a Practising Certificate and every Recognised European Lawyer (REL) and Recognised Foreign Lawyer (RFL) seeking to register.

The practising fee for individuals is as follows:

1 November 2010 to 31 December 2010 inclusive	1 January 2011 to 31 March 2011 inclusive	1 April 2011 to 30 June 2011 inclusive	1 July 2011 to 31 October 2011 inclusive
£460	£357	£254	£151

There are reduced fees for maternity leave as follows:

1 November 2010 to 31 December 2010 inclusive	1 January 2011 to 31 March 2011 inclusive	1 April 2011 to 30 June 2011 inclusive	1 July 2011 to 31 October 2011 inclusive
£254	£204	£152	£100

Please note that £48 is the charge for handling the application which is included in the above fees.

RFLs based mainly outside England and Wales will pay a reduced fee of £100

### 2. Firm practising fee

A fee payable by every firm (Recognised Sole Practitioner or Recognised Body) seeking or maintaining authorisation to practice. The firm practising fee will be calculated based on the firm's turnover (the definition of turnover is set out in Appendix 1). The following banded turnover table is used to calculate each firm's fee. Please note that £100 is the charge for handling the application which is included in the fees below.

#### Calculation of Turnover

Turnover Range (A)	Pay %* of Turnover within band (B)	Minimum Turnover in band (C)	Minimum Fee in Band (D)
£0 - £19,999	1.10%	£0	£100
£20,000 - £149,999	0.69%	£20,000	£320
£150,000 - £499,999	0.67%	£150,000	£1,217
£500,000 - £999,999	0.62%	£500,000	£3,562
£1,000,000 - £2,999,999	0.59%	£1,000,000	£6,662
£3,000,000 - £9,999,999	0.42%	£3,000,000	£18,462
£10,000,000 - £29,999,999	0.34%	£10,000,000	£47,862
£30,000,000 - £69,999,999	0.32%	£30,000,000	£115,862
£70,000,000 - £149,999,999	0.28%	£70,000,000	£243,862
£150,000,000 +	0.10%	£150,000,000	£467,862

\* % is equivalent to 'divided by 100' (e.g. 0.65% = 0.0065)

The firm fee is calculated by following the steps below:

1. Identify which band the turnover (T) falls in from column A.
2. Take T and subtract the figure in the corresponding column C.
3. Multiply this figure by the corresponding percentage in column B.
4. Finally add this figure to the corresponding figure in column D.
5. Firm fee then needs to be rounded to the nearest pound (i.e. if less than 50p then round down and if equal to or more than 50p then round up)

$$\text{Formula: } (T - C) \times B + D$$

### Worked examples

Example 1: For Turnover of £0:

$$(\text{£}0 - \text{£}0) \times 1.1\% + \text{£}100 = \text{£}100$$

Example 2: For Turnover of £200,000:

$$(\text{£}200,000 - \text{£}150,000) \times 0.67\% + \text{£}1,217 = \text{£}1,552$$

Example 3: For Turnover of £813,421:

$$(\text{£}813,421 - \text{£}500,000) \times 0.62\% + \text{£}3,562 = \text{£}5,505$$

Example 4: For Turnover of £279,123,528:

$$(\text{£}279,123,528 - \text{£}150,000,000) \times 0.1\% + \text{£}467,862 = \text{£}596,986$$

### For a brand new firm

The firm practising fee due at *initial application* is as follows. Please note that £200 is the charge for handling the initial application which is included in the fees below.

1 November 2010 to 31 December 2010 inclusive	1 January 2011 to 31 March 2011 inclusive	1 April 2011 to 30 June 2011 inclusive	1 July 2011 to 31 October 2011 inclusive
£1,000	£800	£600	£400

- The firm practising fee due at *first renewal* is based on the first 12 months of the firm's turnover and can be estimated where appropriate.

### For a new firm which is a successor practice

- The firm practising fee due at *initial application* is £200.
- The firm practising fee due at *first renewal* will be calculated based on its successor turnover (see Appendix 1)

### For an existing firm which is a successor practice

- The firm practising fee will be calculated based on its successor turnover (see Appendix 1)

### Additional fees for firms with branch office outside England and Wales

- The firm practising fee will be increased by £200 per branch office.

### 3. Individual Compensation Fund contribution

A flat fee of £10 is payable by each individual irrespective of whether they hold client money. The exception to this is CPS for whom there is a statutory exemption from paying this contribution.

### 4. Firm Compensation Fund contribution

A flat fee of £120 will be payable by firms which hold client money.

## **The policy decisions behind the new fee structure**

### **The split between individuals and firms**

Prior to firm-based regulation, approximately 90 per cent of the income to support the activities of the Law Society, the SRA and the Legal Complaints Service was collected through the practising certificate fees paid by or on behalf of individual solicitors. However, between 60 per cent and 80 per cent of regulatory activity is focused on firms rather than individuals, making the current system unfair.

For each aspect of the funding requirement (i.e. regulation and Compensation Fund), there will be both an individual and a firm component under the new policy. For the regulation component, 40% of the costs will be met through the individual practising fee and 60% through the firm practising fee. This 40:60 split is a starting point, and may well change in the following years to reflect the increasing regulatory focus on firms.

This change in policy results in a significant reduction (60%) in the fees for in-house solicitors, RELs and RFLs working in commerce and industry, local government and the not for profit sector, who are not required to pay a firm practising fee. This does translate into a shift of the fee burden onto private practice of approximately 15%. However, this better reflects the cost of regulating the in-house sector and so is fairer.

For the Compensation Fund contribution, it is difficult to apportion the cost of the Compensation Fund to individuals or firms and so the cost has been simply split 50:50. The Compensation Fund promotes public confidence in the profession as a whole and therefore both individuals and firms should contribute.

### **The Compensation Fund**

Under the new fee policy, the Compensation Fund contributions will only be used to fund the cost of claims, reserves and direct costs. Until now the contributions have also been used to pay for certain indirectly related regulatory costs. Over £8m of these costs have been shifted to the total funding requirement and so met by practising fees. It is envisaged that from next year all of the remaining regulatory costs (e.g. cost of interventions) will be transferred. The two stage approach is being taken because the Compensation Fund reserves are currently too high.

This will deliver a significant improvement in transparency.

Because the Compensation Fund funding requirement is low this year, the firm contribution is a flat fee payable by all firms which hold client money. This approach will be reviewed next year in line with the expected increase in Compensation Fund contributions.

### **Discounts**

As the new system will provide a significant reduction in individual practising fees, the number of available discounts has been reduced significantly. This simplification will reduce the administration costs of the SRA.

We have however retained the maternity leave discount. We will review the need for additional discounts next year.

### **RFLs and RELs**

We will continue to treat RELs and RFLs in the same manner as solicitors, both for the renewal of registration and for individual contributions to the Compensation Fund. As is the case today, RFLs who are mainly (over 50%) based outside of England and Wales will pay a flat fee per year of £100.

### **Firms with branch offices outside England and Wales**

UK firms with branches outside England and Wales will be charged a small flat fee in relation to each foreign branch to cover the SRA's costs of relevant activities and processes (e.g. application).

### **Application and Regulation Fees**

The annual individual and firm practising fees include amounts to cover the charges for handling the relevant applications. In order to improve transparency and comply with the Framework Services Directive, we now publish these charges in order to distinguish them from general regulatory costs.

### **Transitional Fee Moderation Process**

As some firms will face a considerable increase in the first year of this new fee structure, a transitional fee moderation process for certain firms has been provided in order to facilitate a smoother transition to the new funding arrangement.

Applicants will be required to satisfy all of the following conditions to qualify for a reduced fee:

1. Turnover from most recent closed annual accounts after 31 October 2009 is below £500,000.
2. Turnover from most recent closed annual accounts after 31 October 2009 is at least 30% less than the figure for the previous year.
3. Total fees and contributions for 2010 based on the turnover figure from closed annual accounts prior to 1 November 2009 will be at least 50% higher than the total paid by the firm in 2009 for renewal.

We will set the firm practising fee for an applicant who meets the above criteria by using a turnover figure that is half way between the figure for the most recent closed annual accounts (post 31 October 2009) and the figure for the prior year.

Applications under the fee moderation process will be accepted between 19 July and 31 August 2010. To re-coup the operational costs of processing an application, the SRA will charge a fee of £250 to applicants who want to be considered. As the process is not based on the exercise of discretion, the outcome of the process will be final.

### Appendix 1: Detailed turnover definition and guidance

The following paragraphs describe how the turnover figure that will be used for the purposes of determining the renewal fee will be calculated:

1. Turnover figure means a firm's total gross fees arising from work undertaken from offices in England and Wales.
  - *Gross fees includes*: all professional fees of the firm including remuneration, retained commission, and income of any sort whatsoever of the firm (including notarial fees). Work in Progress (WIP) should be included.
  - *Gross fees does not include*: interest, reimbursement of disbursements, VAT, remuneration from a non-private practice source, dividends, rents, and investment profit.
2. The turnover figures that will be used when billing firms in October 2010 will be based on **closed accounts**, audited where possible.
  - Closed accounts are defined, in order of preference, as:
    1. an audited set of financial statements
    2. an unaudited set of financial statements signed off by an accountant
    3. a submitted tax return for the year.
3. Bad debt should be handled under normal accounting procedures. Where it has been allowed for in the turnover figure for a firm's last closed accounting period prior to 1 November 2009, that is acceptable. If a bad debt has been discovered after closing the firm's accounts, then the turnover figure cannot be re-adjusted. Those adjustments could potentially be accounted for in the following year's closed accounts.
4. The turnover figure should, wherever possible, be for the last complete (12 months) accounting period prior to the 1 November 2009 (e.g. 31 March 2009). The latest acceptable annual accounting period end date is 31 October 2009.
5. The turnover figure should be an exact figure wherever possible. A figure rounded to the nearest £1,000 will be acceptable only if more detail is unavailable.
6. Those firms who do not have closed accounts which ended within the period from 1 November 2008 to 31 October 2009, should provide the SRA with an estimate of the turnover figure as well as the previous year's turnover figure based on accounts which have been closed. The SRA will determine at its discretion whether to use the 2008 figure if an updated 2009 figure based on closed accounts has not been received by 31 August 2010.
7. The turnover figure must be for a 12 month period.
  - (a) For a brand new firm (i.e. not a successor firm nor one resulting from change in status), an estimate for the first 12 months of practice (irrespective of whether this is after 31 October 2009) will be accepted; the basis upon which the firm has made the estimate should be provided to the SRA.
  - (b) If a firm has changed its annual accounting period, its latest closed accounting period prior to the 1 November 2009 will be shorter or longer than 12 months. The following approach should be used by the firm, providing an explanation of how they have derived their turnover figure:
    - Preferably, provide the turnover for the 12 month period immediately preceding the new accounting period end date (as long as prior to 1 November 2009)
    - Alternatively, if this is not possible then take the last closed accounts period prior to the 1 November 2009 and scale it appropriately (e.g. if the last closed accounting period was for six months then it should be doubled; if the last closed accounting period was for 15 months, then it should be divided by 15 and then multiplied by 12).
8. If a firm has a change in status (e.g. partnership to LLP, sole practitioner to partnership), then at renewal it should respond as if there were no change in status.

### Successor Turnover

Successor turnover is relevant where firms have changed through, for example, an acquisition, merger or split. All successor turnover will be calculated based on the Turnover Figures for each of the affected firms.

If a firm has succeeded to the whole or a part of one or more firms (e.g. through merger or acquisition), successor turnover will be calculated by combining the appropriate proportion of the Turnover Figure for each of the affected firms which has become part of the successor practice:

- In a simple merger between firms A and B, combine the Turnover for each firm.
- In a merger of one firm (firm A) with part of another firm (e.g. one third of firm B) then firm A should add the corresponding proportion of firm B's Turnover Figure to its Turnover Figure (e.g. firm A's Turnover Figure + third of firm B's Turnover Figure)

For a firm which has split or ceded part of their practice to another firm and wishes this change to be reflected in a successor turnover figure, the successor turnover figure will be a proportion of the Turnover Figure, as long as it is clear how the Turnover Figure for such a firm is to be distributed between the successor firms. 100% of the Turnover Figure must be accounted for between the successor firms. For example:

- In a merger of firm A with one third of firm B then
  - firm B's successor turnover figure will be two thirds of its Turnover Figure, Firm A's will be its Turnover Figure plus one third of B's Turnover Figure
- Where firm A and one third of firm B become new firm C
  - firm A's turnover will be £0 (closed) and B's turnover will be two thirds of its Turnover Figure. Firm C's successor turnover figures will be the combination of A's Turnover Figure and one third of firm B's.

In a case where all successor firms agree on the apportionment of 100% of the Turnover Figures, then the SRA will accept the successor turnover figures.

In the case where all successor firms are unable to agree the apportionment of 100% of the Turnover Figures, then the SRA will apportion the Turnover Figures for the purposes of determining renewal fees. The SRA will determine this apportionment based on the information available and its decision will be final. Firms will not be able to renew recognition without an appropriate successor turnover figure being determined, as this is necessary to calculate the appropriate firms' fees.

## Fees for the 2009/2010 practising year

### Introduction

The standard practising certificate fee is £1,180, plus the Compensation Fund contribution. If your earnings were less than £20,000, you may qualify for a low income fee reduction. You may also qualify for a maternity leave fee reduction.

There are a variety of ways to pay.

### Fees for solicitors, RELs and RFLs\*

\* RFLs the fees schedule below applies to RFLs who mainly practise inside England and Wales.

Category of solicitor/REL/RFL	Issue date of PC/registration			
	1/11/09-31/12/09	1/01/10-31/03/10	1/04/10-30/06/10	1/07/10-31/10/10
All solicitors/RELs/RFLs other than those in the following categories.	£1,180	£885	£590	£295
Solicitors/RELs/RFLs applying for their first practising certificate/registration.	£885	£885	£590	£295
Solicitors/RELs/RFLs whose gross fees or income have not exceeded £20,000 in the 12 months prior to date of applying for their practising certificate/registration.	£590	£445	£295	£150
Solicitors/RELs/RFLs who have previously held a practising certificate/registration but have not practised during the 12-month period immediately preceding the start date of their new practising certificate/registration.	N/A	£885	£590	£295
Solicitors/RELs who work in the Crown Prosecution Service (except when	£785	£585	£390	£195

Category of solicitor/REL/RFL	Issue date of PC/registration			
	1/11/09-31/12/09	1/01/10-31/03/10	1/04/10-30/06/10	1/07/10-31/10/10
eligible to pay low income fee or maternity fees).				
Solicitors/RELS/RFLs who are taking maternity leave at the time of renewing their practising certificate/registration for the full year 1/11/09 - 31/10/10, or were on maternity leave between 1/11/08 - 31/10/09.	£590	N/A	N/A	N/A

If at any time during the 12-month period you were practising both as a solicitor/REL/RFL and as a lawyer of another jurisdiction, all fees or income received as a lawyer must be taken into account. If the total of the gross fees or gross income exceeds £20,000 you do not qualify for a reduced PC fee.

### Schedule of fees for RFLs

For RFLs who mainly practise **inside** England and Wales, see previous table.

For RFLs who mainly practise **outside** England and Wales:

the renewal fee is £100,  
the initial registration fee is £100.

### Compensation Fund contribution

Most solicitors, RELs and RFLs are required to contribute to the Compensation Fund.

The contribution depends on

- the number of practising certificates/registrations held previously** (including this one you are applying for) not your date of admission or registration
- whether you held or received client money in the last practising year (1 November 2008 to 31 October 2009 for applications for the 2009/10 year)
- in some cases, whether your firm held or received client money (see rules 2 and 13 of the [Solicitors' Accounts Rules](#) for definitions).

Solicitors/RELS working for the Crown Prosecution Service are exempt from the Compensation Fund contribution.

### Number of previous practising certificates held

The example below is for solicitors, RELs and RFLs admitted on 1 August 2007.

Dates of certificates	Number of PCs/registrations
1 August 2007 – 31 October 2007	1
1 November 2007 – 31 October 2008	2
1 November 2008 – 31 October 2009	3
1 November 2009 –	This is the start of their fourth practising year

### 2009/2010 Compensation Fund contribution for solicitors, RELs, and RFLs

Compensation Fund fee when client money <b>is</b> held			
Number of certificates or registrations held	Solicitors and RELs	RFLs (who mainly practise inside E&W)	RFLs (who mainly practise outside E&W)
1 to 3	£0	£0	£25
4 to 6	£195	£195	£25
7 or more	£390	£390	£25
Compensation Fund fee when client money <b>is not</b> held			
Number of certificates or registrations held	Solicitors and RELs	RFLs (who mainly practise inside E&W)	RFLs (who mainly practise outside E&W)
1 to 3	£0	£0	£25
4 to 6	£65	£65	£25
7 or more	£130	£130	£25

### Low income fee reduction

The low income fee reduction applies if your gross fees or gross income from the provision of legal services as a practising solicitor was £20,000 or less during the 12 months prior to the date you want your new practising certificate to start.

If you practised both as a solicitor, REL or RFL and as a lawyer in another jurisdiction, your combined income must be less than £20,000 to qualify.

If your employment changed during the twelve month period so that you were only practising as a solicitor for part of that time, and your income for that time was less than £20,000, you qualify for the reduction.

If you were employed in commerce, industry, the public service or the voluntary sector and part of your responsibilities involved work as a solicitor and part did not, the whole of the income from that employment should be taken into account.

**Maternity leave fee reduction**

If you were on statutory maternity leave (or equivalent) between 1 November 2008 and 31 October 2009, you are entitled to a reduced fee for the next full practising year (2009/10).

## SRA Recognised Bodies (Determination of Fees) Amendment Regulations [2010]

*Rules dated [the date of the approval by the Legal Services Board] commencing [the date of the approval by the Legal Services Board] made by the Solicitors Regulation Authority Board under sections 79 and 80 of the Solicitors Act 1974 and sections 9 and 9A of the Administration of Justice Act 1985, with the approval of the Legal Services Board under paragraph 19 of Schedule 4 to the Legal Service Act 2007.*

1. The SRA Recognised Bodies Regulations 2009 shall be amended as follows:

(a) After regulation 1.3 add:

“1.4 The SRA shall determine the amount of any fees required under these regulations and the SRA’s decision shall be final.

1.5 The SRA may prescribe from time to time a fee moderation process under which a recognised body may make an application for the fee for renewal of recognition to be varied. A decision under this process shall be final.”

(b) After regulation 2.7 add:

### “**Regulation 2A – Fee determinations for acquisitions, mergers and splits**

*The turnover of a recognised body for the purpose of determining the fee for renewal of recognition is based on a historic turnover figure submitted to the SRA. Where in the 12 months following the submission of that figure a recognised body merges or splits, a notice of succession identifying all recognised bodies and recognised sole practitioners affected by the merger or split and any resulting apportionment of the historic turnover figures for those firms will enable the SRA to ensure that the turnover figure on which the fee is based reflects the impact of the merger or split.*

2A.1 A recognised body which has succeeded to the whole or a part of one or more recognised bodies or recognised sole practitioners must within 28 days of the change taking place deliver to the SRA a notice of succession in the prescribed form.

2A.2 For the purposes of regulation 2A.1, “succeeded” includes any taking over of the whole or any part of a recognised body or recognised sole practitioner, for value or otherwise

2A.3 A recognised body which:

- (a) has split or ceded part of the practice to a recognised body or recognised sole practitioner; and
- (b) wishes this change to be considered by the SRA when determining the recognised body’s next fee for renewal of recognition

must within 28 days of the change taking place deliver to the SRA a notice of succession in the prescribed form.

- 2A.4 A notice of succession delivered under these regulations must;
- (a) identify all recognised bodies and recognised sole practitioners affected by the succession; and
  - (b) provide details of any resulting apportionment of the turnover figures for those recognised bodies and recognised sole practitioners.
- 2A.5 A recognised body delivering a notice of succession under these regulations must seek the agreement of all affected recognised bodies or recognised sole practitioners to the contents of the notice of succession.
- 2A.6 Where a notice of succession is delivered to the SRA which has not been agreed by all affected recognised bodies or recognised sole practitioners, the recognised body delivering the notice of succession shall be treated as having made an application for the SRA to apportion the turnover figures of the affected recognised bodies or recognised sole practitioners for the purposes of determining the fee for renewal of recognition.
- 2A.7 Before apportioning the turnover figures under regulation 2A.6, the SRA will contact any affected recognised body or recognised sole practitioner identified in the notice of succession who has not agreed with the notice of succession and may require the production of additional information.”
- (c) In regulation 14:
- (i) omit “and” in regulation 14(f)
  - (ii) after regulation 14(f) add:  
“(ff) “turnover figure” means as prescribed from time to time by the SRA; and”
2. These amendment regulations shall come into force on [the date of the approval by the Legal Services Board]

## SRA Practising (Determination of Fees) Amendment Regulations [2010]

*Rules dated [the date of the approval by the Legal Services Board] commencing [the date of the approval by the Legal Services Board] made by the Solicitors Regulation Authority Board under sections 13, 13ZA, 28, 31, 79 and 80 of the Solicitors Act 1974 and paragraphs 2 and 3 of Schedule 14 to the Courts and Legal Services Act 1990, with the approval of the Legal Services Board under paragraph 19 of Schedule 4 to the Legal Services Act 2007.*

1. The SRA Practising Regulations 2009 shall be amended as follows:

(a) After regulation 1.4 add:

“1.5 The SRA shall determine the amount of any fees required under these regulations and the SRA’s decision shall be final.

1.6 The SRA may prescribe from time to time a fee moderation process under which a recognised sole practitioner may make an application for the fee for renewal of authorisation as a recognised sole practitioner to be varied. A decision under this process shall be final.”

(b) After regulation 4.6 add:

### “Regulation 4A – Fee determinations for acquisitions, mergers and splits

*The turnover of a recognised sole practitioner for the purpose of determining the fee for renewal of authorisation as a recognised sole practitioner is based on a historic turnover figure submitted to the SRA. Where in the 12 months following the submission of that figure a recognised sole practitioner merges or splits, a notice of succession identifying all recognised bodies and recognised sole practitioners affected by the merger or split and any resulting apportionment of historic turnover figures for those firms will enable the SRA to ensure that the turnover figure on which the fee is based reflects the impact of the merger or split.*

4A.1 A recognised sole practitioner who has succeeded to the whole or a part of one or more recognised bodies or recognised sole practitioners must within 28 days of the change taking place deliver to the SRA a notice of succession in the prescribed form.

4A.2 For the purposes of regulation 4A.1, “succeeded” includes any taking over of the whole or any part of a recognised body or recognised sole practitioner, for value or otherwise

4A.3 A recognised sole practitioner who:

- (a) has split or ceded part of the practice to a recognised body or recognised sole practitioner; and
- (b) wishes this change to be considered by the SRA when determining the recognised sole practitioner’s next fee for renewal of authorisation as a recognised sole practitioner

must within 28 days of the change taking place deliver to the SRA a notice of succession in the prescribed form.

- 4A.4 A notice of succession delivered under these regulations must;
- (a) identify all recognised bodies and recognised sole practitioners affected by the succession; and
  - (b) provide details of any resulting apportionment of the turnover figures for those recognised bodies and recognised sole practitioners.
- 4A.5 A recognised sole practitioner delivering a notice of succession under these regulations must seek the agreement of all affected recognised bodies or recognised sole practitioners to the contents of the notice of succession.
- 4A.6 Where a notice of succession is delivered to the SRA which has not been agreed by all affected recognised bodies or recognised sole practitioners, the recognised sole practitioner delivering the notice of succession shall be treated as having made an application for the SRA to apportion the turnover figures of the affected recognised bodies or recognised sole practitioners for the purposes of determining the fee for renewal of recognition.
- 4A.7 Before apportioning the turnover figures under regulation 4A.6, the SRA will contact any affected recognised body or recognised sole practitioner identified in the notice of succession who has not agreed with the notice of succession and may require the production of additional information.“
- (c) In regulation 17.4:
- (i) omit “and” in regulation 17.4(e);
  - (ii) omit “.” in regulation 17.4(f) and substitute “; and”
  - (iii) after regulation 17.4(f) add:  
  
“(g) “turnover figure” means as prescribed from time to time by the SRA”
2. These amendment regulations shall come into force on [the date of the approval by the Legal Services Board].

**DRAFT****Practising Certificate Fee Determination [2010]**

This determination is made by the Solicitors Regulation Authority Board under section 11 of the Solicitors Act 1974, paragraph 2(1)(b) of Schedule 14 to the Courts and Legal Services Act 1990 and regulation 1.6 of the SRA Practising Regulations 2009 with the approval of the Legal Services Board under section 51 of the Legal Services Act 2007

**Practising certificate fee**

1. The fee to be paid to the Law Society for each practising certificate issued will be £[460.00] unless paragraphs 2, 3, or 4 of this order apply, or unless paragraphs 5, 6, 7, 8, 9, 10, 11 or ,12 apply so as to impose an increased or additional fee.

**Newly admitted solicitors and returning to practice**

2. Subject to paragraph 3, any solicitor who applies for their first practising certificate during the practising certificate year commencing 1 November 2010 or any solicitor admitted prior to 1 November 2010 who has previously held a practising certificate and who returns to practice shall pay a fee in accordance with the following scale:
  - (a) Practising certificate issued 1 November 2010 to 31 December 2010 inclusive - £[460]
  - (b) Practising certificate issued 1 January 2011 to 31 March 2011 inclusive - £[357];
  - (c) Practising certificate issued 1 April 2011 to 30 June 2011 inclusive - £[254]
  - (d) Practising certificate issued 1 July 2011 to 31 October 2011 inclusive - £[151]

Paragraphs 2(b) to 2(d) do not apply if during the solicitor's last period without a certificate they undertook any duties which required a practising certificate.

**Former registered European lawyers and former registered foreign lawyers**

3. A solicitor who has, at any time during the practising certificate year commencing 1 November 2010, registered or re-registered as a registered European lawyer or registered foreign lawyer and who applies for their first practising certificate shall be subject to a practising certificate fee of £0.

**Maternity provisions**

4. A solicitor who applies for a practising certificate during the practising certificate year 1 November 2010 to 31 October 2011 and who is on or has been on statutory maternity leave or a period of leave equivalent to statutory maternity leave within the previous practising year shall pay a fee in accordance with the following scale:
  - (a) Practising certificate issued 1 November 2010 to 31 December 2010 inclusive - £[254]
  - (b) Practising certificate issued 1 January 2011 to 31 March 2011 inclusive - £[204]
  - (c) Practising certificate issued 1 April 2011 to 30 June 2011 inclusive - £[152]
  - (d) Practising certificate issued 1 July 2011 to 31 October 2011 inclusive - £[100]

This scale does not apply if the solicitor received a reduction for their practising certificate in the previous year for the same period of statutory maternity leave or period of leave equivalent to statutory maternity leave.

## Recognised sole practitioners

### Initial applications

5. Subject to paragraph 6, where a solicitor makes an initial application for a practising certificate or applies for a replacement of a practising certificate, and the certificate applied for is to include initial authorisation as a recognised sole practitioner, the fee payable under paragraphs 1, 2, 3 or 4 shall be increased by:
  - (a) £[1,000] if the certificate is to commence in the period 1 November 2010 to 31 December 2010;
  - (b) £[800] if the certificate is to commence in the period 1 January 2011 to 31 March 2011;
  - (c) £[600] if the certificate is to commence in the period 1 April 2011 to 30 June 2011;
  - (d) £[400] if the certificate is to commence in the period 1 July 2011 to 31 October 2011.
  
6. (a) This paragraph applies where a solicitor who is succeeding to the whole or a part of a practice of a recognised body or recognised sole practitioner makes an initial application for a practising certificate or applies for replacement of a practising certificate, and the certificate applied for is to include initial authorisation as a recognised sole practitioner:
  - (b) The fee payable under paragraphs 1, 2, 3, or 4 shall be increased by £[200].

### Renewal of authorisation as a recognised sole practitioner

*From 1 November 2010 recognised sole practitioners who apply to renew authorisation as such are required to pay an increased practising certificate fee which is calculated by reference to the firm's turnover. The way that the turnover is determined will depend on whether the firm is a continuing recognised sole practitioner, a new recognised sole practitioner renewing for the first time or a successor recognised sole practitioner. Paragraphs 7 to 10 below deal with the way that the fee is determined in relation to each of those categories.*

7. (a) This paragraph applies where a Continuing Recognised Sole Practitioner makes an application for a practising certificate and the certificate applied for is to include renewal of authorisation as a recognised sole practitioner.
  - (b) The fee payable under paragraphs 1, 2, 3 or 4 shall be increased by the amount arrived at after taking the Turnover Figure and carrying out the calculations in respect of the relevant band in accordance with appendix 1.
  
8. (a) This paragraph applies where a New Recognised Sole Practitioner who first became authorised as a recognised sole practitioner after 31 October 2009 makes an application for a practising certificate and the certificate applied for is to include renewal of authorisation as a recognised sole practitioner.

- (b) The fee payable under paragraphs 1, 2, 3 or 4 shall be increased by the amount arrived at after taking the estimate of the Turnover Figure for the first 12 months of practice and carrying out the calculations in respect of the relevant band in accordance with appendix 1.
9. (a) This paragraph applies where a Successor Recognised Sole Practitioner makes an application for a practising certificate and the certificate applied for is to include renewal of authorisation as a recognised sole practitioner.
- (b) The fee payable under paragraphs 1, 2, 3 or 4 shall be increased by the amount arrived at after taking the Successor Turnover Figure and carrying out the calculations in respect of the relevant band in accordance with appendix 1.

### **Overseas Branch Offices**

10. Where a recognised sole practitioner has one or more overseas branch offices, the fee payable under any of the applicable paragraphs above shall be increased by £[200] in respect of each overseas office.

### **Fee Moderations**

11. The SRA Board has prescribed a Fee Moderation Process under regulation 1.6 of the SRA Practising Regulations 2009 and where a recognised sole practitioner makes an application under this process, the fee payable under any of the applicable paragraphs above shall be increased by £[250]. The criteria for the process are set out in appendix 4.

### **Late delivery of an accountant's report**

12. Where a solicitor applies for a practising certificate at a time when section 11(4) of the Solicitors Act 1974 has effect because the solicitor has failed to deliver an accountant's report by such time or in such circumstances as prescribed by rules made under section 34(1) of that Act an additional fee of £200 must be paid when making an application for a practising certificate.

### **Application to registered European lawyers**

13. The fee to be paid to the Law Society for initial registration or renewal of registration as a registered European lawyer shall be governed in all respects by the provisions of paragraphs 1 to 12 in the same way as the fee for a solicitor's practising certificate, and for this purpose:
- (a) references to a solicitor shall be interpreted as references to a registered European lawyer or to a European lawyer applying for registration, and references to practice as a solicitor shall be interpreted as references to the provision of legal services in the United Kingdom under, or in reliance upon, a European lawyer's professional title as such;
  - (b) references to practising certificates and the issuing of practising certificates, shall be interpreted as references to initial registration or renewal of registration in the register of European lawyers, and references to a first practising certificate shall be interpreted as references to a lawyer's first registration in the register of European lawyers;
  - (c) paragraph 3 shall apply to a European lawyer who has, at any time during the practising certificate year commencing 1 November 2010, registered or re-

registered as a registered foreign lawyer and who applies for his or her first registration as a registered European lawyer.

### Application to registered foreign lawyers

14. The fee to be paid to the Law Society for initial registration or renewal of registration as a registered foreign lawyer shall, subject to paragraph 15 below, be governed in all respects by the provisions of paragraphs 1, 2, 4 and 12 in the same way as the fee for a solicitor's practising certificate, and for this purpose:
- (a) references to a solicitor shall be interpreted as references to a registered foreign lawyer or to a lawyer applying for registration as a registered foreign lawyer, and references to practice as a solicitor shall be interpreted as references to the provision of legal services in England and Wales under, or in reliance upon, a foreign lawyer's professional title as such; and
  - (b) references to practising certificates and the issuing of practising certificates, shall be interpreted as references to initial registration or renewal of registration in the register of foreign lawyers, and reference to a first practising certificate shall be interpreted as reference to a lawyer's first registration in the register of foreign lawyers.
15. The fee for a registered foreign lawyer practising mainly from an office or offices outside England and Wales shall be £[100].

### Interpretation

16. In this determination:

**Continuing Recognised Sole Practitioner** means a recognised sole practitioner who became authorised as a recognised sole practitioner before 31 October 2009 and who is not a Successor Recognised Sole Practitioner;

**Firm** means a recognised sole practitioner or a recognised body;

**New Recognised Sole Practitioner** means a recognised sole practitioner who first became authorised as a recognised sole practitioner after 31 October 2009 and who is not a Successor Recognised Sole Practitioner;

**Practising certificate** means the certificate issued in accordance with sections 9 and 10 of the Solicitors Act 1974;

**Practising certificate year** means the period from 1 November to 31 October inclusive each year during which a practising certificate is operative;

**Practising certificate fee** means the sum to be paid by a solicitor for a practising certificate for the whole or part of a practising certificate year;

**Practice as a solicitor** means the provision of legal services under, or in reliance upon, the title "solicitor" whether as a principal, under a contract of employment or under a contract for the provision of services;

**Period of leave equivalent to statutory maternity leave** means a period of absence or leave which if a solicitor had been an employee would have been taken as statutory maternity leave;

**Recognised body** means a partnership, company or LLP for the time being recognised by the Solicitors Regulation Authority under section 9 of the Administration of Justice Act 1985 and the Recognised Bodies Regulations;

**Recognised Sole Practitioner** means a solicitor or REL authorised by the Solicitors Regulation Authority under section 18 of the Solicitors Act 1974 to practise as a sole practitioner;

**Registered European lawyer** means a European lawyer registered with the Solicitors Regulation Authority under regulation 17 of the European Communities (Lawyer's Practice) Regulations 2000;

**Registered foreign lawyer** means a lawyer registered with the Solicitors Regulation Authority under section 89 of the Courts and Legal Services Act 1990;

**Successor Recognised Sole Practitioner** means for the purposes of calculating the renewal fees, a recognised sole practitioner who after 31 October 2009 succeeds to the whole or any part of any recognised body or recognised sole practitioner, for value or otherwise, in any of the following cases:

**case (I):**

a recognised sole practitioner who acquires the whole or a part of one or more recognised bodies or recognised sole practitioners;

**case (II):**

a recognised sole practitioner resulting from the merger between the whole or part of two or more recognised bodies or recognised sole practitioners;

**case (III):**

a recognised sole practitioner remaining after it has split or ceded part of its practice to another recognised body or recognised sole practitioner;

**Successor Turnover Figure** means as set out in appendix 3; and

**Turnover Figure** means as set out in appendix 2

17. The singular includes the plural and vice versa.

**Commencement**

18. This determination shall come into force on 1 November 2010.

## Appendix 1

Turnover Range (A)	Pay %* of Turnover within band (B)	Minimum Turnover in band (C)	Minimum Fee in Band (D)
£0 - £19,999	1.10%	£0	£100
£20,000 - £149,999	0.69%	£20,000	£320
£150,000 - £499,999	0.67%	£150,000	£1,217
£500,000 - £999,999	0.62%	£500,000	£3,562
£1,000,000 - £2,999,999	0.59%	£1,000,000	£6,662
£3,000,000 - £9,999,999	0.42%	£3,000,000	£18,462
£10,000,000 - £29,999,999	0.34%	£10,000,000	£47,862
£30,000,000 - £69,999,999	0.32%	£30,000,000	£115,862
£70,000,000 - £149,999,999	0.28%	£70,000,000	£243,862
£150,000,000 +	0.10%	£150,000,000	£467,862

\* % is equivalent to 'divided by 100' (e.g. 0.65% = 0.0065)

Using the table above to calculate the firm fee based on the firm's turnover (T) as defined in Appendices 2,3 and 4:

6. Identify which band the turnover (T) falls in from column A.
7. Subtract the figure in the corresponding column C from (T).
8. Multiply this figure by the corresponding percentage in column B.
9. Finally add this figure to the corresponding figure in column D.
10. Firm fee then needs to be rounded to the nearest pound (i.e. if less than 50p then round down and if equal to or more than 50p then round up)

<b>Formula: (T - C) x B + D</b>
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Example 1: For Turnover of £0:  
 $(£0 - £0) \times 1.1\% + £100 = £100$

Example 2: For Turnover of £200,000:  
 $(£200,000 - £150,000) \times 0.67\% + £1,217 = £1,552$

Example 3: For Turnover of £813,421:  
 $(£813,421 - £500,000) \times 0.62\% + £3,562 = £5,505$

Example 4: For Turnover of £279,123,528:  
 $(£279,123,528 - £150,000,000) \times 0.1\% + £467,862 = £596,986$

## Appendix 2

### Turnover Figure

The following paragraphs describe how the turnover figure that will be used for the purposes of determining the renewal fee should be calculated:

1. Turnover figure means a firm's total gross fees arising from work undertaken from offices in England and Wales.
  - *Gross fees includes:* all professional fees of the firm including remuneration, retained commission, and income of any sort whatsoever of the firm (including notarial fees). Work in Progress (WIP) should be included.
  - *Gross fees does not include:* interest, reimbursement of disbursements, VAT, remuneration from a non-private practice source, dividends, rents, and investment profit.
  
2. The turnover figures that will be used when billing firms in October 2010 will be based on **closed accounts**, audited where possible.
  - Closed accounts are defined, in order of preference, as:
    1. an audited set of financial statements
    2. an unaudited set of financial statements signed off by an accountant
    3. a submitted tax return for the year.
  
3. Bad debt should be handled under normal accounting procedures. Where it has been allowed for in the turnover figure for a firm's last closed accounting period prior to 1 November 2009, that is acceptable. If a bad debt has been discovered after closing the firm's accounts, then the turnover figure cannot be re-adjusted. Those adjustments could potentially be accounted for in the following year's closed accounts.
  
4. The turnover figure should, wherever possible, be for the last complete (12 months) accounting period prior to the 1 November 2009 (e.g. 31 March 2009). The latest acceptable annual accounting period end date is 31 October 2009.
  
5. The turnover figure should be an exact figure wherever possible. A figure rounded to the nearest £1,000 will be acceptable only if more detail is unavailable.
  
6. Those firms who do not have closed accounts which ended within the period from 1 November 2008 to 31 October 2009, should provide the SRA with an estimate of the turnover figure as well as the previous year's turnover figure based on accounts which have been closed. The SRA will determine at its discretion whether to use the 2008 figure if an updated 2009 figure based on closed accounts has not been received by 31 August 2010.
  
7. The turnover figure must be for a 12 month period.
  - (a) For a brand new firm (i.e. not a successor firm nor one resulting from change in status), an estimate for the first 12 months of practice (irrespective of whether this is after 31 October 2009) will be accepted; the basis upon which the firm has made the estimate should be provided to the SRA.

- (b) If a firm has changed its annual accounting period, its latest closed accounting period prior to the 1 November 2009 will be shorter or longer than 12 months. The following approach should be used by the firm, providing an explanation of how they have derived their turnover figure:
- Preferably, provide the turnover for the 12 month period immediately preceding the new accounting period end date (as long as prior to 1 November 2009)
  - Alternatively, if this is not possible then take the last closed accounts period prior to the 1 November 2009 and scale it appropriately (e.g. if the last closed accounting period was for six months then it should be doubled; if the last closed accounting period was for 15 months, then it should be divided by 15 and then multiplied by 12).
8. If a firm has a change in status (e.g. partnership to LLP, sole practitioner to partnership), then at renewal it should respond as if there were no change in status.

## Appendix 3

### Successor Turnover

Successor turnover is relevant where firms have changed through, for example, an acquisition, merger or split. All successor turnover will be calculated based on the Turnover Figures for each of the affected firms.

If a firm has succeeded to the whole or a part of one or more firms (e.g. through merger or acquisition), successor turnover will be calculated by combining the appropriate proportion of the Turnover Figure for each of the affected firms which has become part of the successor practice:

- In a simple merger between firms A and B, combine the Turnover Figures for each firm.
- In a merger of one firm (firm A) with part of another firm (e.g. one third of firm B) then firm A should add the corresponding proportion of firm B's Turnover Figure to its Turnover Figure (e.g. firm A's Turnover Figure + third of firm B's Turnover Figure)

For a firm which has split or ceded part of their practice to another firm and wishes this change to be reflected in a successor turnover figure, the successor turnover figure will be a proportion of the Turnover Figure, as long as it is clear how the Turnover Figure for such a firm is to be distributed between the successor firms. 100% of the Turnover Figure must be accounted for between the successor firms. For example:

- In a merger of firm A with one third of firm B then
  - firm B's successor turnover figure will be two thirds of its Turnover Figure, Firm A's will be its Turnover Figure plus one third of B's Turnover Figure
- Where firm A and one third of firm B become new firm C
  - firm A's turnover will be £0 (closed) and B's turnover will be two thirds of its Turnover Figure. Firm C's successor turnover figures will be the combination of A's Turnover Figure and one third of firm B's.

In a case where all successor firms agree on the apportionment of 100% of the Turnover Figures, then the SRA will accept the successor turnover figures.

In the case where all successor firms are unable to agree the apportionment of 100% of the Turnover Figures, then the SRA will apportion the Turnover Figures for the purposes of determining renewal fees. The SRA will determine this apportionment based on the information available and its decision will be final. Firms will not be able to renew recognition without an appropriate successor turnover figure being determined, as this is necessary to calculate the appropriate firms' fees.

## Appendix 4

### Transitional Fee Moderation Process

Applicants will be required to satisfy all of the following criteria in order to qualify for a reduced fee:

1. Turnover from most recent closed annual accounts after 31 October 2009 is below £500,000.
2. Turnover from most recent closed annual accounts after 31 October 2009 is at least 30% less than the figure for the previous year.
3. Total fees and contributions for 2010 based on the turnover figure from closed annual accounts prior to 1 November 2009 will be at least 50% higher than the total paid by the firm in 2009 for renewal.

The fee for an applicant who meets the above criteria will be calculated by using a turnover figure that is half way between the figure for the most recent closed annual accounts (post 31 October 2009) and the figure for the previous year.

**Draft Determination of sole practitioner fees [2010]**

This determination is made by the Solicitors Regulation Authority Board under section 13ZB of the Solicitors Act 1974, with the approval of the Legal Services Board under section 51 of the Legal Services Act 2007.

- (1) Subject to paragraph (2), the fees under section 13ZB of the Solicitors Act 1974 for a certificated solicitor or a registered European lawyer who makes a **separate** application for initial authorisation as a recognised sole practitioner to commence during the period 1 November 2010 to 31 October 2011 shall be set at:
  - (a) £[1000] if the authorisation is to commence in the period 1 November 2010 to 31 December 2010;
  - (b) £[800] if the authorisation is to commence in the period 1 January 2011 to 31 March 2011;
  - (c) £[600] if the authorisation is to commence in the period 1 April 2011 to 30 June 2011;
  - (d) £[400] if the authorisation is to commence in the period 1 July 2011 to 31 October 2011.
- (2) Where a solicitor who is succeeding to the whole or a part of a practice of a recognised body or recognised sole practitioner makes a **separate** application for initial authorisation as a recognised sole practitioner, the fee payable shall be £200.
- (3) All terms in this determination are to be interpreted in accordance with the Practising Certificate Fee Determination 2010.
- (4) This determination shall come into force on 1 November 2010.

### Draft Recognised Body Fee Determination [2010]

This determination is made by the Solicitors Regulation Authority Board under regulations 1.1(b) and 1.5 of the SRA Recognised Bodies Regulations 2009 with the approval of the Legal Services Board under section 51 of the Legal Services Act 2007.

#### Initial Applications

1. The fee payable by a body applying for initial recognition as a New Recognised Body is:
  - (a) £[1000] on applying for initial recognition to commence in the period 1 November 2010 to 31 December 2010;
  - (b) £[800] on applying for initial recognition to commence in the period 1 January 2011 to 31 March 2011;
  - (c) £[600] on applying for initial recognition to commence in the period 1 April 2011 to 30 June 2011;
  - (d) £[400] on applying for initial recognition to commence in the period 1 July 2011 to 31 October 2011, and

the renewal date for any such recognition shall be 31 October 2011.

2. The fee payable by a body applying for initial recognition in the following circumstances:
  - (a) where the body is succeeding to a practice of a recognised sole practitioner;
  - (b) where the application is being made by an existing recognised body which is changing its legal status; or
  - (c) where the application is being made by a Successor Recognised Body,

shall be £[200] and the renewal date for any such recognition shall be 31 October 2011.

#### Renewals

*From 1 November 2010 recognised bodies which apply for the renewal of their recognition are required to pay a fee which is calculated by reference to the firm's turnover. The way that the turnover is determined will depend on whether the firm is a continuing recognised body, a new recognised body on first renewal or a successor recognised body. Paragraphs 3 to 5 below deal with the way that the fee is determined in relation to each of those categories.*

3. The fee payable by a recognised body applying for renewal of recognition where it is a Continuing Recognised Body shall be determined by taking the Turnover Figure and carrying out the calculations in respect of the relevant band in accordance with appendix 1.

4. The fee payable on first renewal by a New Recognised Body which first obtained recognition after 31 October 2009 shall be calculated by taking the estimate of the Turnover Figure for the first 12 months of practice and carrying out the calculations in respect of the relevant band in accordance with appendix 1.
5. The fee payable by a Successor Recognised Body applying for renewal of recognition shall be determined by calculating the Successor Turnover Figure and carrying out the calculations in respect of the relevant band in accordance with appendix 1.

### Fee Moderations

6. The SRA Board has prescribed a Fee Moderation Process under regulation 1.5 of the SRA Recognised Bodies Regulations 2009 and the fee for an application under this process shall be £[250]. The criteria for the process are set out in appendix 4.

### Overseas Branch Offices

7. A recognised body which has one or more overseas branch offices shall pay an additional fee of £[200] in respect of each overseas office.

### Interpretation

8. In this determination:

**Continuing Recognised Body** means a recognised body which is not a Successor Recognised Body and in which either:

- (a) the number and identity of the managers has not changed since 31 October 2009; or
- (b) the only changes since 31 October 2009 in the number or identity of the managers are as a result of one or more managers leaving or joining the recognised body;

**Firm** means a recognised sole practitioner or a recognised body;

**Manager** means:

- (a) a partner in a partnership;
- (b) a member of an LLP; or
- (c) a director of a company;

**Member** in relation to a recognised body, means:

- (a) a person who has agreed to be a member of a company and whose name is entered in the company's register of members; or
- (b) a member of an LLP;

**New Recognised Body** means a recognised body which obtained recognition after 31 October 2009 and is not a Successor Recognised Body;

**Recognised body** means a partnership, company or LLP for the time being recognised by the Solicitors Regulation Authority under section 9 of the Administration of Justice Act 1985 and the Recognised Bodies Regulations;

**Recognised Bodies Regulations** means the SRA Recognised Bodies Regulations 2009;

**Recognised Sole Practitioner** means a solicitor or REL authorised by the Solicitors Regulation Authority under section 18 of the Solicitors Act 1974 to practise as a sole practitioner;

**Successor Recognised Body** means for the purposes of calculating the renewal fees, a recognised body which after 31 October 2009 succeeds to the whole or any part of any recognised body or recognised sole practitioner, for value or otherwise, in any of the following cases:

**case (I):**

a recognised body which acquires the whole or a part of one or more recognised bodies or recognised sole practitioners;

**case (II):**

a recognised body resulting from the merger between the whole or part of two or more recognised bodies or recognised sole practitioners;

**case (III):**

a recognised body remaining after it has split or ceded part of its practice to another recognised body or recognised sole practitioner;

**Successor Turnover Figure** means as set out in appendix 3

**Turnover Figure** means as set out in appendix 2.

9. The singular includes the plural and vice versa.

### **Commencement**

10. This determination shall come into force on 1 November 2010.

## Appendix 1

Turnover Range (A)	Pay %* of Turnover within band (B)	Minimum Turnover in band (C)	Minimum Fee in Band (D)
£0 - £19,999	1.10%	£0	£100
£20,000 - £149,999	0.69%	£20,000	£320
£150,000 - £499,999	0.67%	£150,000	£1,217
£500,000 - £999,999	0.62%	£500,000	£3,562
£1,000,000 - £2,999,999	0.59%	£1,000,000	£6,662
£3,000,000 - £9,999,999	0.42%	£3,000,000	£18,462
£10,000,000 - £29,999,999	0.34%	£10,000,000	£47,862
£30,000,000 - £69,999,999	0.32%	£30,000,000	£115,862
£70,000,000 - £149,999,999	0.28%	£70,000,000	£243,862
£150,000,000 +	0.10%	£150,000,000	£467,862

\* % is equivalent to 'divided by 100' (e.g. 0.65% = 0.0065)

Using the table above to calculate the firm fee based on the firm's turnover (T) as defined in Appendices 2,3 and 4:

1. Identify which band the turnover (T) falls in from column A.
2. Subtract the figure in the corresponding column C from (T).
3. Multiply this figure by the corresponding percentage in column B.
4. Finally add this figure to the corresponding figure in column D.
5. Firm fee then needs to be rounded to the nearest pound (i.e. if less than 50p then round down and if equal to or more than 50p then round up)

<b>Formula: (T - C) x B + D</b>
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Example 1: For Turnover of £0:  
 $(£0 - £0) \times 1.1\% + £100 = £100$

Example 2: For Turnover of £200,000:  
 $(£200,000 - £150,000) \times 0.67\% + £1,217 = £1,552$

Example 3: For Turnover of £813,421:  
 $(£813,421 - £500,000) \times 0.62\% + £3,562 = £5,505$

Example 4: For Turnover of £279,123,528:  
 $(£279,123,528 - £150,000,000) \times 0.1\% + £467,862 = £596,986$

## Appendix 2

### Turnover Figure

The following paragraphs describe how the turnover figure that will be used for the purposes of determining the renewal fee should be calculated:

1. Turnover figure means a firm's total gross fees arising from work undertaken from offices in England and Wales.
  - *Gross fees includes:* all professional fees of the firm including remuneration, retained commission, and income of any sort whatsoever of the firm (including notarial fees). Work in Progress (WIP) should be included.
  - *Gross fees does not include:* interest, reimbursement of disbursements, VAT, remuneration from a non-private practice source, dividends, rents, and investment profit.
2. The turnover figures that will be used when billing firms in October 2010 will be based on **closed accounts**, audited where possible.
  - Closed accounts are defined, in order of preference, as:
    1. an audited set of financial statements
    2. an unaudited set of financial statements signed off by an accountant
    3. a submitted tax return for the year.
3. Bad debt should be handled under normal accounting procedures. Where it has been allowed for in the turnover figure for a firm's last closed accounting period prior to 1 November 2009, that is acceptable. If a bad debt has been discovered after closing the firm's accounts, then the turnover figure cannot be re-adjusted. Those adjustments could potentially be accounted for in the following year's closed accounts.
4. The turnover figure should, wherever possible, be for the last complete (12 months) accounting period prior to the 1 November 2009 (e.g. 31 March 2009). The latest acceptable annual accounting period end date is 31 October 2009.
5. The turnover figure should be an exact figure wherever possible. A figure rounded to the nearest £1,000 will be acceptable only if more detail is unavailable.
6. Those firms who do not have closed accounts which ended within the period from 1 November 2008 to 31 October 2009, should provide the SRA with an estimate of the turnover figure as well as the previous year's turnover figure based on accounts which have been closed. The SRA will determine at its discretion whether to use the 2008 figure if an updated 2009 figure based on closed accounts has not been received by 31 August 2010.
7. The turnover figure must be for a 12 month period.
  - (a) For a brand new firm (i.e. not a successor firm nor one resulting from change in status), an estimate for the first 12 months of practice (irrespective of whether this is after 31 October 2009) will be accepted; the basis upon which the firm has made the estimate should be provided to the SRA.

- (b) If a firm has changed its annual accounting period, its latest closed accounting period prior to the 1 November 2009 will be shorter or longer than 12 months. The following approach should be used by the firm, providing an explanation of how they have derived their turnover figure:
- Preferably, provide the turnover for the 12 month period immediately preceding the new accounting period end date (as long as prior to 1 November 2009)
  - Alternatively, if this is not possible then take the last closed accounts period prior to the 1 November 2009 and scale it appropriately (e.g. if the last closed accounting period was for six months then it should be doubled; if the last closed accounting period was for 15 months, then it should be divided by 15 and then multiplied by 12).
8. If a firm has a change in status (e.g. partnership to LLP, sole practitioner to partnership), then at renewal it should respond as if there were no change in status.

### Appendix 3

#### Successor Turnover

Successor turnover is relevant where firms have changed through, for example, an acquisition, merger or split. All successor turnover will be calculated based on the Turnover Figures for each of the affected firms.

If a firm has succeeded to the whole or a part of one or more firms (e.g. through merger or acquisition), successor turnover will be calculated by combining the appropriate proportion of the Turnover Figure for each of the affected firms which has become part of the successor practice:

- In a simple merger between firms A and B, combine the Turnover Figures for each firm.
- In a merger of one firm (firm A) with part of another firm (e.g. one third of firm B) then firm A should add the corresponding proportion of firm B's Turnover Figure to its Turnover Figure (e.g. firm A's Turnover Figure + third of firm B's Turnover Figure)

For a firm which has split or ceded part of their practice to another firm and wishes this change to be reflected in a successor turnover figure, the successor turnover figure will be a proportion of the Turnover Figure, as long as it is clear how the Turnover Figure for such a firm is to be distributed between the successor firms. 100% of the Turnover Figure must be accounted for between the successor firms. For example:

- In a merger of firm A with one third of firm B then
  - firm B's successor turnover figure will be two thirds of its Turnover Figure, Firm A's will be its Turnover Figure plus one third of B's Turnover Figure
- Where firm A and one third of firm B become new firm C
  - firm A's turnover will be £0 (closed) and B's turnover will be two thirds of its Turnover Figure. Firm C's successor turnover figures will be the combination of A's Turnover Figure and one third of firm B's.

In a case where all successor firms agree on the apportionment of 100% of the Turnover Figures, then the SRA will accept the successor turnover figures.

In the case where all successor firms are unable to agree the apportionment of 100% of the Turnover Figures, then the SRA will apportion the Turnover Figures for the purposes of determining renewal fees. The SRA will determine this apportionment based on the information available and its decision will be final. Firms will not be able to renew recognition without an appropriate successor turnover figure being determined, as this is necessary to calculate the appropriate firms' fees.

**Appendix 4**

**Transitional Fee Moderation Process**

Applicants will be required to satisfy all of the following criteria in order to qualify for a reduced fee:

4. Turnover from most recent closed annual accounts after 31 October 2009 is below £500,000.
5. Turnover from most recent closed annual accounts after 31 October 2009 is at least 30% less than the figure for the previous year.
6. Total fees and contributions for 2010 based on the turnover figure from closed annual accounts prior to 1 November 2009 will be at least 50% higher than the total paid by the firm in 2009 for renewal.

The fee for an applicant who meets the above criteria will be calculated by using a turnover figure that is half way between the figure for the most recent closed annual accounts (post 31 October 2009) and the figure for the previous year.

**DRAFT**  
**Determination of Compensation Fund contributions [2010]**

*This determination is made by the Solicitors Regulation Authority Board under rule 2(2) of the Solicitors' Compensation Fund Rules 2009 with the approval of the Legal Services Board under paragraph 19 of Schedule 4 to the Legal Services Act 2007.*

- (1) Every person who applies for a practising certificate to commence on or after 1 November 2010, or who applies for initial registration or renewal of registration as a registered European lawyer or registered foreign lawyer to commence on or after 1 November 2010, shall pay with the fee payable in respect of that application, a contribution of £[10] to the Fund.
- (2) Every recognised sole practitioner or recognised body that:
  - (a) applies for renewal of authorisation as a recognised sole practitioner or renewal of recognition as a recognised body to commence on or after 1 November 2010; and
  - (b) has held or received client money (as defined in the Solicitors Accounts Rules 1998) during the period 1 November 2009 to 31 October 2010shall pay with the fee payable in respect of that application, a contribution of £[120] to the Fund.
- (3) Every person that:
  - (a) applies for initial authorisation as a recognised sole practitioner or initial recognition as a recognised body to commence during the period 1 November 2010 to 31 October 2011; and
  - (b) intends to hold or receive client money (as defined in the Solicitors Accounts Rules 1998) at any time during the period 1 November 2010 to 31 October 2011shall pay with the fee payable in respect of that application, a contribution of £[120] to the Fund.
- (4) In this determination:

**Fund** means the Solicitors' Compensation Fund established and maintained under rule 2(1) of the Solicitors Compensation Fund Rules 2009;

All other terms are to be interpreted in accordance with the Practising Certificate Fee Determination 2010.
- (5) This determination shall come into force on 1 November 2010.

## Full Equality Impact Assessment (EIA): Fairer Fee Policy

### Introduction

#### The current system

1. The Solicitors Act 1974 requires practising solicitors to have a practising certificate which attracts an annual fee. Registered Foreign Lawyers (RFLs) and Registered European Lawyers (RELs) are required to register annually on payment of a fee. This fee income is used to fund the cost of regulating the profession, permitted purposes by the representative function and levies for complaints handling, the solicitors' disciplinary tribunal and the Legal Services Board (LSB).
2. The standard practising certificate fee for 2009/2010 was £1,180 plus the Compensation Fund contribution. There are a number of reductions and exemptions available, for example:
  - If earnings are less than £20,000, solicitors may qualify for a low income fee reduction
  - Women may also qualify for a maternity leave fee reduction
  - Solicitors/RELs working for the Crown Prosecution Service are exempt from the Compensation Fund contribution.<sup>3</sup>
3. The current fee income was generated on the basis of individual fees and change was inevitable following the introduction of the Legal Services Act 2007 which requires the SRA to regulate firms as well as individual solicitors.
4. The majority of the SRA's effort is focused on firms. Lord Hunt recognised this in his recent review of legal regulation, when he recommended 'that the practising certificate fee should be clearly and, so far as possible, equitably split between an entity element and an individual element'.

#### The need for change

5. The SRA feels the present system is unfair, for example solicitors employed in local government or commerce and industry are charged the same practising certificate fee as solicitors in private practice, despite the fact that between 60% and 80% of the SRA effort relates to private practice. Moreover, the amount the firm pays under the current system depends solely on the number of solicitors, registered European lawyers (RELs) and registered foreign lawyers (RFLs) employed which does not take into account income earned by other non-solicitor fee earners.
6. The SRA commenced a review in 2008 as it felt that the present system is unfair. The LSB has since expressed its view that the system needs to better reflect where the regulatory effort is spent across the profession and the current system fails to do this.

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<sup>3</sup> For more detail on the current fee structure please see the SRA's website at <http://www.sra.org.uk/solicitors/pc-registration-renewal/fees/fees-2009-2010.page>.

### Developing the new system

7. To help us develop a fairer fee policy, we built a number of complex fee structure models to understand what the likely impact of various options would be.
8. We carried out three consultations between June 2009 and April 2010 along with a number of meetings and workshops with key equality stakeholders and members of the profession. This helped us develop and agree on the new fee structure which we will be introducing for the practising year 2010/2011.
9. We posed questions in all three consultations about the impact of the proposals on equality and asked for feedback from the profession. Equality and diversity implications have been taken into account throughout the development of the policy and legal advice has been sought when relevant.

### Key Stakeholders

10. Those who will be affected by this policy are
  - all those within the solicitors' profession (i.e. all regulated solicitors, RELs and RFLs and recognised sole practitioners and recognised bodies)
  - solicitor representative groups (e.g. AWS, JLD, CLLS)
  - the Legal Services Board
  - the Law Society
  - the SRA itself, as one of the bodies funded by the fee income and in relation to the changes proposed to internal processes and procedures (especially members of staff dealing with the renewal process and providing first point of contact for the profession such as the contact centre)
  - other approved regulators as there is now a choice of regulators and the new fee structure may have an impact on that choice.

### Aims and Objectives of the new policy

11. The SRA set out to implement a fairer system and was not seeking to achieve an overall increase in revenue from fees. The main aims and objectives of the new policy are to:
  - make the fee structure more logical and spread the costs more fairly over the various sectors of the profession (i.e. between in-house and private practice)
  - prepare the fee structure to be more compatible with alternative business structures (ABSs) when they are permitted from 2011
  - meet our strategic objective to ensure that our policies and regulations are fair and that they are not directly or unjustifiably indirectly discriminatory
  - comply with our regulatory objectives, in particular improving access to justice, promoting competition and encouraging an independent, strong, varied and effective legal profession.
12. We consulted on what the guiding principles for the new fee policy should be and had a positive response from the profession. The principles that we adopted are that the policy should:
  - (1) be fair to fee payers

- (2) be efficient and economical to administer
  - (3) ensure a predictable income to meet the cost of regulation
  - (4) be stable - charges should not vary considerably year on year
  - (5) be as simple as possible - to enable the regulated profession to predict their likely fees
  - (6) be based on data that can be verified
  - (7) ensure that, where possible, the costs of processes that are not of general application should be borne by those making such applications, as far as possible, on a cost recovery basis
  - (8) take some account of ability to pay, in particular in relation to small and new businesses - fees should not be a deterrent to new entrants.
13. In line with the fifth principle of the new fee policy, in introducing the new funding structure and corresponding process changes, we were also aiming to simplify the types of exceptions and discounts that are allowed currently, which can be complex.

#### Information, feedback and data considered

14. In conducting this full equality impact assessment, we have reviewed and considered evidence from the following sources:
- Internal statistical data on the profile of the profession - the data we have used is from the annual statistics report published by the Law Society.<sup>4</sup>
  - An extract from Regis which includes fee information and diversity data against each individual firm.
  - Benchmarking of the profession under other jurisdictions and other professions (the results of this exercise are set out at [Annex 2](#)).
  - Sample statistical data from different fee models on turnover and number of fee earners broken down by firm - as this information was previously not captured internally we needed an external data source. Anonymous data (which represented approximately 40% of all firms in England and Wales) was obtained from two of the principal insurance providers to the profession. This data was used to build a model for calculating the new fee structure and conduct corresponding impact analysis for firms of different sizes and composition.<sup>5</sup>
  - The outcome of the three formal consultation exercises, details of which are set out below.
  - Feedback from various other meetings and engagement activities (the events are listed at [Annex 2](#)).

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<sup>4</sup> See Annual Statistical Reports of the profession available on the Law Society's website at <http://www.lawsociety.org.uk/aboutlawsociety/whatwedo/researchandtrends/researchpubs/view=researchpubsarticle.law?PUBLICATIONID=425618>.

<sup>5</sup> This data was set out in the second consultation paper available on the SRA's website at - <http://www.sra.org.uk/sra/consultations/fee-policy-second-december-2009.page>.

## Responses to the three formal consultations

15. The first consultation, 'Moving toward a fairer fee policy' (consultation paper 19) was open for twelve weeks from 30 June to 28 September 2009. This consultation paper articulated the broad principles and objectives upon which any new fee policy should be based.<sup>6</sup>
16. We had responses from a cross section of the profession and a range of key stakeholder groups and representative bodies. We also held a number of workshops and meetings with different equality groups conducted so far. The outcome of the consultation was reported to the SRA Board on 19 November 2009.
17. Respondents were in broad agreement on the principles that should drive the new fee policy and accordingly, these principles were adopted by the SRA Board (as set out in paragraph 12 above).
18. Respondents agreed that the fee should be split between an individual component and a firm component and we had put forward a number of options for calculating the level of the firm's fee such a size, number of fee earners or turnover. The turnover model was the preferred option for most respondents and this was agreed by the SRA Board. Annex 1 sets out the other two models in more detail with reasons why they were discarded.
19. Respondents agreed that the Compensation Fund should continue to be a means of providing the public with confidence in the profession, and contributions should come from individuals and firms. However, it was clear that we needed to further develop the proposed model to ensure that it was fair on the profession.
20. We also needed to carry out further assessment of the impact on the profession of the proposed changes to identify any significant positive or negative effects. In addition, the profession needed more detailed information on the proposed fee structure, including examples as to how the turnover model would work in practice, as well as clarity about how the specific principles and objectives of the new funding system would be interpreted in the future.
21. We carried out a second consultation, 'Moving toward a fairer fee policy: Second Consultation' (consultation paper 21) which was open for seven weeks from 7 December 2009 to 22 January 2010. This paper provided more detail about the preferred model that had emerged from the first consultation, which was the individual fee plus a firm fee which would be calculated on the basis of the firm's turnover.<sup>7</sup>
22. We received 45 responses to the questionnaire together with 10 general responses by email and post. The responses were submitted by, or on behalf of a range of local law societies and representative bodies as well as individual solicitors from different sectors and law firms of varying sizes. The outcome of the consultation was reported to the SRA Board on 15 February 2010.

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<sup>6</sup> The first consultation paper and a report on its outcome are available on the SRA's website at <http://www.sra.org.uk/sra/consultations/moving-toward-fairer-fee-policy-june-2009.page>.

<sup>7</sup> The second consultation paper and a report on its outcome are available on the SRA's website at <http://www.sra.org.uk/sra/consultations/fee-policy-second-december-2009.page>.

23. The consultation paper suggested that the individual component of the fee should represent 40% of the fee income and the firm component should be 60% but moving towards a 20/80 split in the future. We proposed that the individual component should be a flat fee with minimum discounts. Both proposals were favoured by respondents and agreed by the SRA Board.
24. There were some concerns about the reduced number of discounts, in particular the low income discount - respondents were concerned about the effect this might have on semi-retired and more senior members of the profession, as well as those working in disadvantaged sectors and less profitable areas of practice such as legal aid. It was agreed by respondents, and subsequently by the SRA Board, that the maternity reduction should remain.
25. The consultation paper proposed a banding structure for working out a firm's contribution based on their turnover, a system which would avoid a dramatic shift in the fees being paid by firms under the current system.<sup>8</sup> We provided a number of worked examples so that firms could understand the impact of the new system that we were proposing and these are reproduced at Annex 4.
26. Respondents and subsequently the SRA Board agreed that the banded turnover model was the fairest available option for calculating the firm fee. However, there were some concerns raised by respondents, one of the main ones was the lack of clarity as to whether a particular firm or business would have to pay the firm based fee. For example, some sole practitioners and local authorities were unsure whether they would have to pay both the 'individual' and 'firm' component.
27. We considered the Compensation fund and offered a number of options as to how that fee should be used and how it should be split between individuals and firms and on what basis each component should be calculated. Respondents felt that the Compensation Fund should be funded by both individuals and firms, and used only to pay the costs of claims, the costs of handling of those claims and any necessary reserves.

The third consultation, 'Moving towards a Fairer Fee Policy: transitional arrangements' (consultation paper number 22) was open from 5 March to 16 April 2010. The paper asked whether there was a need for a transitional fee moderation process introduced for this year in order to alleviate some of the hardship caused by using historic turnover data in determining firm fee and facilitate a smooth transition to the new funding arrangement for certain firms. It also covered the approach to setting firm fees for brand new firms.<sup>9</sup>

28. As a result of the third consultation, the Board agreed to introduce a criteria-based transitional fee moderation process for 2010. The board also agreed to introduce a pro-rated regulatory firm fee for brand new firms or sole practitioners in their first year of practice of £1000. See Annex 4 for additional details on the outcomes of the third consultation.
29. These three consultations alongside the accompanying workshops were invaluable in helping the SRA to achieve a more effective and considered

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<sup>8</sup> Although there is no firm based fee due under the current system, we recognised that most firms paid the fees on behalf of their practicing solicitors, RELs and RFLs.

<sup>9</sup> The third consultation paper and a report on its outcome are available on the SRA's website at <http://www.sra.org.uk/sra/consultations/moving-toward-fairer-fee-policy-third-March-2010.page>.

approach to practicing fees in 2010 which aims to allocate the cost of regulation more fairly across the profession. The new fee policy will be implemented for the 2010 practising certificate/registration fee/recognition renewal process.

30. There is a table in [Annex 4](#), setting out the main SRA Board decisions after each of the three consultations.

## Key elements of the new fee structure

31. As seen above, the policy has been developed and informed through three consultation exercises and much engagement with key stakeholders, including equality groups.
32. The new fee structure has now been agreed by the SRA Board and will be made up of four main component parts:
- Individual regulatory fee - a flat fee of approximately £460 will be payable by every solicitor seeking a practising certificate and every REL and RFL seeking to register. The only discount remaining will be for individuals on maternity leave, who will be charged 50% of the regulatory individual fee
  - Regulatory firm fee – this will be calculated based on the firm’s turnover – see table and worked examples at [Annex 4](#)
  - Compensation Fund individual fixed fee – a flat fee of approximately £10 will be payable per regulated individual irrespective of whether they hold client money
  - Compensation Fund firm fee - a flat fee of approximately £120 will be payable by firms which hold client money.
33. We have set out below, the key elements of the new policy that the SRA has decided to introduce for the 2010/2011 practising year, and for each one, we have considered the impact across all equality strands.

### The split between individuals and firms

34. The new policy proposes a shift from collecting fees solely from individual solicitors, to collecting approximately 40% from individuals and 60% from firms.
35. The impact of this change for individual solicitors will be to reduce the regulatory fee due from all practising solicitors from £1,180 to approximately £460. This would of course have a positive impact on all individual solicitors, although we recognised that most individual solicitors would not ordinarily pay this fee themselves. In the sections below we have considered the impact of the overall fee on firms.

#### In house solicitors

36. All 30,000 in house solicitors (including, RELs and RFLs based in the UK) will experience a significant decrease in their fees and these fees will not be supplemented by any additional firm component.

37. Approximately 13% of in-house solicitors (including, RELs and RFLs based in the UK) are BME<sup>10</sup> as compared to approximately 9% of solicitors in firms.<sup>11</sup> As a higher proportion of the BME solicitor population are working in-house in comparison to their White counterparts, the BME solicitors will on average as a group benefit more from the reduction in the individual regulatory fee than their White counterparts.
38. The data suggests that women account for a higher proportion of solicitors in the employed and other sectors than in private practice. In private practice only 43.0% of solicitors are women, compared with 51.3% in the other sectors.<sup>12</sup>
39. Therefore women on average benefit from the fee burden shift onto Private Practice. There is a higher than average proportion of women solicitors working in-house who will benefit from a reduction in PC fees of approximately 60%.
40. The data shows that just over one-half (52.9%) of all solicitors with a practising certificate are aged 40 or less.<sup>13</sup> Approximately 51% of solicitors under 40 work in house so there is no significant positive or negative impact with regard to the fee burden shift away from in house solicitors onto private practice.<sup>14</sup>

#### **The basis for calculating the individual fee**

41. As the new system will provide a significant reduction in the individual fees, we felt that it was appropriate to reduce the number of available discounts significantly. This was in order to simplify the system in compliance with the guiding principles set out above, making it easier to calculate the fees due and simpler and more cost effective to administer the system.
42. Stakeholders had expressed concern about the equality implications of not providing a range of discounts – in particular for low income earners, those on long term sick leave and part time workers. We recognised that this approach could potentially have an adverse impact on female solicitors, BME solicitors and older solicitors.
43. However, the new system will have a significant positive impact for all solicitors, including those who would otherwise have been entitled to a discounted fee. For example, in relation to low income earners, solicitors, RELs and RFLs whose gross fees or income have not exceeded £20,000 in the 12 months prior to date of applying for their practising certificate/registration would pay £590 under the fee structure for 2009/2010 and under the new system would be liable to pay £460. Although the £460 fee may change slightly once the

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<sup>10</sup> An extract was taken from Regis on 08/06/2010 which includes fee information and diversity data against each individual firm.

<sup>11</sup> See Annual Statistical Reports of the profession available on the Law Society's website at <http://www.lawsociety.org.uk/aboutlawsociety/whatwedo/researchandtrends/researchpubs/view=researchpubsarticle.law?PUBLICATIONID=425618>.

<sup>12</sup> See Annual Statistical Reports of the profession available on the Law Society's website at <http://www.lawsociety.org.uk/aboutlawsociety/whatwedo/researchandtrends/researchpubs/view=researchpubsarticle.law?PUBLICATIONID=425618>.

<sup>13</sup> See Annual Statistical Reports of the profession available on the Law Society's website at <http://www.lawsociety.org.uk/aboutlawsociety/whatwedo/researchandtrends/researchpubs/view=researchpubsarticle.law?PUBLICATIONID=425618>.

<sup>14</sup> An extract was taken from Regis on 08/06/2010 which includes fee information and diversity data against each individual firm.

calculations have been finalised, it is not expected that the figure will increase significantly if at all and certainly not to the point of exceeding £590.

44. Those on maternity leave were previously entitled to a discount which brought their fee for 2009/10 down to £590. We have retained the principle of discounting for those on maternity leave and the 50% reduction will therefore apply to the new £460 fee for individuals. We will consider implications for paternity leave too (with regard to extended paternity leave for example in place of maternity leave).
45. Unfortunately we do not have reliable data as to the part time status of regulated individuals or those who are on long term sick leave so as to identify those who would potentially be affected by there being no discounts for these groups. However, we accept that part-time workers are anecdotally more likely to be female and those on long-term sick leave may include a disproportionate number of disabled solicitors. Potentially, the absence of a discount for these two categories could therefore have adverse impact on equality for female and disabled individuals.
46. We have considered this carefully and although we will keep this matter under review, the SRA Board has determined that there is justification for not extending the range of discounts available for the individual regulatory fee. We have agreed that one of the guiding principles for the system is to keep it as simple as possible. The factors we have taken into account are:
  - There is no current entitlement to a discount by virtue of being part time
  - The fact that a person is working part time is not synonymous with them earning a low income, and it is not therefore safe to conclude that all part time workers are likely to suffer hardship by not having access to the current low income earner discount. In fact within private practice, the benefit of using the turnover approach means that if an individual works 3 days per week but has a higher turnover (e.g. £4000/day) than an individual who works 5 days per week with a lower turnover (e.g. £1000/day) the employing firm will and should pay more according to the ability to pay principle.
  - Low income earners and part time workers are going to be better off under the new system in any event. Previous reductions were required because of the high level of the fee.
  - Shifting 60% of the cost of regulation out of the individual fee should result in individual solicitors fees only funding activities which relate to their individual right to practice, and matters that affect that, rather than also funding activities which relate to the delivery of legal services by them to the public. The cost of the latter will be funded through the firm fee. Costs associated with the grant and maintenance of an individual right to practice are not likely to increase or decrease according to whether a person works full or part time, and this supports the rationale for a flat fee payable by all.
47. However, these decisions are made on the basis of the actual impact of the new policy as compared to the impact of the current policy. If the individual regulatory fee is increased significantly beyond the current estimate of £460, or if there was a change in the ratio of the overall fee as between individuals and firms, then it would be appropriate to review the position.
48. In any event, we will be considering the position in more detail and although we are not able to introduce any further discounts for the 2010/2011 practising

year, we will consider the position further when we review the scheme next year. We will take steps to quantify the cost of having such discounts available and the extent to which this might compromise our aim of having a simple and cost effective system in place.

### **The basis for calculating the firm fee**

49. We found a general consensus among respondents that the fairest, simplest and most transparent fee structure for 2010 would be to use banded turnover model as the basis for calculating the regulatory fee for the firms. The main reasons for this are because:
  - it takes into account how much business a firm does and will benefit firms with a relatively low level of earnings per practising certificate holder
  - the banded approach is fairer on firms of different sizes - using the same set percentage for firms with the smallest and largest turnovers would not have been fair
  - it has a positive impact for low income solicitors in private practice - those who were just above the threshold of £20,000 would previously have incurred the full fee, whereas under the proposed system there will be a more gradual increase in fees
  - firms already calculate their turnover as part of their annual accounts processes, and it is often used when renewing their indemnity insurance.
50. Other possible approaches that would reflect the ability to pay, such as profit, were discounted on the basis of them not being a fair reflection of the amount of work a firm undertakes and the complexity and variability of how firms calculate structure or allocate their costs, which could result in inconsistencies and therefore unfairness between different firms.
51. There are some risks associated with the turnover model which have been addressed (as much as possible) but include:
  - dependency on the quality of data submitted by the profession and our ability to validate these data
  - impact of the external environmental and economic factors on the value of turnover
  - challenges of applying the model to special cases such as new firms, splitting firms and merging firms
  - impact the model will have on the renewal process and
  - firms that have a high turnover but low margins could be unfavourably impacted by the turnover model.
52. The last point has potential implications with regard to access to justice and therefore further impact assessment is being carried out, with particular regard to legal aid firms.
53. Our initial modelling of the proposed changes on the different sectors of the profession was limited as we based our calculations on sample statistical data (from insurers), which is not necessarily fully representative of the whole profession and which did not contain equality data.
54. We updated our model with real firm data extracted from Regis in January 2010 as a result of the 2009/2010 renewal cycle. Over the past few months we have

been improving the data quality as a result of corrections to the turnover figures previously submitted. From March, we were also able to conduct more effective and quantitative equality impact assessment work as a result of being able to extract firm's equality data; prior to this all of our data in assessment of equality was qualitative in nature.<sup>15</sup> The following set of analysis is based on the information available on the 8<sup>th</sup> of May 2010.

55. The table below indicates for different sized firms, whether they are likely to experience an increase or a decrease in the overall fee due. This is calculated by comparing the overall fees and contributions paid by a firm currently (based on the assumption that the firm will be paying for the individual fees due) with the overall fees and contributions that would be paid under the new system (including both practising and Compensation Fund, individual and the firm components of the overall fee).

Partner Banding	Decrease	Increase <15%	Increase >15%	Increase > 50%
<b>Sole Practitioner</b>	66.7%	12.4%	12.3%	8.7%
<b>2-4 Partners</b>	61.0%	16.1%	15.3%	7.6%
<b>5-10 Partners</b>	51.8%	23.3%	15.8%	9.2%
<b>11-25 Partners</b>	50.0%	26.1%	12.7%	11.2%
<b>26-80 Partners</b>	53.4%	24.8%	7.5%	14.3%
<b>81+ Partners</b>	48.0%	32.0%	18.0%	2.0%

56. In the light of this information, we concluded that:
- Over half of firms will actually experience a decrease in their fees; resulting therefore in positive impact for all equality groups *and*
  - the use of the banded turnover model would mean that any equality group which on average earned less than the average in turnover would on average pay less. Inversely, any equality group which on average earned more in turnover than the average would on average pay more.
57. Currently more than 75% of firms in every partner firm banding experience a reduction in their fees *or* an increase that is lower than the 15% fee burden shift which results from the reduction in contributions by individuals working in-house.
58. Using the improved data we obtained from the 2009/10 renewal, we have considered below, how the new policy will specifically impact on firms under each of the equality strands.

#### Race equality impact

59. Proportionally a higher number of smaller firms will experience a decrease in fees (see table above). We have data that suggests that just over one half of BME solicitors (50.2%) work in firms with 4 or fewer partners, compared with

<sup>15</sup> A firm's status is based on the age, ethnicity or gender of the firms practising certificate holders. Where 50%+ of practising certificate holders are of one group, the firm is classed as that group. Where no group accounts for 50%+ of the total, the firm is classed as having "No Majority Group"

only 28.1% of their white counterparts.<sup>16</sup> Therefore this is likely to lead to a positive average impact for the BME equality group.

60. Sole practitioners as a group will benefit from the reduction in fees. 15.9% of sole practitioners are BME compared to only 7.5% who are white European.<sup>17</sup> Therefore, given that sole practitioners are benefiting above average from the new fee model, there is a positive benefit to the BME equality group on average.
61. A greater proportion of BME majority firms (57.4%) will receive a reduction in fees (including Individual and Firm fees and contributions) compared to White majority firms (46.8%).

Ethnicity	Firm Count	Decrease	Increase <15%	Increase >15%	Increase > 50%
BME majority	1,202	57.4%	9.3%	6.8%	26.5%
White majority	8,395	46.8%	13.4%	11.6%	28.1%
No majority group	860	50.6%	9.1%	10.5%	29.9%
Unknown majority	665	45.6%	6.8%	7.7%	40.0%

#### Disability equality impact

62. While the data on disability is limited, in the 2009 renewal process data, there are 433 firms which have informed us that they have employed at least 1 practising certificate holder who is disabled.
63. 72% of these 433 firms experience a reduction or increase of less than 15% in fees compared to 60% for the remaining firms. It is not reasonable to assume causality but there is certainly no indication of any adverse impact on this equality group.

Disability Status	Firm Count	Decrease	Increase <15%	Increase >15%	Increase > 50%
No/unknown (Firms)	10,689	47.9%	12.1%	10.9%	29.2%
Yes	433	55.9%	16.2%	8.8%	19.2%

#### Gender equality impact

64. From the 2009 renewal data (as of 08/06/10) we can see that 53.8% of majority female firms will experience a reduction in fees compared to 45.5% of majority male firms.
65. Therefore on average women are likely to experience a reduction in fees paid compared to men; likely that the average turnover in majority female firms is lower than majority male firms.

<sup>16</sup> See Annual Statistical Reports of the profession available on the Law Society's website at <http://www.lawsociety.org.uk/aboutlawsociety/whatwedo/researchandtrends/researchpubs/view=researchpubsarticle.law?PUBLICATIONID=425618>.

<sup>17</sup> See Annual Statistical Reports of the profession available on the Law Society's website at <http://www.lawsociety.org.uk/aboutlawsociety/whatwedo/researchandtrends/researchpubs/view=researchpubsarticle.law?PUBLICATIONID=425618>.

66. Women also tend to have lower average turnover within the Sole Practitioner group and are therefore on average likely to be winners.

Gender	Firm Count	Decrease	Increase <15%	Increase >15%	Increase > 50%
Majority female	<b>2,747</b>	53.8%	11.7%	9.5%	24.9%
Majority male	<b>6,960</b>	45.5%	12.8%	11.1%	30.5%
No majority group	<b>1,347</b>	51.7%	10.9%	11.7%	25.8%
Unknown majority	<b>68</b>	20.6%	1.5%	7.4%	70.6%

Age equality impact

67. We perceive a potential positive impact, for junior lawyers who tend to have lower turnover than the average across the profession and are therefore on average more likely to benefit from the proposed changes. That said the data below suggests that firms which are predominantly classified as age band 22 – 30, shows a lower than average decrease; the volume of firms in this band is however less significant statistically.
68. We have however identified that those firms who have an average age band majority of 60 and above are more likely to benefit on average than other age bands.

Age Band	Firm Count	Decrease	Increase <15%	Increase >15%	Increase > 50%
22-30	127	37.8%	17.3%	9.4%	35.4%
31-40	1,199	48.0%	7.9%	7.9%	36.1%
41-50	1,871	45.2%	7.5%	9.6%	37.6%
51-60	1,896	46.8%	11.3%	10.2%	31.6%
61-65	535	57.0%	8.2%	7.1%	27.7%
65+	295	59.7%	7.1%	8.1%	25.1%
no majority group	5,125	48.8%	16.0%	12.7%	22.4%
unknown majority	74	23.0%	2.7%	6.8%	67.6%

Religion or belief and sexual orientation equality impact

69. We do not have any evidence which suggests that there may be an adverse impact on either of these equality groups; however, currently we do not have any comprehensive statistical data for these groups.
70. We are now collecting this information and will continue to monitor the outcomes by this strand and assess impact when we have further information.

**The Compensation Fund Contribution**

71. Historically, the model for generating Compensation Fund income was a complex matrix of number of years holding a practicing certificate along with whether the individual held client money. This approach penalised the largest firms who were least likely to give rise to claims on the Compensation Fund. 60 - 70% of the number of claims and value of grants paid are against sole practitioners and over 98% are against firms with less than 5 partners.
72. The income from the compensation fund contribution was previously used to cover the costs of payments made from the fund, the costs of administering the fund and other indirect costs (relating to regulatory action). In order to increase transparency, in future the compensation fund contribution will only be used for the compensation fund and the regulation income requirement will be raised through the regulatory practising fees.
73. However, this year the cost of interventions and legal costs will be paid out of the compensation fund, because the figure held in the Compensation Fund Reserves are significantly above their target.
74. As there is only a need to bring in a small amount of Compensation Fund contributions this year, the SRA have opted for a flat fee of £10 from every solicitor and a flat fee of £120 per firm that holds client money. This is in line

with the guiding principles as it is simple, economic and efficient to administer and fair.

75. The flat fee per firm was not the most popular approach from those responding to the consultation, but in light of the low income required this year and the fact that the contributions could be kept low, it was deemed the most appropriate for this year. It will be reviewed again next year in line with the expected increase in Compensation Fund contributions and we will assess the equality impact of the proposed approach as the proposals are developed.

**Human Rights**

76. We perceive no specific impact on human rights.

**Monitoring and future review arrangements**

77. An action plan is set out at Annex 5 which sets out some of the actions we have already completed within this equality impact assessment and some of the future work we have identified to review and monitor the impact of the new policy.
78. An equality impact assessment review report will be published on our website in the second half of 2011 (or when enough data is collected) in order consider the actual impact of the new fee policy.
79. We will monitor the processes and outcomes annually to ensure that the processes and outcomes of the new fee policy are fair and objective.

**Models that were discarded following consultation**

<b>Models</b>	<b>Model explained</b>	<b>Reasons for being discarded</b>
Model 1	Entity fees are based on paying a flat fee per Full Time Equivalent (FTE) fee earner	Definition of 'fee earner' is open to interpretation, and therefore manipulation Is not linked to tangible value generated by a firm The simplest option is a flat fee, however a disproportionate amount of costs are passed onto larger firms
Model 3	Firms are banded according to annual turnover generated from fees, then a sliding scale of fees per fee earner applied to bands (decreasing as firm turnover increases)	Too complex to calculate Similar disadvantages to above due to fee earner aspect

**Relevant results of benchmarking research which compared regulatory requirements and fee structure of other regulators providing similar functions**

<b>Organisation</b>	<b>Membership</b>	<b>Training</b>	<b>Regulatory requirement</b>	<b>Consumer Complaints</b>	<b>Comp Fund</b>	<b>Entity based charge?</b>
The Law Society of upper Canada	Mandatory	Yes	Yes	Yes	Yes	No
The Law Society of New South Wales	Mandatory	Yes	Yes	Yes	Yes	No
Office of Communications (OfCom)	Mandatory	No	Yes	Yes	No	Yes
The Royal Institution of Chartered Surveyors (RICS)	Voluntary	Yes	Yes	Yes	Yes	Yes
Financial Service Authority (FSA)	Mandatory	No	Yes	Yes	Yes	Yes
Institute of Chartered Accountants (icaew)	Voluntary	Yes	No	Yes	Yes	Yes
British Veterinary Association (BVA)	Voluntary	No	No	No	No	Yes
The Royal College of Veterinary Surgeons (RCVS)	Mandatory	Yes	Yes	Yes	No	Yes - accreditation

**Workshops conducted and dates**

6 October 2009	Equality Implementation Group (EIA) briefing
17 November 2009	Top 100 firms
16 December 2009	Lawyers with Disabilities Division
14 January 2010	Sole Practitioners Committee
14 January 2010	Joint workshop for special interest groups (including EIG)
19 January 2010	Conveyancing and Land Law Committee
23 January 2010	Junior Lawyers Division of the Law Society
25 January 2010	Crime Practitioners Group and Civil Legal Aid Practitioners
9 February 2010	EIG workshop on the appeals process
16 February 2010	Top 100 firms follow up
9 March 2010	Two Transitional Arrangements workshops - all special interest groups were invited to attend either session

NB The Association of Women Solicitors (AWS) were offered a workshop presentation but declined

**Worked examples for calculating firm regulatory fee**  
**Firm turnover table**

Turnover Range (A)	Pay %* of Turnover within band (B)	Minimum Turnover in band (C)	Minimum Fee in Band (D)
£0 - £19,999	1.10%	£0	£100
£20,000 - £149,999	0.69%	£20,000	£320
£150,000 - £499,999	0.67%	£150,000	£1,217
£500,000 - £999,999	0.62%	£500,000	£3,562
£1,000,000 - £2,999,999	0.59%	£1,000,000	£6,662
£3,000,000 - £9,999,999	0.42%	£3,000,000	£18,462
£10,000,000 - £29,999,999	0.34%	£10,000,000	£47,862
£30,000,000 - £69,999,999	0.32%	£30,000,000	£115,862
£70,000,000 - £149,999,999	0.28%	£70,000,000	£243,862
£150,000,000 +	0.10%	£150,000,000	£467,862

\* % is equivalent to 'divided by 100' (e.g. 0.65% = 0.0065)

Please note that the data is accurate as of 8<sup>th</sup> June 2010 but the banding, values and percentages provided are only an indication as they are based on a number of assumptions, including:

- the model is based on the budget for 2010 as the final budget for 2011 has not yet been determined
- the 2010 budget has been adjusted to shift £8.1m of costs currently collected through the Compensation Fund contributions to be collected through the regulatory fees
- a decision has been made to reduce the reserves in the Compensation Fund, meaning that the contribution to the Fund this year will be lower than will usually be the case in future
- the calculation is based on the latest data we hold about the number of regulated individuals (practising certificate holders, registered European lawyers or registered foreign lawyers) and turnover of firms; this is constantly changing

The figures will not be finalised until July 2010 but we do not anticipate that the changes will affect the conclusions we have drawn in relation to the equality impact.

**Using the turnover table to calculate the firm's fee based on turnover**

11. Identify which band the turnover (T) falls in from column A.
12. Take T and subtract the figure in the corresponding column C.
13. Multiply this figure by the corresponding percentage in column B.
14. Finally add this figure to the corresponding figure in column D.
15. Firm fee then needs to be rounded to the nearest pound (i.e. if less than 50p then round down and if equal to or more than 50p then round up).

The Formula is  $(B \times (T - C)) + D$ . The following sets out some worked examples:

- **Example 1:** For Turnover of £0:  
 $(£0 - £0) \times 1.1\% + £100 = £100$
- **Example 2:** For Turnover of £200,000:  
 $(£200,000 - £150,000) \times 0.67\% + £1,217 = £1,552$
- **Example 3:** For Turnover of £813,421:  
 $(£813,421 - £500,000) \times 0.62\% + £3,562 = £5,505$
- **Example 4:** For Turnover of £279,123,528:  
 $(£279,123,528 - £150,000,000) \times 0.1\% + £467,862 = £596,986$

## Timeline setting out SRA Board decisions following each consultation

Timeline	Key Activities / Decisions
30 June – 28 Sept 2009	First Consultation
19 Nov 2009	SRA Board Meeting with agreement on: <ul style="list-style-type: none"> <li>• the <b>eight principles</b> to be adopted</li> <li>• having <b>few discounts</b> and special cases (except for maternity)</li> <li>• having <b>turnover</b> form the basis of calculation of the firm based fee</li> <li>• that all regulated individuals should contribute a <b>fixed amount to the compensation fund</b> and that the balance shall be contributed by a firm-based fee</li> <li>• the need for <b>further assessment</b> of the impact on the profession to continue in order to reveal any significant positive and negative effects</li> </ul>
7 December 2009 – 22 January 2010	Second Consultation
15 February 2010	SRA Board Meeting agreed that: <ul style="list-style-type: none"> <li>• <b>turnover</b> (gross fees) for 2009 would form the basis for the calculation of the entity fee;</li> <li>• turnover will be calculated based on a <b>banded approach</b></li> <li>• the split between the individual and firm component would be allocated on the basis <b>of 40% to individuals and 60% to entities</b>;</li> <li>• there would be a <b>flat rate fee</b> for all individuals across the professions;</li> <li>• there would be provision for a <b>maternity reduction</b>;</li> <li>• there will be provision for <b>RFLs</b> based outside England &amp; Wales to pay a reduced flat rate fee;</li> <li>• all <b>solicitors, RELs and RFLs</b> (based in England and Wales) would be considered equally and pay the same fee;</li> <li>• there would be a flat rate contribution to the <b>Compensation Fund</b> for individuals and a separate contribution for all entities that held client money;</li> <li>• there would be a flat rate fee for each <b>qualifying branch office</b> based outside England &amp; Wales.</li> <li>• further work was needed for considering a possible <b>process for reductions of firm fees</b> on the grounds of hardship</li> </ul>
5 March 2010 – 16 April 2010	Third Consultation
4 May 2010	SRA Board Meeting agreed: <ul style="list-style-type: none"> <li>• To introduce a <b>criteria-based transitional fee moderation process</b> for 2010 as set out in Option 2 of the consultation document <i>Moving toward a fairer</i></li> </ul>

*fee policy: transitional arrangements*, but not to include the application of modified criteria for firms generating at least fifty percent of their turnover through legal aid work.

- To introduce a pro-rated regulatory firm fee for **brand new firms or sole practitioners** in their first year of practice of £1000
- That on first renewal **new firms** should submit a sum for the estimated first twelve months of business, based on a combination of actual and estimated figures and that the fee for new recognised **sole practitioners** should be on the same basis
- That where a firm had **split or merged** but had not provided notice, the SRA would make a final determination of the proportion of turnover that a firm was succeeding to from another firm or the proportion which a firm retained after a split
- That where firms had **split or merged** since October 2009, but prior to the introduction of rules requiring submission of notice, they should provide information on turnover on the basis stipulated by the SRA.
- That the individual/firm apportionment for **Compensation Fund** contributions should be approximately fifty/fifty (to allow for rounding).
- To confirm that **turnover (gross fees)** should form the basis for the calculation of firm fees, but that the impact would be monitored as information became available during 2010/11.
- That the Compliance Committee should advise the Board on the inclusion of appropriate measures in the Enforcement Policy for dealing firmly with **late and inaccurate returns** of information and the development of decision-making criteria to reflect the range of circumstances where this might occur.
- That a **letter be sent to all firms in May 2010** explaining that they can re-submit their turnover figure in accordance with the definition of turnover stipulated.

Timeline	Key Activities / Decisions
30 June – 28 Sept 2009	First Consultation
19 Nov 2009	<p>SRA Board Meeting with agreement on:</p> <ul style="list-style-type: none"> <li>• the <b>eight principles</b> to be adopted</li> <li>• having <b>few discounts</b> and special cases (except for maternity)</li> <li>• having <b>turnover</b> form the basis of calculation of the firm based fee</li> <li>• that all regulated individuals should contribute a <b>fixed amount to the compensation fund</b> and that the balance shall be contributed by a firm-based fee</li> <li>• the need for <b>further assessment</b> of the impact on the profession to continue in order to reveal any significant positive and negative effects</li> </ul>
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15 February 2010	<p>SRA Board Meeting agreed that:</p> <ul style="list-style-type: none"> <li>• <b>turnover</b> (gross fees) for 2009 would form the basis for the calculation of the entity fee;</li> <li>• turnover will be calculated based on a <b>banded approach</b></li> <li>• the split between the individual and firm component would be allocated on the basis of <b>40% to individuals and 60% to entities</b>;</li> <li>• there would be a <b>flat rate fee</b> for all individuals across the professions;</li> <li>• there would be provision for a <b>maternity reduction</b>;</li> <li>• there will be provision for <b>RFLs</b> based outside England &amp; Wales to pay a reduced flat rate fee;</li> <li>• all <b>solicitors, RELs and RFLs</b> (based in England and Wales) would be considered equally and pay the same fee;</li> <li>• there would be a flat rate contribution to the <b>Compensation Fund</b> for individuals and a separate contribution for all entities that held client money;</li> <li>• there would be a flat rate fee for each <b>qualifying branch office</b> based outside England &amp; Wales.</li> <li>• further work was needed for considering a possible <b>process for reductions of firm fees</b> on the grounds of hardship</li> </ul>
March 2010	Third Consultation
4 May 2010	<p>SRA Board Meeting agreed:</p> <ul style="list-style-type: none"> <li>• To introduce a <b>criteria-based transitional fee moderation process</b> for 2010 as set out in Option 2 of the consultation document <i>Moving toward a fairer fee policy: transitional arrangements</i>, but not to include the application of modified criteria for firms generating at least fifty percent of their turnover through legal aid work.</li> <li>• To introduce a pro-rated regulatory firm fee for <b>brand new firms or sole practitioners</b> in their first year of practice of £1000</li> <li>• That on first renewal <b>new firms</b> should submit a sum for the estimated first twelve months of business, based on a combination of actual and estimated figures and that the fee for new recognised <b>sole practitioners</b> should be on the same basis</li> <li>• That where a firm had <b>split or merged</b> but had not provided notice, the SRA would make a final determination of the proportion of turnover that a firm was succeeding to from another firm or the proportion which</li> </ul>

a firm retained after a split

- That where firms had **split or merged** since October 2009, but prior to the introduction of rules requiring submission of notice, they should provide information on turnover on the basis stipulated by the SRA.
- That the individual/firm apportionment for **Compensation Fund** contributions should be approximately fifty/fifty (to allow for rounding).
- To confirm that **turnover (gross fees)** should form the basis for the calculation of firm fees, but that the impact would be monitored as information became available during 2010/11.
- That the Compliance Committee should advise the Board on the inclusion of appropriate measures in the Enforcement Policy for dealing firmly with **late and inaccurate returns** of information and the development of decision-making criteria to reflect the range of circumstances where this might occur.
- That a **letter be sent to all firms in May 2010** explaining that they can re-submit their turnover figure in accordance with the definition of turnover stipulated.