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Regulation
Authority

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Dear Karen

This letter is the SRA's response to the LSB's consultation, "*Changes to rules made under section 51 of the Legal Services Act 2007*".

The SRA agrees that it is appropriate to review the current Rules in the light of the experience of their operation.

The existing Rules have proved effective in providing clarity on the form of the application to be made and the process for its consideration by the LSB. However, the existing Rules provide relatively little guidance on the criteria that will be applied by the LSB in determining whether to approve the level of a fee. Given this, we believe it appropriate that this issue is addressed in the consultation.

Question 1

We agree with the analysis of the context for the LSB's decision-making as set out in paragraphs 9 and 10 of the consultation document. The SRA's view has been that the LSB must have regard to the regulatory objectives, better regulation principles and best regulatory practice (as set out in ss. 1 and 28 of the LSA 2007) when making decisions on regulatory fees. However, the absence of specific reference to this in the fee rules did not assist in providing clarity on the issue. Paragraph 10 of the consultation refers to the issues covered in both ss. 1 and 28 of the Act yet the proposed amendment to the Rules in the new rule 10(a) refers only to the s. 1 regulatory objectives. It may provide greater clarity if rule 10(a) were drafted more broadly to include reference to the factors set out in s. 28 of the Act.

Experience of the operation of the Rules has shown that the interplay between the various activities that may be funded through fees raised under s. 51 can be complex. Therefore we agree with the proposed new rule 10(f) as it emphasises the need for clarity and transparency in any fee application. We believe this is likely to assist the LSB in making its decisions.

Question 2

We agree with the proposed changes to rule 11. We believe that three year forecasts will assist the LSB by providing greater context to a fee application where increases are proposed and will help highlight the issues underlying the increases. For example, whether it is a one off increase to enable investment in business improvements which will provide a later financial or other business benefit, or whether it is as a result of a trend increase in operational activity.

As far as regulatory costs are concerned, it will be important to bear in mind that regulatory activity (and therefore the SRA's resource requirements) can be impacted significantly over relatively short periods of time by changes in the external environment. This was apparent in the 2013/14 period when the SRA experienced a significant increase in the cost of interventions; largely driven by the wider economic environment. Similarly, operating costs

can be impacted by a relatively small number of large and costly enforcement cases. It is important that the SRA maintains the ability to respond quickly to any such changes and apply the resources necessary to regulate in the public interest; particularly to protect individual consumers. Where it is necessary to provide three year financial forecasts to support a fee application, the SRA will make them as robust as possible but they will always need to be caveated by the possible need to adjust them to respond effectively to external factors.

Yours sincerely

A handwritten signature in black ink that reads "Richard Collins". The signature is written in a cursive style with a large initial 'R' and 'C'.

Richard Collins
Executive Director, SRA