



Summary of Decision

The following table is a high level summary of the decision of the Legal Services Board. It is not a formal part of the decision notice.

Purpose of notice
To grant an application from the Solicitors Regulation Authority (SRA) approving alterations to its regulatory arrangements in respect of its Compensation Fund.
Alterations that are being approved by this decision
An increased contribution level of £25.6m from £11.1m in 2017/18 which will mean an individual contribution of £90 (2017/18: £40) and a firm contribution of £1,680 (2017/18: £778).

Decision notice

Issued by the Legal Services Board (LSB) under Part 3 of Schedule 4 to the Legal Services Act 2007

The Solicitors Regulation Authority (SRA) rule change application for approval of alterations to the regulatory arrangements relating to Compensation Fund contributions for 2018/19

The Legal Services Board (“**LSB**”) has granted an application from the SRA for approval of Compensation Fund Determinations for 2018/19 which set the level of contribution to the SRA Compensation Fund for individual solicitors, recognised sole practitioners, recognised bodies and licensed bodies authorised by the SRA.

The LSB is required by Part 3 of Schedule 4 to the Legal Services Act 2007 (“**the Act**”) to review and grant or refuse applications for approval by approved regulators who make alterations to their regulatory arrangements. The Law Society is an approved regulator and the SRA is the regulatory arm to which the Law Society has delegated its regulatory functions.

This decision notice sets out the decision taken, including a brief description of the changes. Page 4 of the notice explains the statutory basis for the decision. The notice also sets out the chronology for the LSB’s handling of this application.

Proposed changes

1. Each year the SRA considers the level of contributions required to the Compensation Fund from the individuals and firms that it authorises. A contribution level of £25.6m has been proposed for 2018/19 compared to £11.1m for the previous year. The SRA has therefore determined that the contributions required are £90 from individuals and £1,680 from firms. Contributions for 2017/18 were £40 and £778 respectively.

Key issues

2. During its consideration of the application, the LSB considered carefully the context and rationale for the significant increase in contributions. While this is the second consecutive increase, the LSB has noted that there was no increase in the years 2014/5 to 2016/17. Indeed, the contribution for individuals is still marginally lower than it was for 2012/13 when it was £92.
3. In addition, the application provides justification for the increases. The proposed level of contribution has continued to be calculated by the SRA in line with the established methodology for assessing expected pay outs and levels of claims. This involves looking at historic trends in relation to claim numbers, amounts and timings and is further refined to take account of relevant specific information where available, with consideration being given to high-risk potential liabilities. The application further explains that the SRA has had to make an increase to the appropriate reserve to take account of a number of high

value exceptional cases. These have primarily arisen from solicitor involvement in investment schemes where individual clients have suffered significant losses, leading to claims against the Fund.

4. The calculation was also based on:
 - Predicted numbers and costs of interventions for 2018/19 onwards
 - continuing trends for business as usual
 - the impact of the closure of the Assigned Risks Pool
 - claims in relation to uninsured firms; and high risk potential liabilities where these were known.
5. The result was that the forecast sum¹ for grants during 2018/19 was calculated at approximately £14.7m, plus a provision of approximately £10m for claims arising from the small number, but nonetheless high total value, of investment scheme cases.
6. The LSB has taken into consideration that the SRA must maintain a properly funded Compensation Fund to protect consumers. The LSB is re-assured that the SRA has, in calculating the increase, used a consistent methodology. The LSB has also taken into account that the SRA has been reviewing its policy with regards to the Fund and we understand intends to make an application to the LSB in due course.

Decision

7. The LSB has considered the SRA's application against the criteria in paragraph 25(3) of Schedule 4 to the Act and has decided to grant the application.
8. Annexes A and B to this decision notice contains the Determination of Compensation Fund contributions approved by the LSB.

Chronology

- The LSB confirmed receipt of an application from the SRA on 19 July 2018
- This decision notice is effective from 16 August 2018
- The decision notice will be published on our website on 20 August 2018

Neil Buckley, Chief Executive
Acting under delegated authority granted by the Board of the Legal Services Board

¹ The SRA clarified these sums are not intended to add up the total contribution. The level of grants the SRA expects to pay is only one component of how the fee is calculated along with all other income and expenditure that touch the fund.

Notes:

1. The LSB is required by Part 3 of Schedule 4 to the Act to review and grant or refuse applications by approved regulators to make alterations to their regulatory arrangements.
2. Paragraph 25(3) of Schedule 4 to the Act explains that the LSB may refuse an application setting out a proposed change to the regulatory arrangements only if it is satisfied that:
 - (a) granting the application would be prejudicial to the regulatory objectives
 - (b) granting the application would be contrary to any provision made by or by virtue of the Act or any other enactment or would result in any of the designation requirements ceasing to be satisfied in relation to the approved regulator
 - (c) granting the application would be contrary to the public interest
 - (d) the alteration would enable the approved regulator to authorise persons to carry on activities which are reserved legal activities in relation to which it is not a relevant approved regulator
 - (e) the alteration would enable the approved regulator to license persons under Part 5 [of the Act] to carry on activities which are reserved legal activities in relation to which it is not a licensing authority, or
 - (f) the alteration has been or is likely to be made otherwise than in accordance with the procedures (whether statutory or otherwise) which apply in relation to the making of the alteration.
3. The designation requirements referred to in paragraph 2(b) above are set out in paragraph 25(4) of Schedule 4 to the Act and are:
 - (a) a requirement that the approved regulator has appropriate internal governance arrangements in place
 - (b) a requirement that the applicant is competent, and has sufficient resources to perform the role of approved regulator in relation to the reserved legal activities in respect of which it is designated, and
 - (c) the requirements set out in paragraphs 13(2)(c) to (e) of Schedule 4, namely that the regulatory arrangements are appropriate, comply with the requirements in respect of resolution of regulatory conflict (imposed by sections 52 and 54 of the Act) and comply with the requirements in relation to the handling of complaints (imposed by sections 112 and 145 of the Act).
4. In accordance with paragraphs 20(1) and 23(3) of Schedule 4 to the Act, the LSB has made rules² about the manner and form in which applications to alter regulatory arrangements must be made. Amongst other things, the rules highlight the applicant's obligations under section 28 of the Act to have regard to the Better Regulation Principles. They also require applicants to provide information about each proposed change and details of the consultation undertaken.
5. If the LSB is not satisfied that one or more of the criteria for refusal are met, then it must approve the application in whole, or the parts of it that can be approved.

² Rules for Rule Change Applications – Version 2 (November 2010)

Annex A - Determination of Compensation Fund contributions 2018

This determination is made by the Solicitors Regulation Authority Board under rule 2.3 of the SRA Compensation Fund Rules 2011, 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 2018, 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 2018, shall pay with the fee payable in respect of that application, a contribution of £90 to the Fund.

(2) Every recognised body or recognised sole practice that has held or received client money (as defined in the SRA Accounts Rules 2011) during the period 1 November 2017 to 31 October 2018, shall pay with the annual periodical fee, a contribution of £1680 to the Fund.

(3) Every person that:

(a) applies for initial recognition as a recognised body or initial recognition as a recognised sole practice to commence during the period 1 November 2018 to 31 October 2019; and

(b) intends to hold or receive client money (as defined in the SRA Accounts Rules 2011) at any time during the period 1 November 2018 to 31 October 2019.

shall pay with the fee payable in respect of that application, a contribution to the Fund as follows:

i. £1,680 on applying for initial recognition to commence in the period 1 November 2018 to 31 December 2018;

ii. £1,260 on applying for initial recognition to commence in the period 1 January 2019 to 31 March 2019;

iii. £840 on applying for initial recognition to commence in the period 1 April 2019 to 30 June 2019;

iv. £420 on applying for initial recognition to commence in the period 1 July 2019 to 31 October 2019.

(4) The SRA may waive the contribution payable under paragraph (3) above in circumstances where the initial application is made by a body which is changing its legal status or is succeeding to the practice of another authorised body and the predecessor body or practitioner has already paid a contribution to the Fund.

(5) In this determination:

Fund means the Solicitors' Compensation Fund established and maintained under rule 2.1 of the SRA Compensation Fund Rules 2011; 19

All other terms are to be interpreted in accordance with the Practising Certificate Fee Determination 2018.

(6) This determination shall come into force on 1 November 2018.

Annex B - Determination of Compensation Fund contributions for Licensed Bodies 2018

This determination is made by the Solicitors Regulation Authority Board under rule 2.3 of the SRA Compensation Fund Rules 2011, with the approval of the Legal Services Board under paragraph 19 of Schedule 4 to the Legal Services Act 2007.

(1) Every licensed body that held or received client money (as defined in the SRA Accounts Rules 2011) at any time during the period 1 November 2017 to 31 October 2018, shall pay, with the annual periodical fee, a contribution of £1,680 to the Fund.

(2) Every licensed body that intends to hold or receive client money (as defined in the SRA Accounts Rules 2011) at any time from the date on which the body is authorised to 31 October 2019, shall pay, with the initial periodical fee, a contribution to the Fund as follows:

- i. £1,680 on applying for initial recognition to commence in the period 1 November 2018 to 31 December 2018;
- ii. £1,260 on applying for initial recognition to commence in the period 1 January 2019 to 31 March 2019;
- iii. £840 on applying for initial recognition to commence in the period 1 April 2019 to 30 June 2019;
- iv. £420 on applying for initial recognition to commence in the period 1 July 2019 to 31 October 2019.

(3) The SRA may waive the contribution payable under paragraph (2) above in circumstances where the initial application is made by a body which is changing its legal status or is succeeding to the practice of a recognised body or recognised sole practitioner and the predecessor body or practitioner has already paid a contribution to the Fund.

(4) In this determination:

Fund means the Solicitors' Compensation Fund established and maintained under rule 2.1 of the SRA Compensation Fund Rules 2011; and

All other terms are to be interpreted in accordance with the Licensed Body Fee Determination 2018.

(5) This determination shall come into force on 1 November 2018