

Meeting: Legal Services Board

Date: 20 October 2020

Item: Paper (20) 52

Title: Solicitors Disciplinary Tribunal Budget 2021

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Status: Official

Introduction: Purpose of the paper/ Issue

1. The paper provides a summary of the Solicitors Disciplinary Tribunal's (SDT) budget application for 2021. Approving the SDT's proposed annual budget is a statutory decision reserved to the Board.
2. The application from the SDT is for approval of an operating budget of £3,150,607 for the calendar year 2021. This represents a 0.5% increase compared to the budget approved for 2020 (£3,135,930).
3. Last year the Board agreed to use a challenge panel model to scrutinise the SDT's application in greater detail. On 5 October Michael Smyth (non-lay member) and Catherine Brown (lay member), met with the SDT supported by the LSB executive. The challenge panel felt able to support the executive's recommendation to the Board that it approve the SDT's application. It made observations, including on value for money and key performance metrics (KPMs), that are detailed in this paper and will be reflected in the decision letter. In light of this, the SDT has not been asked to attend the meeting and we intend to replicate the challenge panel model next year.

Recommendation(s):

4. The Board is invited to:
 - Approve the SDT's application for a budget of £3,150,607
 - Note the issues raised by the challenge panel
 - Note the potential future litigation liability identified by the SDT in its application (see paragraphs 20-21 below)

Background

5. Section 46A of the Solicitors Act 1974 (which was inserted by paragraph 48 of Schedule 16 to the LSA 2007) requires that the SDT submits to The Law Society (TLS) an annual budget that has been approved by the LSB. A Memorandum of Understanding (MoU) agreed between the LSB, the SDT and TLS sets out the process which the parties follow and this application has been made following the provisions of that MoU.
6. The 2021 budget application was submitted to the LSB on 2 September 2020.
7. As required by the MoU and the Legal Services Act, the LSB consulted with TLS on the budget application. TLS confirmed that it agreed with the figures and had no other comments.
8. The LSB decision letter's approving the budget for 2020 highlighted three areas for action: the SDT develop a strategy for equality, diversity and inclusion; conduct a review of its KPMs; and work towards parity of remuneration of lay and professional members. This year's budget application includes the SDT's response to these three requests, discussed in more detail from paragraph 12 below.

The main budget application

9. The application from the SDT is for approval of an operating budget of £3,150,607 for the calendar year 2021 (an 0.5% increase compared to 2020). There are both some large savings and cost increases in the budget for 2021 with the savings outweighed by costs. The savings come from postponement of member recruitment and efficiencies from IT infrastructure investments in 2019. The large cost increases come from the new CEOX case management system from 1st January 2021, business rates increasing by 10% in April 2021, a 2% Cost of Living pay increase from 1 January 2021 and introducing parity of pay for lay and professional members in 2021.
10. The SDT expects to receive a maximum of 150 applications from all sources for 2021. The majority of cases are expected to come from the SRA, which estimates sending 121 cases requiring 273 sitting days. By comparison, the SDT estimates that in 2020 the Tribunal will have about 119 applications requiring between 227 and 257 sitting days. As SDT operations have been affected by restrictions imposed in response to Covid-19 it is reasonable to compare the numbers for 2021 to 2019 as well. In 2019 the Tribunal received 137 applications requiring 308 sitting days. Comparing the numbers for 2021

to both 2020 and 2019 shows an increase relative to both 2019 and 2020 for the number of cases but a reduction in number of sitting days relative to 2019.

Table 1: number of cases and sitting days 2019-2021

Year	Expected 2021	Expected 2020	Actual 2019
Sitting days	273	227-257	308
Cases	Max 150	119	137

11. Table 2 shows the trend for cost per court from 2018 to 2021. The numbers for 2020 and 2021 are estimates whereas the numbers for 2018 and 2019 are actuals. This shows that the estimated cost per court in 2021 has increased by £1,056 or 11% compared to 2019 (£9,446 to £10,502). The challenge panel discussed the reasons for this increase with the SDT and signalled its wish to see a downward trajectory in the cost per court from 2021.

Table 2: cost per court between 2018 to 2021

Year	2021 estimate	2020 estimate	2019	2018
Cost per court	approx. £10,502	between £11,356 and £12,935	£9,446	£10,333

Considerations from the review of the 2020 budget

12. When the LSB approved the SDT budget for 2020, the decision letter requested that the SDT consider the following three areas:
- Developing a strategy on equality, diversity and inclusion (EDI) across all aspects of the SDT's work, internally and externally, and visibly holding itself to account for delivery.
 - Conducting a first principles review of KPMs, which should include quality of decision-making
 - Working towards parity of remuneration of lay and professional members

EDI strategy

13. The SDT has recently published an EDI strategy, which was submitted to the LSB as part of the budget application bundle.
14. The challenge panel welcomed the publication of the SDT's first EDI strategy. It encouraged the SDT to operationalise the EDI strategy by developing KPMs in areas such as staffing and recruitment of panel members. The panel

discussed the challenges the SDT faces with obtaining diversity data from respondents. The SDT explained that its new case management system might enable it to derive EDI data from how respondents style themselves.

Key Performance Metrics (KPMs):

15. The Tribunal has reviewed its KPMs. It remains of the view that its current KPMs are the correct measures of its performance since value for money, efficiency and timeliness of the SDT matter most to respondents.
16. The challenge panel welcomed the SDT's review and endorsed its plan to share more contextual data in the future. However, it expressed surprise that the review did not lead to any changes to the KPMs and noted that all the metrics, except one for cost per court and another for the number of appeals, are process measures around timeliness.
17. The panel discussed opportunities for the SDT to develop metrics relating to obtaining, analysing and using data on EDI; and user satisfaction (including from users other than respondents, such as the SRA and witnesses).

Parity of pay for lay member and professional members

18. The SDT is proposing to achieve parity of pay for lay and professional members from 2021. The SDT will do this by increasing the pay for lay members to match that of professional members. The budget for 2021 includes an additional £43,500 for this purpose.
19. The challenge panel welcomed this change and noted the financial costs.

Issues

Potential Implications of litigation

20. [REDACTED]
21. [REDACTED]

Future impact of COVID 19

22. The SDT's operations have been affected by Covid-19. Its offices were closed between March and August 2020. Some hearings listed in March and early April 2020 had to be adjourned and re-listed and remote hearings had to be introduced. The introduction of CaseLines (a digital document management system) in 2018/19 means that electronic bundles are available for the majority of cases which has been an essential factor in being able to conduct remote hearings. From September 2020 hybrid hearings are planned alongside fully remote hearings.
23. The SDT is predicting an underspend of £225,531 (7.1%) mainly from savings on members' expenses due to fewer sitting days and less travel. It plans to add the likely underspend on Members' fees in 2020 to a designated reserve.
24. The SDT budget for 2021 assumes a return to normal service in 2021 with budget items such as members expenses based on 2019 actuals.
25. The challenge panel commended the SDT for the way it has continued its operations in response to restrictions on physical hearings due to Covid-19.

Conclusion and next steps:

26. The Chair will write to the SDT President to confirm the Board's decision, which will reflect key points made by the challenge panel.

Annexes (all available in VBR)

- Annex A: The application letter
 Annex B: Budget table for 2021 vs 2020
 Annex C: SDT Budget Principles
 Annex D: Efficiency Impact Assessment
 Annex E: EDI strategy
 Annex F: Key Performance Indicators

A more detailed budget spreadsheet is available to Board members on request.

Risks and mitigations	
Financial:	N/A
Legal:	N/A
Comms and engagement:	The decision letter will be published.
Resource:	N/A

Freedom of Information Act 2000 (Fol)		
Para ref	Fol exemption and summary	Expires
Board paper para 20-21	Exemption s 43.	N/A
Annex A – page 8,9	Exemption s 43.	N/A