

Practising Certificate Fee (s51) application assessment

SRA

Part One: summary and recommendation

Summary

- Individual PCF will decrease from £384 to £320. The total amount that will be collected from firms will decrease from £70.1m to £62.7m.
- Total PCF income will be £104.9m, down 10% on last year.
- PCF expenditure will be split as follows:
 - SRA - £52.9m
 - The Law Society (TLS) - £31.9m
 - Legal Ombudsman/Legal Services Board (LSB) - £17.3m
 - Solicitors' Disciplinary Tribunal (SDT) - £2.8m
- Total SRA expenditure is down by just over £5m (Table 3), mainly due to a decrease in expenditure on interventions, as these costs are now charged to the Compensation Fund and a decrease in 'other regulatory income'.
- There will not be any additions to the contingency fund for 2014/15. As at the end of October 2013 (TLS financial year runs from 31 October – 1 November), TLS Group had cash reserves totalling £126m and accounting reserves of £60.9m. There are no planned calls on reserves during the remainder of 2014 and TLS Group intends to utilise £7m from reserves to fund activity during 2015. This includes £3m of funding for SRA for 2014/15 (Table 4). This £3m consists of a £2m underspend by SRA in 2013/14, and £1m due to a shift in the timing of planned IT work.
- Overall non-section 51 permitted income and expenditure is decreasing (Table 5).

Recommendation

- That the application be approved.
- That the decision letter comment favourably about the reduction of the PCF.
- That the decision letter comment on the planned review of fees being undertaken by SRA.

Part Two: Assessment of the application against LSB acceptance criteria

1. Pre-submission

Were there any pre-submission discussions or a draft application; were any issues identified

Yes.

A meeting with representatives from SRA and The Law Society (TLS) was held on 19 June 2014, at which a draft of the application was reviewed.

It was agreed that the final application would include more detail about the cost of the corporate solutions function (see section 4

	<p>below).</p> <p>SRA also agreed to provide more information in the application about the financial impact of individual policies.</p> <p>LSB was pleased to see that these comments had been reflected in the final application.</p>
<p>Were there any areas for improvement or specific issues in the last approval letter</p>	<p>Yes. In last year's approval letter, LSB commented on:</p> <ul style="list-style-type: none"> • the inadequacy of the consultation undertaken (see section 2 below for details about how this has been addressed) • the SRA's planned review of fees and charges, about which we asked for further information by 30 September 2013 – the application refers at paragraph 41 to the extensive consultation on fee arrangements that is planned for the turn of the year • the presentation of information about costs and where they were incurred – this year's application was clearer on this point, and in particular provided detailed information about shared services.
2. Developing the application and budget	
<p>Is it clear that the regulatory arm has led the development of the application?</p>	<p>Yes.</p> <p>As in previous years, the application was developed and settled in line with agreed arrangements between the SRA and TLS.</p> <p>The net funding requirements (NFR) for TLS Group are developed from the bottom up by SRA, TLS and Corporate Solutions, from cost centres, up to business units and directorates. The full TLS Group budget is then discussed and agreed by TLS Management Board and TLS Council.</p>
<p><i>Budget</i></p> <ul style="list-style-type: none"> • Is it clear how the budget has been arrived at 	<p>Yes.</p> <p>The SRA budget has three key elements:</p> <ul style="list-style-type: none"> • the directly controlled SRA budget • the portion of Corporate Solutions budget that supports the SRA (shared services and SRA specific projects) • the element of the central Group capital

	<p>reserves of £60.9m. Cash reserves of £28.6m were held by the Solicitors Indemnity Fund on 31 October 2013.</p> <p>Although there are no planned calls on reserves during the remainder of 2014, £7m from reserves will be utilised to fund activity during 2015. Of this £3m is for SRA (permitted purposes) expenditure consisting of a £2m underspend by SRA in 2013/14, and £1m due to a shift in the timing of planned IT work. £4m of reserves is for TLS (non-permitted purposes) expenditure. However, it is not the intention to fund expenditure from reserves in future years and work is being undertaken across TLS Group to clarify the reserves position.</p>
<p><i>Consultation</i></p> <ul style="list-style-type: none"> • Has the proposed fee been consulted on – if so summarise • Was the consultation clear about the level of fee and how it will be collected • Has feedback been fully considered 	<p>Yes. TLS undertook a short online survey about the level of PCF. There were 210 responses and not all respondents answered every question. Of those who responded, 78% thought the PCF for 2014/15 too high, 56% did not agree with the balance of spending across TLS Group, 67% thought TLS spend was too reliant on the PCF, and 81% thought that looking forward, the PCF should decrease.</p> <p>Yes. The consultation detailed TLS Group’s NFR and how it will be spent, as well as the estimated practising fee for 2014/15 alongside figures for several previous years. The consultation did not cover how the fee will be collected, although other communications activity undertaken by SRA has (for example, a calculator allowing firms to estimate the PCF has been published online).</p> <p>The results of the survey were shared with TLS Council at the meeting Council was asked to approve the 2014/15 practising fee submission. The summary of findings has been published on TLS’ website.</p>
<p><i>Clear and transparent</i></p> <ul style="list-style-type: none"> • Is the information provided to fee payers on the level of fee clear and transparent 	<p>Yes. The SRA website provides a description of how fee income is allocated so that fee-payers can see how their contributions are spent. Fee-payers have been invited to feed back to the SRA</p>

<ul style="list-style-type: none"> • When was/is this issued to fee payers 	<p>with any comments on this information. This section of the website will be updated to include details of how fees are shared between the various bodies once decisions have been taken on budgetary requirements.</p> <p>In its recent regulatory reform consultations, SRA has provided opportunity for fee payers to influence certain aspects of fee-setting arrangements or the amount that needs to be collected, for example SRA is considering the removal of the requirement for firms to file an annual accounts' report, which would save SRA £200k per year.</p> <p>SRA designed and implemented a communications plan, which included:</p> <ul style="list-style-type: none"> • announcing in the SRA's March and April newsletters to the profession, the decision of the SRA Board to maintain the fee structure for practising fees for this and the forthcoming year • making an online calculator available from June with indicative fees • a letter from the SRA Chair to the senior partner of all SRA-regulated firms in July to outline key points from the 2014/15 budget • a letter from TLS's Treasurer, in advance of the meeting of TLS Council scheduled to review the budgets and NFR, to all Local Law Societies, Recognised Groups and Practitioner Associations • a consultation in June undertaken by TLS on the practising certificate fee to help inform the TLS Council decision about the NFR • issuing of press releases in July, following TLS Council's approval of the indicative budget and the SRA Board approval of the fee determinations. <p>Subject to approval, SRA is planning to publicise the LSB decision in a one-off SRA Update on 19 August.</p>
3. Permitted purposes	
<p>Is there evidence that the PCF income is used solely for permitted purposes</p>	<p>Yes. All PCF income has been attributed to permitted purposes activity (Table 2). £104.9m total fee</p>

	income against £104.9m fee expenditure on permitted purposes.
Is any other income to be applied to permitted purposes	<p>Yes.</p> <p>Table 4 of the application shows that of the £72.7m allocated to regulatory functions, £52.9m is from PCF income, £3m is funding from reserves, £13.3m of funding comes from recoveries and £3.5m is from 'other' income.</p> <p>Table 6 of the application shows total income allocated to the permitted purposes for non-regulatory functions. Following a request for further information by LSB about this table, TLS has explained that £31.9m of PCF income is allocated to non-regulatory permitted purposes spending by TLS, and that in addition, there is income of £9.8m that is income generated by non-regulatory permitted purposes activities funded by the PCF (described as "Section 51 permitted income"). These activities can generate income that can only be used to fund permitted purposes activities.</p>
4. Regulatory functions	
Is there evidence of how much of the PCF income is applied to permitted purposes that are regulatory functions	<p>Yes.</p> <p>Table 4 provides a detailed breakdown of income allocated to the permitted purposes for regulatory functions by directorate of a total of £72.7m income for SRA, £52.9m will come from PCF income.</p>
Are any shared services clearly explained	<p>Yes.</p> <p>Table 8 shows the expenditure relating to shared services and central costs, split by area. The costs are allocated to SRA and TLS and included in the total expenditure shown for each. Shared costs are allocated to directorates based on things including, headcount, floor space and usage. Once allocated to a directorate, the amount relating to non-permitted activities is calculated based on the proportion of other expenditure in that directorate related to non-permitted activities.</p> <p>The total shared services budget for 2014/15 is £47.7m, up from £43.1m in 2013/14.</p>
5. Regulatory and equality impact assessment (optional requirement)	
<ul style="list-style-type: none"> • Completed and included? • If not included, is there an explanation of the potential impact • Does the application contain commentary on the regulatory objective and the Better 	<p>Partly.</p> <p>Nothing on regulatory impacts.</p> <p>On equality, Section 7 of the application states that the SRA's position is that as there was an Equality Impact Assessment published in relation</p>

Regulation Principles	to the 2010 change to fee structures, and as the position has not altered in relation to fee allocation policy, it has not considered it necessary to undertake a new equality impact assessment.
6. Consultation with non-commercial bodies	
<ul style="list-style-type: none"> • Does the application include a description of the steps taken • Have the proposed fees been shared with such bodies • What was the response 	No consultations with non-commercial bodies undertaken.
7. LSB Review	
Have we consulted with any other body on the application	No. Not considered necessary.
Were any issues raised by LSB colleagues from the first review	<p>Yes.</p> <p>Following an initial review of the application, LSB asked SRA about the following areas:</p> <ul style="list-style-type: none"> • how permitted income related to total PCF income in Table 6 (see section 3 above for the response) • Table 7 and the drop in “income (non-permitted)” (from £11.1m to £5m) and at the same time a big increase “income (permitted)” from £5.8m to £9.8m. TLS clarified that Corporate Solutions and TLS review the proportion of time spent on permitted and non-permitted activity as part of the annual process to calculate the NFR. Following an extensive review this year, there has been no fundamental change in the methodology used or in the income that is being generated however the exercise has led to a re-classification of some income and the year-on-year movement. • the longer term position for use of Group reserves (see section 2 above) • the report of TLS’ online survey about PCF.

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