

The Solicitors Regulation Authority

Part One: Summary and recommendation

Summary

- Individual PCF will increase from £344 in 2012/13 to £384 in 2013/14
- Firm fee (total to be collected) is £70.1m compared to £62.1m in 2012/13.
- Total Law Society budget and PCF income is £116.8m compared to £105.3m in 2012/13.
- PCF to apply as follows:
 - SRA £53.7m (£52.4m 2012/13)
 - Law Society Professional Body £31.8m (£30.7m 2012/13)
 - Statutory Levies (LSB, LeO and SDT) £21.3m (£22.2m 2012/13)
- In addition, the PCF income will raise a further £10m of which £5m will be used to begin building reserves and £5m will be held to fund future liabilities as a result of changes to the Assigned Risks Pool. A contingency of £3m was included in the 2012/13 net funding requirement to mitigate any potential calls on reserves.
- The Law Society financial year will now run from 1 November-31 October rather than it being the same as a calendar year - 1 Jan to 31 Dec. This will commence from 1 November 2013, and will allow the budget to be set at the same time as the net funding requirement. In previous years the budget had not been finalised until October, after the funding level had been finalised.

Recommendation

- That the application be approved
- That the approval letter comments on inadequate consultation on the fee level.
- That the approval letter comments on the need for greater transparency and presentation of information so that full regulatory costs and where they are incurred can be properly understood by individuals and firms.

Part Two: Assessment of the application against LSB acceptance criteria

Pre-submission

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

Meeting with representatives from SRA and The Law Society (TLS) held on 1 July 2013.

- The SRA gave an overview of their broad approach to the 2013/14 application which it hoped had improved from previous years, including in terms of setting the budgetary structure for the SRA.
- Three key points from the meeting worth mentioning in this assessment are:
 - One major structural change from the previous year's budget was in relation to the funding for cost of interventions. In 2013 £3.9m was included in the budget to meet the cost of interventions. In 2014 the intervention costs are expected

	<p>to be £12.3m and will be met by the Compensation Fund (see below).</p> <ul style="list-style-type: none"> – £10m will be raised from this PCF collection to increase reserves. (£5m to fund expected liabilities resulting from changes to the Assigned Risks Pool (ARP); £5m to mitigate potential calls on reserves).
<p>Were there any areas for improvement or specific issues in the last approval letter?</p>	<p><i>Three areas for improvement/specific issues referred to in approval letter 1 August 2012 for 2012/13 PCF:</i></p> <ul style="list-style-type: none"> • Compensation Fund: LSB concerned about large increase in the Compensation Fund contribution from previous year. Understood the reasons for this but undesirable for significant fluctuations in the level of the contribution to be driven primarily because of the funding strategy chosen, rather than the level of actual and potential liabilities. <p><i>SRA RESPONSE FOR 2013/14 APPLICATION: Compensation fund contribution reduced significantly for 2013/14 application from £92 to £56 for individuals and from £1340 to £836 for firms.</i></p> <p>Compensation Fund rule change application dealt with separately in decision notice issued under Part 3, Schedule 4. One issue raised was raised in respect of the financial impact on the Compensation Fund where different figures had been used in an earlier consultation paper on this issue. The SRA confirmed this was because VAT and the impact on reserves as a result of increased recharges had not been included in earlier documentation. LSB recommended in decision notice that SRA should be more transparent in future.</p> <ul style="list-style-type: none"> • Consultation: LSB was concerned that the consultation undertaken for 2012/13 was more limited than in 2010, which was disappointing. LSB had therefore expected to see a more thorough consultation exercise for 2013/14, reflective of the 2010 process, not least because of the planned review of fees and charges. We said we would like to be kept informed of the timetable for this review. The LSB also said the exercise would need to involve the Law Society and SRA,

	<p>given that the PCF includes a substantial compulsory membership fee for representative (permitted) purposes as well as regulatory purposes.</p> <p><i>SRA RESPONSE FOR 2013/14 APPLICATION: See section on consultation. In summary, while the fee allocation policy is not changing (which would certainly justify consultation) the LSB remains concerned about the lack of meaningful consultation on the PCF level and will be taking up the issue with the SRA.</i></p> <ul style="list-style-type: none"> • Shared services: One final issue of concern was that the application did not include information about the SRA's shared services allocation. Additional information was submitted as part of the approval process on 20 July 2012, and was to be included in future applications <p><i>SRA RESPONSE FOR 2013/14 APPLICATION: See section on Regulatory functions and shared services. SRA has provided this information in the 2013/14 application.</i></p>
Developing the application and budget	
<p>Is it clear that the regulatory arm has the lead the development of the application?</p>	<p>Yes. As in previous years, the application was developed and settled with agreed arrangements between the SRA and the Law Society. The application was developed from the bottom up with engagement with SRA cost centres, business units and directorates. Budgets were submitted by each of the SRA Directorates and authorised by the relevant Board, including the SRA Board. The full Law Society Group budget (of which the SRA budget is part) was discussed and agreed by both the Law Society Management Board and finally the Law Society Council with SRA Board involvement.</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> <ul style="list-style-type: none"> • The SRA budget has three key elements: <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 investment budget that will be spent either wholly on SRA projects or on

<ul style="list-style-type: none"> Is there evidence that the immediate and medium terms needs have been taken into account? 	<p>Corporate Solutions infrastructure projects for which the SRA carries a proportion of the cost.</p> <ul style="list-style-type: none"> The directly controlled SRA budget was considered and approved by the SRA Senior Management Team (SMT), SRA Board and SRA Finance and Resource Committee (F&RC). The element of the Corporate Solutions draft budget that supports the SRA was considered by both the SRA SMT and F&RC. The resource levels in the Supervision function were considered by the Regulatory Risk Committee. The major context for the budget development was provided in the application, in particular the Strategic Plan 2013-15, the SRA's 2013 budget and the SRA's assessment of current regulatory challenges, priorities and operational performance. <p>Yes.</p> <ul style="list-style-type: none"> Strategic approach to budget set out in application covering immediate and medium term needs. Budgets have been set as tightly as possible with a 5% in-year staff cost reduction target built into all operating budgets. Budget for cost increase only where there is justified and essential requirement to manage risk and/or approve operational performance to acceptable levels. Application sets out the regulatory challenges and priorities (para 29). This includes: <ul style="list-style-type: none"> Meeting the required regulatory standards to complete the Regulatory Review Programme in the Strategic Plan in order to meet LSB requirements. Addressing the challenges emerging from the growing numbers of ABS and any supervisory implications. The identification of financial weakness in
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<ul style="list-style-type: none"> • Are the contingency fund arrangements clear? 	<p>significant number of firms in 2013 and the potential impact on SRA supervision resources and interventions to ensure consumer protection.</p> <ul style="list-style-type: none"> – Allocation of additional staff resources for authorisation processes. This is to fill the gap in delays in modifications and rationalisation of IT systems to support authorisation, now planned to happen in the latter part of 2015. – SRA performance reports have shown that due to increased demand and resource constraints in 2013 operational performance has fallen short. This is particularly in respect of authorisation and the contact centres. While steps have been taken to address these issues, strengthening of these aspects of SRA performance will be required in 2014. <p>Yes.</p> <p>At end of 2012, the Law Society had cash reserves totalling £114.6m and accounting reserves of £30.9m. There are no planned calls on reserves during the remainder of 2013/14.</p> <p>The Law Society Group has established a policy of maintaining minimum cash reserves. A graph is included in the application (page 7), which illustrates why the SRA will include cash reserves of £5m for 2013/14.</p> <p>Included in this year’s funding requirement is £5m to begin to rebuild reserves. In addition, £5m will be raised to fund estimated future liabilities arising from the Assigned Risks Pool.</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>Minimal consultation on fee level. SRA has said that as it was not changing its approach to either fees structure or any discounts offered, it had decided not to undertake full stakeholder engagement.</p> <p>In July 2013 (no precise date given in application) the contents of Sections 1-4 of the draft application were published on both the Law Society and SRA websites. This was to give those the SRA regulates the opportunity to make representation before the Law Society Council</p>

	<p>approved the overall budget on 11 July. No information provided in the application on whether there were responses.</p> <p>The SRA also implemented a change in the way interventions were funded from the Compensation Fund. The SRA discussed this in public and held a formal consultation on the approach in May 2013. The SRA discussed the results and made a formal decision in June 2013. A summary of responses and the SRA response to these was contained in the SRA Board Paper published on the Law Society website and discussed at its board meeting on 12 June 2013.</p> <p>The SRA has previously indicated that a review of the fee structure would be undertaken; they have now confirmed that this will be two stage exercise. Stage 1 will look at the non-PCF charges made by the SRA and on which a consultation is expected at the end of 2013 (and changes introduced for the 2014 PCF round). The second stage will be a review of the basis for the PCF calculation; consultation is expected to take place in 2014 and changes introduced in 2015.</p> <p><i>The SRA do not appear to have addressed the issue of consultation raised in our decision letter for the 2012/13 application. While the LSB understands the rationale for not conducting a full consultation and the need for consultations to be proportionate, the LSB is disappointed that the SRA did not do more than publish the draft application in a very narrow timeframe.</i></p> <p><i>Given the planned review of fee structure and allocation by the SRA in 2013-15, the LSB considers that the lack of meaningful consultation on the PCF level is not in itself a reason not to approve the application. However, the LSB remains concerned and disappointed about the lack of consultation on the fee level and will be pursuing the matter with the SRA. The LSB will also press the SRA for specific detail on the timing and scope of the planned review of the fee structure.</i></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</p> <ul style="list-style-type: none"> Communications plan drawn up to ensure

<ul style="list-style-type: none"> When was/is this issued to fee payers? 	<p>that regulated community and other stakeholders informed of progress toward approval of fees structure and implications. This was done via a news release.</p> <ul style="list-style-type: none"> At the start of July, the on-line calculator was made available with an indicative fee of £384 a revised turnover table and indicative Compensation Fund contributions. The LSB asked the SRA if there had been any feedback on the calculator and it confirmed that there had been none. The online calculator was communicated via the legal media with a link to the calculator. Reference to the calculator was also made in the in the SRA's e-newsletter that goes to everyone with a mySRA account. All news releases on the subject of fees were circulated to groups such as the Sole Practitioners Group, the Association of Women's Solicitors and the Association of Black Lawyers. Every year, a comprehensive comms plan is put in place to support the fees exercise as a whole, and includes comms to such bodies as the Local Government Association. In addition, in June 2013, a verification process was undertaken for the turnover figures submitted online by firms as part of the 2012/13 renewals process.
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 in application. £116.8m total fee income against £116.8 fee expenditure on permitted purposes.</p>
<p>Is any other income to be applied to permitted purposes?</p>	<p>Yes. Table 4 page 12 of application illustrates that of the £76m allocated to the permitted purposes for regulatory functions, £53.7m comes from the total PC fee income, £16.4m from recoveries and £5.9m from 'other' income. Table 6 shows that that the Law Society budget includes £1.1m non-PCF income allocated to permitted purposes.</p>
Regulatory functions	
<p>Is there evidence of how much of the PCF</p>	<p>Yes. Set out in Table 4. Detailed breakdown of</p>

income is applied to permitted purposes that are regulatory functions?	total income allocated to the permitted purposes for regulatory functions, including by directorate (£76m in total).
Are any shared services clearly explained?	Yes. Footnotes 3 and 4 on page 5 of the application provide figures for the SRA's and Law Society's respective shared services allocations.
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 Regulation Principles? 	<p>Partly.</p> <p>Regulatory Objectives covered in the Strategic Plan referred to in the application. Nothing on Better Regulation Principles in application.</p> <p>Covered in section 7. As in the last two years' applications, the SRA's position is that as there was an Equality Impact Assessment published in relation 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.</p>
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. The LSB asked why there had not been any. The SRA responded that it had done very little general consultation (see consultation section) because the fees policy was not changing.
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?	Yes. Issue of transparency raised in respect of intervention costs out of the Compensation Fund. Covered in Decision Notice on the Compensation Fund rule change application. In addition Board member concern about lack of consultation on fee level.

Dawn Reid
29 August 2013