

<b>To:</b>	Legal Services Board	
<b>Date of Meeting:</b>	22 October 2015	<b>Item:</b> Paper (15) 51

<b>Title:</b>	Solicitors Disciplinary Tribunal Budget 2016	
<b>Workstream(s):</b>	Statutory Decisions	
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<b>Status:</b>	Official	

**Summary:**

S46A of the Solicitors Act 1974 (which was inserted by paragraph 48 of Schedule 16 to the Legal Services Act 2007 (**LSA 2007**)) requires that the Solicitors Disciplinary Tribunal (**SDT**) submits to the Law Society (**TLS**) an annual budget that has been approved by the Legal Services Board (**LSB**). The approved budget must be paid by The Law Society.

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 in accordance with the provisions of that MoU.

On 10 September 2015 the SDT submitted its 2016 budget application to the LSB with a proposed budget of £2,908,243 – an increase of £156,533 (5.6%) on the 2015 budget (See **Annex A**).

The SDT has consulted TLS (in accordance with the statutory requirements) and a copy of the original application was sent to Simon Garrod (Head of Regulatory Affairs, TLS). The LSB is also required to consult TLS on the application. At the time of writing the report the TLS feedback has not been received; an oral update will be given at the Board meeting.

**Recommendation(s):**

Subject to receiving and considering any feedback from TLS (which will be reported at the Board meeting), we are minded to recommend that the Board approves the SDT's budget application of £2,908,243 for 2016

**Risks and mitigations**

**Financial:** N/A

**Legal:** N/A

**Reputational:** N/A

**Resource:** N/A

Consultation	Yes	No	Who / why?
<b>Board Members:</b>		√	
<b>Consumer Panel:</b>		√	

<b>Others:</b>	Under the terms of the MoU LSB is required to consult with TLS on the budget application.	
<b>Freedom of Information Act 2000 (Fol)</b>		
<b>Para ref</b>	<b>Fol exemption and summary</b>	<b>Expires</b>
Annex A	Section 44: restricted information under s167 LSA which was obtained by the Board in the exercise of its functions and therefore must not be disclosed	N/A

## LEGAL SERVICES BOARD

<b>To:</b>	Board	
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### Solicitors Disciplinary Tribunal (SDT) Budget 2016

#### Background / context

1. S46A of the Solicitors Act 1974 (which was inserted by paragraph 48 of Schedule 16 to the LSA 2007) requires that the SDT submits to TLS an annual budget that has been approved by the LSB. A MoU agreed between the LSB, the SDT and TLS sets out the process which the parties follow and this application has been made in accordance with the provisions of that MoU.
2. The 2016 budget application was submitted to the LSB on 10 September 2015. The LSB sought TLS views on the budget application on 17 September 2015. At the time of writing this paper TLS has not provided any comment on the application; an oral update will be given at the Board meeting.

#### Budget application

3. The application is for the approval of a budget of £2,908,243 for 2016. This is an increase of £156,533 (5.6%) on 2015 (see **Annex A**).
4. The variances for the expense categories are as follows:

<b>Expense category</b>	<b>2016 budget</b>	<b>Variance from 2015 and primary reasons for change</b>
Salary and related costs	£1,095,286	+14.8% See paragraphs 7 to 10
General administration	£967,906	+3.4% Investment in IT and additional board meeting expenses
Building costs	£575,016	+2.72% Refurbishment costs (required as a condition of lease)
ABS appeal costs	£45,784	-50% Budget reduced to reflect the fact that no ABS appeals have yet been considered by the SDT
Contingency Fund	£55,000	No change
Irrecoverable VAT	£169,280	+9.04%

5. **Annex A** is the detailed submission in which the SDT has commented on variances<sup>1</sup> in the individual line items for the 2016 budget compared to 2015 and the reasons for the changes.

### **Expected caseload**

6. The key driver for the SDT budget is the caseload. In the first half of 2015, there has been a 69% increase in the number of cases certified compared to the same period in 2014 (2015 – 83: 2014 – 49). At the end of August, 103 new cases had been certified compared to 118 for the whole of 2014. The SDT Clerk has observed that as well as an increase in the number of cases, for some there has also been an increase in the complexity of the issues to be considered.
7. The SDT has estimated that the average number of cases for 2016 will be 15 per month (based on an SRA estimate of 12 cases per month plus appeals and applications for restoration to the Roll); thus the total for the year is estimated at 180 cases. In the past the information flow from the Solicitors Regulation Authority has not been consistent and so budgets have been set on best available information. Over the past year, the data from the SRA has improved and the SDT Clerk has more confidence that 180 cases will be nearer to the actual number.
8. SDT analysis of its own data leads to the conclusion that the current budget of 310 sitting days will be sufficient to accommodate the increased number of cases (the current estimate for 198 sitting days in 2015). So the higher number of cases is not expected to lead to increase in the cost of Panel members (panel members are remunerated by the day).
9. However, the higher number of cases coupled with the increased complexity of some has led to additional administration activity for the SDT before a case reaches hearing stage. As well as more cases to manage, it has been noted that increasingly there are challenges to the SRA case which need to be settled before the substantive case is heard (put down in part to the increase in the number cases where respondents are represented rather than managing the case themselves). It has been agreed that a senior deputy clerk will be recruited who will be able to manage more complex cases and provide much needed support to the Clerk. Two current deputy clerk vacancies will also be filled. This increased resource should allow the SDT to manage the expected caseload and maintain performance against the agreed performance indicators (see paragraph 16 below).
10. We felt that overall increase of 5.6% appeared quite high in the current environment and we asked the SDT to comment on this. The further information on the impact of the increased caseload (which is reflected above) gives us more assurance. In response to the query the SDT has reviewed the budget again

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<sup>1</sup> The MoU requires commentary on variances over or under 5% or more than £10,000 in difference.

and while not proposing any reduction at this point, will continue to seek out in year efficiencies.

### **ABS appeals**

11. The SDT is the appellate body for appeals by alternative business structures (ABS) against SRA decisions. In our decision letter last year we noted that given that no such appeals had been lodged, the SDT may wish to consider whether the assumptions used in preparing the budget remain appropriate.
12. The SDT is still to receive an appeal from an ABS and so for budgeting purposes has reduced the assumption on the number of sitting days for such appeals by half (to 20 days, resulting in a budget reduction of £45.7k). This element of the budget is ring-fenced and cannot be spent on other activities.

### **Accuracy of budget estimates**

13. In previous applications we have noted that there has often been a large underspend from the previous year's estimated budget. In assessing this application we noted that the proposed budget for 2016 was almost £1m more than the actual expenditure in 2014 (£2,908,243 for 2016 compared to £1,908,696 actual for 2014). The current forecast for 2015 actual expenditure is that there will be an underspend of approximately £200,000 against the 2015 budget (excluding the ring-fenced ABS costs)
14. As noted above, this year there appears to have some more reliable information on which to base the assumptions (as well as the current year's actual experience) which it is hoped will lead to actual expenditure being more in line with budget.
15. Any underspend is returned to the Law Society.

### **Performance measures**

16. The annual report on achievement against the performance measures (PMs) s agreed with the LSB will be submitted in February and reported to the Board. An summary of performance so far this year was included with the application:
  - PM1: Proceedings have been issued in within 7 days on 100% of cases (target 85%)
  - PM2: 78% of application have been determined within 6 months of issue of the proceedings (target 70%)
  - PM4:90% of judgments have been served within 7 weeks of the final determination (target 80%)

17. The third performance measure (for which no specific target is set) is average cost of courts. The monthly average for January to July 2015 ranges from £19,570 in February (when 9 cases were heard) to £6,288 in July when 29 cases were heard. The SDT still have ambition to reduce the average cost per court and the increase in the number of clerks (which will allow more cases to be heard at one time) will contribute to this.

### **Conclusions**

18. The SDT's application for approval of its 2016 budget was made in accordance with the procedure set out in the MoU.
19. Subject to receiving and considering any feedback from TLS (which will be reported at the Board meeting), we minded to recommend that the Board approves the SDT's budget application of £2,908,243 for 2016.

14 October 2015