

To:	Board	
Date of Meeting:	12 October 2011	Item: Paper (11) 70

Title:	Solicitors Disciplinary Tribunal – 2012 budget application
Workstream(s):	N/A – statutory function under s46A Solicitors Act 1974
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Status:	Unclassified

Summary:
<p>The Board is responsible for considering and approving the Solicitors Disciplinary Tribunal's (SDT) annual budget application (Annex A). The approved budget must be paid by The Law Society (TLS).</p> <p>The SDT has submitted a proposed budget of £3,022,407; an increase of £845,685 (38.9%) on the 2011 budget. The key reasons for the increase are noted in paragraph 8.</p> <p>The SDT has consulted TLS in accordance with the statutory requirements. The LSB is also required to consult TLS on the annual budget, allowing not less than 28 days for comment. We wrote to TLS on 26 September, asking for its views on the application by 24 October. It is hoped that the TLS will provide its views before the Board meets on 12 October. We are also informally consulting the Solicitors Regulation Authority (SRA).</p> <p>The application contains a report on performance against the Key Performance Indicators (KPI) that the SDT agreed with LSB in January 2011 (Annex B).</p>

Risks and mitigations	
Financial:	N/A.
FoIA:	N/A
Legal:	N/A.
Reputational:	If the budget is not approved by 31 October, the LSB may be criticised for not upholding the commitment that it made in the Memorandum of Understanding (MoU) with the SDT and TLS.
Resource:	N/A.

Consultation	Yes	No	Who / why?
Board Members:		✓	N/A.
Consumer Panel:		✓	N/A.
Others:	TLS		

Recommendation(s):

The Board is invited:

- (a) to note the SDT's 2012 annual budget application (**Annex A**), with a view to agreeing the proposed budget by written resolution after receipt and consideration of the comments (if any) of TLS
- (b) to note the SDT's performance against its KPIs in the period January to June 2011 (**Annex B**)
- (c) to agree to direct the SDT to submit a KPI report every six months until the end of 2012.

LEGAL SERVICES BOARD

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Solicitors Disciplinary Tribunal – 2012 budget application

Background/context

1. Paragraph 48 of Schedule 16 of the Legal Services Act 2007 (**'the Act'**) amends the Solicitors Act 1974 and requires the Board to approve the SDT's annual budget.
2. On 21 May 2010, an MoU was agreed with the LSB, the SDT, the Solicitors Disciplinary Tribunal Administration Ltd and TLS in respect of future budget applications.
3. Among other requirements, the MoU sets out the process by which the SDT and TLS should communicate about the details of the budget application before it is submitted to the LSB. The SDT has confirmed that the necessary consultation was completed before submitting the application to the LSB.
4. The LSB is also required to consult TLS on the annual budget, allowing not less than 28 days for comment.
5. On 28 October 2010, the Board approved the SDT's budget proposal for 2011, subject to it developing and submitting, a report of performance against KPIs with all future budget applications.
6. In January 2011, the SDT agreed five KPIs with the LSB. A report on performance (for the period January to June 2011) against these KPIs is at **Annex B**.

Budget

7. For 2012, the SDT is proposing a budget totalling £3,022,407. This is an increase of 38.9% or £845,685 on the total budget approved by the LSB for 2011 (£2,176,722).
8. The SDT commentary on the budget identifies the key drivers behind the increase for 2012 in each category of cost:

Key drivers	2011	2012	Increase between 2011 - 2012 (% and number)	Commentary
Building costs	£349,162	£664,142	+90.2% or £314,980	The majority (£290k) of the increase in this category is directly attributable to the estimated cost of additional office space including rent, fit out, rates and

Key drivers	2011	2012	Increase between 2011 - 2012 (% and number)	Commentary
				<p>services charges.</p> <p>The 2010/11 SDT Annual Report indicates that there has been a rise of almost one third in the number of hearing days; there were also a number of lengthy cases during the year.</p> <p>The SDT notes that it is short of space, with one court room better suited to case management rather than substantive hearings. The full-time clerks are also 'hot-desking' in retiring rooms. The acquisition of the additional office space is expected to address these issues / improve efficiency.</p>
General administration	£991,719	£1,243,014	+25.3% or £251,295	<p>The majority (£210k) of the increase in this category is a direct consequence of SDT's new powers to hear ABS appeals. Specific provision has been made to accommodate an additional 100 extra sitting days for members (two Solicitor Members per day and one Lay Member per day) to allow for a maximum of 50 ABS appeals in 2012.</p>

Key drivers	2011	2012	Increase between 2011 - 2012 (% and number)	Commentary
				As a direct result of this provision, remuneration and expenses have increased by £147,000 for Solicitor Members and by £56,000 for Lay Members. We are of the view that in practice this seems to be a rather high estimate of the number of ABS appeals. The SDT has informed the LSB that once the SDT's accounts have been filed, any surplus from that budget is paid back to TLS.
Salary and related costs	£700,841	£875,251	+24.9% or £174,410	This increase was mainly attributable to staff changes within the 2011 year (notably the recruitment of two full-time deputy clerks) and increased National Insurance costs.

Key Performance Indicators (KPI)

9. The MoU requires the SDT to develop and report against a set of KPIs to be submitted alongside its annual budget application. In January 2011, the SDT agreed a set of five KPIs with the LSB.
10. The table below summarises the progress towards achieving the KPI targets for the half year January to June 2011 (see **Annex B** for the full report).

Target	Progress/result
<p>KPI 1 Issue of proceedings</p> <p>In 85% of cases, proceedings to be issued or notification of non-certification sent to the Applicant within 10 calendar days of date of receipt of originating application at the SDT</p>	<p>Target 85%</p> <p>Actual 76% (based on 79 cases received)</p> <p><i>Target not met for the half year 2011</i></p>
<p>Commentary</p> <ul style="list-style-type: none"> • The SDT failed to reach this target, however, there was significant improvement on the consolidated figures to the equivalent period in 2010 (35% on 150 cases received). • The SDT advises that delay arose where Solicitor Members have been away from their offices without advising the SDT. Papers were therefore inadvertently sent to absent members under the rota allocation system resulting in a time gap before proceedings were certified. • The SDT has introduced changes to improve progress towards meeting this target by abandoning the old rota system and a requirement on Members to inform the administration team of any planned absences and also introducing a new certification system in September 2011. 	
Target	Progress/result
<p>KPI 2 Determination by hearing</p> <p>In 70% of cases determination of application, by substantive hearing or otherwise, to take place within six months from the date of issue of proceedings</p>	<p>Target 70%</p> <p>Actual 30% (based on 111 cases heard)</p> <p><i>Target not met for the half year 2011</i></p>
<p>Commentary</p> <ul style="list-style-type: none"> • The SDT indicates several reasons for the lack of progress towards this target: a backlog of cases at the start of 2011, more complex cases resulting in a longer time estimate, the loss of court days due to unavoidable adjournments and difficulty in fixing dates with advocates. A key issue not factored into this year's performance was the reliance on the cooperation of all concerned. • To improve progress towards meeting this target, SDT intends to analyse a suite of data on the cases waiting to be listed and the existing listing system. • Other measures to improve efficiency include: the introduction of active case management planned for 2012 and a warning light system to assist in filling gaps caused by late adjournments. • The SDT highlights that this target may need to be reviewed if it is to remain achievable and realistic. 	

Target	Progress/result
<p>KPI 3 Average cost per Court</p> <p>The cost per court which includes a proportion of all office overheads.</p>	SDT has not assigned a target to this KPI
<p>Commentary</p> <ul style="list-style-type: none"> • A total of 147 courts were run in the first six months of 2011 at an average cost of £6,080 per court (compared to 103 cases at an average cost of £8,282 from January to June 2010). • The projected total for 2011 is 311 cases (compared to 272 cases in 2010). This represents a 15% increase reflected in the reduced average cost per court. 	
Target	Progress/result
<p>KPI 4 Production of Judgement (previously finding and decision)</p> <p>In 80% of cases, the Judgment (previously Findings and Decision) to be served on the parties within seven weeks of the final determination of the application</p>	<p>Target 80%</p> <p>Actual 72% (from 111 cases heard)</p> <p><i>Target not met for the half year 2011</i></p>
<p>Commentary</p> <ul style="list-style-type: none"> • The SDT failed to reach this target, however, there was significant improvement on the consolidated figures for the equivalent period in 2010 (16% on 103 cases heard). • The SDT indicates that the inability to meet the target is primarily a reflection of the percentage of long and/or complex cases listed in particular months. • To improve progress towards meeting this target, SDT has recruited two full-time clerks. Further inroads to delays will be dealt with by the approval of draft judgements online (effective since July 2011). A voice recognition dictation system will also cut down production times if it approved for introduction to all deputy clerks in 2012. 	
Target	Progress/result
<p>KPI 5 Appeals</p> <p>The number of SDT decisions appealed by either the Applicant or the Respondent or both, and outcome.</p>	SDT has not assigned a target to this KPI.
<ul style="list-style-type: none"> • The SDT describes this data as informative as an educative tool, but less meaningful as a performance measure because the outcomes of the majority of the appeals listed have not yet been determined. 	

11. While the SDT has not achieved its set KPI targets overall, in the first half of 2011 there has been significant progress in KP1 and KP4, where the actual figure for the half year was very close to their set target. For example, the KPI 1 target was 85% compared to the actual half year figure of 76%. Similarly, the target for KPI 4 was 80% compared to an actual half year figure of 72%. We judge that continued investment will be needed in both staffing and systems / accommodation to

consolidate these improvements: rather than uncontrolled expansion, the Executive view is that we are seeing much delayed investment finally being made.

12. A number of process improvements have been introduced, which are designed to increase performance which will be essential given the extended jurisdiction that will be taken on by SDT. For example, while we recognise that the actual figure for KPI 2 at 30% for the half year was considerably lower than their set target of 70%, we acknowledge the inherent difficulties in meeting this target that SDT has faced including loss of court days due to unavoidable adjournments and difficulty in fixing dates with advocates. We are content with the SDT's plans to introduce process improvements to help increase the progress towards meeting this target, in particular the introduction of active case management planned for 2012 and a review of the existing listing system. We also agree with the SDT assessment that this target may need to be reviewed if it is to remain achievable and realistic. We recommend this review is conducted at the end of the upcoming annual reporting period (full year ending 31 December 2011).
13. While we recognise the scale of the improvement, given that the targets have not yet been achieved, we recommend that in approving the budget the Board asks for a KPI report every six months.
14. SDT has suggested that the KPI 5: Appeals may not be suitable as a performance measurement. The outcome of appeals against SDT decisions is a useful indicator of the effectiveness of the SDT. While at this stage there is limited data (due to the fact that appeal decisions have not been made), our view is that this KPI should remain until at least the end of 2012.

Next steps

15. Under the terms of the MoU, the LSB must approve the application by 31 October each year, having consulted with the TLS. The deadline for TLS' comments is 24 October. We anticipate no significant issues to be raised by TLS. The SDT representatives have indicated that TLS was provided with the draft budget and first quarter performance statistics on 27 May 2011. This was followed by a meeting with the SDT and TLS on 17 August 2011 to discuss the documents in detail. Further information was requested from the SDT by TLS, which was provided on 23 August 2011.
16. We intend to provide the Board with a verbal update about the TLS response at the Board meeting, if feedback is provided before 12 October. We are also informally consulting the SRA and will report back comments (if any) at the same time.
17. In the event that comments from TLS are not received by 12 October, the additional information will be considered and a final recommendation will be circulated to the Board for approval by written resolution.

05.10.2011