

<b>To:</b>	Legal Services Board	
<b>Date of Meeting:</b>	10 October 2012	<b>Item:</b> Paper (12) 69

<b>Title:</b>	Solicitors Disciplinary Tribunal Budget 2013	
<b>Workstream(s):</b>	Statutory Decision Making	
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<b>Status:</b>	Unclassified	

**Summary:**

The Board is responsible for considering and approving the Solicitors Disciplinary Tribunal's (SDT) annual budget. The approved budget must be paid by The Law Society (TLS).

On 18 September, SDT submitted their 2013 budget application to the LSB with a proposed budget of £3,118,811 (a 3.19% or £96,404 increase on 2012). However, the LSB noted two key expenditure categories from the application which required revising and/or omission from the budget, namely the estimated number of ABS appeals hearings and, [REDACTED].

[REDACTED]. After correspondence with the LSB, the SDT agreed to revise the 2013 budget application down and on 28 September, submitted a revised budget of £2,780,352 (a 8.01% or £242,055 decrease on 2012) (See **Annex A**).

Paragraph 4 sets out the key variances between the 2013 budget submission sent to the LSB on 18 September and the revised version received on 28 September.

SDT colleagues have consulted TLS in accordance with the statutory requirements. The LSB is also required to consult TLS on the annual budget allowing no less than 28 days for comment. We initially wrote to TLS on 18 September 2012 asking for their views on the application by 16 October 2012. The revised 2013 budget was provided to TLS on 28 September and it is hoped that they will provide their views before the Board meeting.

**Recommendation(s):**

On the assumption that TLS response does not raise any significant or material issues the Board is invited to

1. approve the SDT Budget 2013 application (**Annex A**). If the TLS response does raise material issues, we will revert to the Board for a written resolution.
2. agree the recommendation that quarterly reporting against key performance indicators should continue for the next twelve months.

<b>Risks and mitigations</b>	
<b>Financial:</b>	N/A
<b>Legal:</b>	N/A
<b>Reputational:</b>	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.
<b>Resource:</b>	N/A

<b>Consultation</b>	<b>Yes</b>	<b>No</b>	<b>Who / why?</b>
<b>Board Members:</b>		√	
<b>Consumer Panel:</b>		√	
<b>Others:</b>	TLS; under the terms of the Memorandum of Understanding LSB is required to consult with TLS on the final budget submission.		

<b>Freedom of Information Act 2000 (Fol)</b>		
<b>Para ref</b>	<b>Fol exemption and summary</b>	<b>Expires</b>
Summary box - 2 <sup>nd</sup> para. Para 4 – 2 <sup>nd</sup> bullet point. Para 6. Annex A – last row in table. Annex B – Row name: Insurance, column 7	s44 Fol – restricted information under s167 LSA which was obtained by the Board in the exercise of its functions and therefore must not be disclosed	

## LEGAL SERVICES BOARD

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### Solicitors Disciplinary Tribunal Budget 2013

#### Background / context

1. Paragraph 48 of Schedule 16 to the Legal Services Act 2007 amends the Solicitors Act 1974 and requires the Board to approve the SDT's annual budget.
2. A MoU agreed between the LSB, the Solicitors Disciplinary Tribunal and the Law Society in May 2010 sets out the process which the parties follow; this application has been made in accordance with the provisions of that MoU.

#### Budget application

3. The application is for the approval of a budget of £2,780,352 for 2013. This is a decrease of £242,055 (8.01%) on 2012 (see **Annex A**).
4. On 18 September the LSB received a budget application of £3,118,811 (a 3.19% or £96,404 increase on 2012). The LSB noted two key expenditure categories from the application which required revising and/or omission from the budget. Through an exchange of correspondence the SDT agreed to revise their budget application down to £2,780,352 a decrease of £242,055 (or -8.01%) on 2012. The two key expenditure categories that were revised and omitted from the revised budget include:
  - the cost (members' fees and expenses) of hearings involving number of ABS appeals hearings, which was estimated at 50 appeals hearings, and revised down to 20 ABS appeals hearings. See paragraph 5 for further explanation.
  - [REDACTED]
5. The 18 September budget submission had assumed 50 ABS appeals hearings which the LSB identified may be an over-estimate given the rate at which ABS are being approved by the Solicitors Regulation Authority (SRA) and the current absence of any adverse disciplinary findings. The estimate of 50 ABS appeals hearings was also not in line with the LSB's consultation paper on 'Alternative business structures: appeal arrangements' published 5 May 2009<sup>1</sup>, which indicates that the cost of establishing and operating the appeals mechanism in

<sup>1</sup> Alternative business structures: appeal arrangements'

[http://www.legalservicesboard.org.uk/news\\_publications/latest\\_news/pdf/abs\\_appeals\\_sdt\\_consultation.pdf](http://www.legalservicesboard.org.uk/news_publications/latest_news/pdf/abs_appeals_sdt_consultation.pdf). page 15, paragraph 52 to 55

the SDT are anticipated to be £102,000 in the first year for 20 appeals each lasting two days (this includes set-up costs), with annual operating costs thereafter anticipated to be £86,000. We have agreed with the SDT that the revised budget application submitted to the LSB on 28 September should reduce the ABS appeals element to restrict the budget application to 20 appeals per annum as a more appropriate - although still potentially high - figure. SDT have also confirmed that in any event, this money is ring-fenced for ABS.

6. [REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED] We have agreed with the SDT that the revised budget application submitted to the LSB on 28 September should exclude this expenditure item entirely, as funding is agreed in principle by TLS with SDT having the ability to draw it down if needed (see the final line in the 2013 budget at **Annex A** in which the [REDACTED] appear in principle but are not included in the overall budget).
7. As a part of the MoU, the SDT must provide an analysis showing actual expenditure to date (August 2012) against the 2012 budget with variances explained (see **Annex B**). Overall, SDT have under-spent by £795,439 for the year to date August 2012. The Board should note that there are several expenditure items pending until the end of the budget year and all surpluses will be returned to TLS. The expenditure to August 2012 indicates that for most categories SDT are within the allocated budget.
8. The SDT is required to indicate caseload data from which their budget submission is based on. SDT has estimated a total of 300 sitting days for members for 2013; this is based on the number of members increasing from 50 in 2012 to 60 in 2013 and equates to approximately 210 new SRA cases a year. SDT also receive approximately 20 lay applications each year.
9. SDT advise that accurate caseload data is hard to predict and more information would be required by the SDT from the SRA. SDT has suggested that the SRA could report to the SDT on a monthly or quarterly basis, how many cases they have referred to their panel advocates for preparation of applications to the SDT and a target date by which those cases should arrive.
10. In addition to the cases received, SDT also deal with an estimated 2,000 requests for assistance and information. This is a key part of the SDT's work and they must also be adequately resourced to meet these demands.

## Consultation with TLS

11. Under the terms of the MoU the SDT must consult with TLS when setting the budget. The LSB must also consult with TLS when considering the application for approval. The draft budget was submitted by the SDT to TLS at the beginning of June 2012.
12. We initially wrote to TLS on 18 September 2012 asking for their views on the application by 16 October 2012 (the minimum period in the MoU is 28 days). The revised 2013 budget was provided to TLS on 28 September and a verbal update will be given if feedback is received before the Board meeting. A copy of the revised 2013 budget application of 28 September was also sent to David Middleton, Executive Director, SRA, who had no comments.

## Other information

13. The SDT report to the LSB each quarter on its performance against the agreed key performance indicators. Over the course of the last year, the reports have shown that performance is continuing to improve in those areas where the SDT has control.
14. The last report was for the quarter ending 30 June 2012 and key points were

Performance Measure 1: Proceedings issued or notice on non-certification sent to applicant within 10 days – <b>target 85%</b>	
Q2 2012: 100% (57 cases)	Q2 2011: 71% (27 cases)
<ul style="list-style-type: none"> <li>SDT attribute the improvement to changes to the certification procedure for new applicants and supplementary statements</li> <li>As the 100% target has been consistently achieved over two quarters, SDT are now trialling a reduction in the period of time for proceedings to be issued to 7 calendar days with effect from 1 September 2012 to identify whether this is a realistic new target.</li> </ul>	
Performance Measure 2: Determination by hearing to be completed within 6 months of issue of proceedings– <b>target 70%</b>	
Q2 2012: 47% (55 cases heard over the quarter)	Q2 2011: 30% (43 cases heard over the quarter)
<ul style="list-style-type: none"> <li>While still below target, progress has been made when compared to the Q2 2011 figures, at 30%</li> <li>The obstacles for achieving the target include an increase in the number of applications for adjournments, the introductions of new allegations at a late stage in the proceedings and a lack of availability of parties and advocates on both sides</li> </ul>	

<ul style="list-style-type: none"> <li>This performance measurement will be reviewed later in 2012 to decide whether it is capable of being achieved when all external factors are taken into account. It may be more realistic to adjust the target to measure performance against the Tribunal's ability to fix a date for hearing to take place within 6 months of date of issue and to collate data as a control to identify why hearings fail to take place on the date fixed</li> </ul>	
<b>Performance Measure 3: Average cost per court (no specific target)</b>	
Q2 2012: 71 cases at an average cost of £6,377	Q2 2011: 74 cases at an average cost of £5,813
<b>Performance Measure 4: Judgements to be served within 7 weeks of determination – 80% target</b>	
Q2 2012: 95% (55 cases heard in the quarter)	Q2 2011: 72% (43 cases heard in the quarter)
<ul style="list-style-type: none"> <li>SDT are now consistently hitting this target and the delivery time for straightforward cases is falling towards 4 weeks</li> </ul>	
<b>Performance Measure 5: Number of SDT decisions appealed (no specific target)</b>	
<ul style="list-style-type: none"> <li>At 18 August 2012, a total of 125 cases have been heard by the SDT; 7 appeals were lodged which represented 6% of all SDT cases heard. All 7 appeals were still outstanding.</li> <li>For 2011, 212 cases were heard during the year, 24 appeals were lodged representing a total of 11% of SDT cases heard. A total of 19 appeals were still outstanding</li> </ul>	

15. It is recommended that the reporting to the LSB continues on a quarterly basis for the next year in order to help to consolidate this progress. We will report to the Board on an exception basis through the CEO's report and report formally in the context of the budget approval decision next year.

16. While not strictly required under the MoU we have previously discussed with the SDT the value of preparing a Business Plan. The SDT recognise the importance of proper planning and propose to produce a business plan for the first time for the 2013-14 year. The application contains a full and helpful outline for that plan (see **Annex A**).

### Conclusions and recommendations

17. The SDT budget 2013 application has been made in accordance with the procedure set out in the MoU although at the time of writing the report we have not yet received any feedback from TLS or confirmation that they have no comments on the application.

18. The quarterly performance reports have shown the SDT continues to make operational improvements.

19. On the assumption that TLS response does not raise any significant or material issues the Board is invited to

- approve the SDT Budget 2013 application (**Annex A**). If the TLS response does raise significant or material issues, we will revert to the Board for a written resolution.
- agree the recommendation that quarterly reporting against key performance indicators should continue for the next twelve months.

1 October 2012