



Summary of Decision

The following table is a high level summary of the decision of the Legal Services Board. It is not a formal part of the decision notice.

Purpose of notice
To grant an application from the Solicitors Regulation Authority (SRA) approving alterations to its regulatory arrangements in respect of its Compensation Fund
Alterations that are being approved by this decision
An increased contribution level of £11.1m from £8.5m in 2016 which will mean an individual contribution of £40 (2016: £32) and a firm contribution of £778 (2016: £548).

Decision notice

Issued by the Legal Services Board (LSB) under Part 3 of Schedule 4 to the Legal Services Act 2007

The Solicitors Regulation Authority (SRA) rule change application for approval of alterations to the regulatory arrangements relating to Compensation Fund contributions for 2017/18

The Legal Services Board (LSB) has granted an application from the SRA for approval of Compensation Fund Determinations for 2017 which set the level of contribution to the SRA Compensation Fund for individual solicitors, recognised sole practitioners, recognised bodies and licensed bodies authorised by the SRA.

The LSB is required by Part 3 of Schedule 4 to the Legal Services Act 2007 (the Act) to review and grant or refuse applications for approval by approved regulators who make alterations to their regulatory arrangements. The Law Society is an approved regulator and the SRA is the regulatory arm to which the Law Society has delegated its regulatory functions.

This decision notice sets out the decision taken, including a brief description of the changes. The notes at the end of the notice explain the statutory basis for the decision. The notice also sets out the chronology for the LSB's handling of this application.

Proposed changes

1. Each year the SRA considers the level of contributions required to the Compensation Fund from the individuals and firms that it authorises. For 2017/18, it has determined that the contributions required are £40 from individuals and £778 from firms. This is an increase of 24% in individual contributions and 42% increase in firm contributions from 2016/2017, when the contributions were £32 and £548 respectively.

Issues raised in the assessment

2. During its consideration of the application, the LSB considered carefully the context and rationale for the significant percentage increases in contributions, as well as the SRA's approach to consultation.

Increase in contributions

3. The alterations amount to significant percentage increases in contributions. In the LSB's view, the application has provided an adequate justification for these changes. The proposed level of contribution has continued to be calculated in line with the established methodology for assessing expected pay outs and levels of claims. This involves looking at historic trends in relation to claim numbers, amounts and timings and is further refined to take account of relevant specific information, such as the potential level and timing of significant claims from investment scheme frauds. The application further explained that

the SRA has had to make an increase to the appropriate reserve to take account of a number of high value exceptional cases. These have primarily arisen from some solicitors' involvement in investment schemes where individual clients have suffered significant losses, leading to possible claims against the fund.

4. The calculation was also based on: predicted numbers and costs of interventions for 2017/18 onwards; continuing trends for business as usual; the impact of the closure of the Assigned Risks Pool; claims in relation to uninsured firms; and high risk potential liabilities where these were known. The result was that the forecast sum for grants during 2017/18 was calculated at £12.5m, and the SRA has included a provision of £11.5m for claims arising from the small number, but nonetheless high total value, of investment scheme cases. Therefore the funding requirement for 2017/18 has been set at £11.5m.
5. The LSB has taken into consideration that the SRA must maintain a properly funded Compensation Fund to protect consumers. The LSB is re-assured that the SRA has, in calculating the increase, used a consistent methodology. While the percentage increase for this year is substantial, we have also borne in mind that this is the first increase in Compensation Fund contributions since 2012. The contributions also remain considerably lower than they were in 2012/13. Overall the LSB has no concerns regarding the methodological approach the SRA has taken this year upon which the increase is based.

Consultation

6. The LSB considers it appropriate to comment on the lack of consultation regarding changes to the level of contributions to the Fund this year. We noted in the section of the application on stakeholder engagement that there was a communications plan, but this was more about information provision than consultation. We also noted that there was no reference to seeking views on the increase in the short TLS/SRA PCF consultation in June 2017. Whilst approval of the PCF and approval of changes to contributions to the Compensation Fund are two separate decisions, in the LSB's view, some form of consultation with the regulated community would be appropriate. This should be borne in mind particularly where there is a proposal to increase significantly contributions to the Fund.

Decision

7. The LSB has considered the SRA's application against the criteria in paragraph 25(3) of Schedule 4 to the Legal Services Act 2007 (the Act) and has decided to grant the application.
8. The Annex to this decision notice contains the Determination of Compensation Fund contributions approved by the LSB.

Chronology

- The LSB confirmed receipt of an application from the SRA on 14 July 2017
- This decision notice is effective from 9 August 2017
- The decision notice will be published on our website on 9 August 2017

**Caroline Wallace, Strategy Director,
Acting under delegated authority granted by the Board of the Legal Services Board**

Notes:

1. The LSB is required by Part 3 of Schedule 4 to the Act to review and grant or refuse applications by approved regulators to make alterations to their regulatory arrangements.
2. Paragraph 25(3) of Schedule 4 to the Act explains that the LSB may refuse an application setting out a proposed change to the regulatory arrangements only if it is satisfied that:
 - (a) granting the application would be prejudicial to the regulatory objectives
 - (b) granting the application would be contrary to any provision made by or by virtue of this Act or any other enactment or would result in any of the designation requirements ceasing to be satisfied in relation to the approved regulator
 - (c) granting the application would be contrary to the public interest
 - (d) the alteration would enable the approved regulator to authorise persons to carry on activities which are reserved legal activities in relation to which it is not a relevant approved regulator
 - (e) the alteration would enable the approved regulator to license persons under Part 5 [of the Act] to carry on activities which are reserved legal activities in relation to which it is not a licensing authority, or
 - (f) the alteration has been or is likely to be made otherwise than in accordance with the procedures (whether statutory or otherwise) which apply in relation to the making of the alteration.
3. The designation requirements referred to in paragraph 2(b) above are set out in paragraph 25(4) of Schedule 4 to the Act and are:
 - (a) a requirement that the approved regulator has appropriate internal governance arrangements in place
 - (b) a requirement that the applicant is competent, and has sufficient resources to perform the role of approved regulator in relation to the reserved legal activities in respect of which it is designated, and
 - (c) the requirements set out in paragraphs 13(2)(c) to (e) of Schedule 4, namely that the regulatory arrangements are appropriate, comply with the requirements in respect of resolution of regulatory conflict (imposed by sections 52 and 54 of the Act) and comply with the requirements in relation to the handling of complaints (imposed by sections 112 and 145 of the Act).
4. In accordance with paragraphs 20(1) and 23(3) of Schedule 4 to the Act, the LSB has made rules¹ about the manner and form in which applications to alter regulatory arrangements must be made. Amongst other things, the rules highlight the applicant's obligations under section 28 of the Act to have regard to the Better Regulation Principles. They also require applicants to provide information about each proposed change and details of the consultation undertaken.
5. If the LSB is not satisfied that one or more of the criteria for refusal are met, then it must approve the application in whole, or the parts of it that can be approved.

¹ Rules for Rule Change Applications – Version 2 (November 2010)

ANNEX

Determination of Compensation Fund contributions 2017

This determination is made by the Solicitors Regulation Authority Board under rule 2.3 of the SRA Compensation Fund Rules 2011, with the approval of the Legal Services Board under paragraph 19 of Schedule 4 to the Legal Services Act 2007.

- (1) Every person who applies for a practising certificate to commence on or after 1 November 2017, or who applies for initial registration or renewal of registration as a registered European lawyer or registered foreign lawyer to commence on or after 1 November 2017, shall pay with the fee payable in respect of that application, a contribution of £40 to the Fund.
- (2) Every recognised body or recognised sole practice that has held or received client money (as defined in the SRA Accounts Rules 2011) during the period 1 November 2016 to 31 October 2017, shall pay with the annual periodical fee, a contribution of £778 to the Fund.
- (3) Every person that:
- (a) applies for initial recognition as a recognised body or initial recognition as a recognised sole practice to commence during the period 1 November 2017 to 31 October 2018; and
 - (b) intends to hold or receive client money (as defined in the SRA Accounts Rules 2011) at any time during the period 1 November 2017 to 31 October 2018
- shall pay with the fee payable in respect of that application, a contribution to the Fund as follows:
- i. £778 on applying for initial recognition to commence in the period 1 November 2017 to 31 December 2017;
 - ii. £583 on applying for initial recognition to commence in the period 1 January 2018 to 31 March 2018;
 - iii. £389 on applying for initial recognition to commence in the period 1 April 2018 to 30 June 2018;
 - iv. £194 on applying for initial recognition to commence in the period 1 July 2018 to 31 October 2018.
- (4) The SRA may waive the contribution payable under paragraph (3) above in circumstances where the initial application is made by a body which is changing its legal status or is succeeding to the practice of another authorised body and the predecessor body or practitioner has already paid a contribution to the Fund.
- (5) In this determination:
- Fund** means the Solicitors' Compensation Fund established and maintained under rule 2.1 of the SRA Compensation Fund Rules 2011; and

All other terms are to be interpreted in accordance with the Practising Certificate Fee Determination 2017.

(7) This determination shall come into force on 1 November 2017.

Determination of Compensation Fund contributions for Licensed Bodies 2017

This determination is made by the Solicitors Regulation Authority Board under rule 2.3 of the SRA Compensation Fund Rules 2011, with the approval of the Legal Services Board under paragraph 19 of Schedule 4 to the Legal Services Act 2007.

(1) Every licensed body that held or received client money (as defined in the SRA Accounts Rules 2011) at any time during the period 1 November 2016 to 31 October 2017, shall pay, with the annual periodical fee, a contribution of £778 to the Fund.

(2) Every licensed body that intends to hold or receive client money (as defined in the SRA Accounts Rules 2011) at any time from the date on which the body is authorised to 31 October 2018, shall pay, with the initial periodical fee, a contribution to the Fund as follows:

- i. £778 on applying for initial recognition to commence in the period 1 November 2017 to 31 December 2017;
- ii. £583 on applying for initial recognition to commence in the period 1 January 2018 to 31 March 2018;
- iii. £389 on applying for initial recognition to commence in the period 1 April 2018 to 30 June 2018;
- iv. £194 on applying for initial recognition to commence in the period 1 July 2018 to 31 October 2018.

(3) The SRA may waive the contribution payable under paragraph (2) above in circumstances where the initial application is made by a body which is changing its legal status or is succeeding to the practice of a recognised body or recognised sole practitioner and the predecessor body or practitioner has already paid a contribution to the Fund.

(4) In this determination:

Fund means the Solicitors' Compensation Fund established and maintained under rule 2.1 of the SRA Compensation Fund Rules 2011; and
All other terms are to be interpreted in accordance with the Licensed Body Fee Determination 2017.

(5) This determination shall come into force on 1 November 2017