

Solicitors Disciplinary Tribunal Administration Limited

Our ref: Geraldine Newbold

Steve Brooker
Head of Research and Development
Legal Services Board

By Email Only to: [REDACTED]

9 September 2019

Dear Steve

**Solicitors Disciplinary Tribunal/Solicitors Disciplinary Tribunal Administration Limited:
Budget Application 2020**

In accordance with the Memorandum of Understanding dated 23 August 2019 between the Legal Services Board ("the LSB"), the Solicitors Disciplinary Tribunal ("the SDT"), Solicitors Disciplinary Tribunal Administration Limited ("SDTAL") and The Law Society ("TLS"), I attach the SDT/SDTAL Budget Application 2020, for the LSB's attention. The application comprises:

1. This letter;
2. SDT/SDTAL Budget Principles 2020;
3. SDT/SDTAL Budget Application 2020;
4. SDT/SDTAL Out-turn 2018 – Budget Compared with Actual Spend;
5. SDTAL Management Accounts January to July 2019;
6. Efficiency Impact Assessment;
7. SDT/SDTAL Reserves Policy; and
8. Proposed Key Performance Indicators.

Sitting Days (Actual and Estimated with Members' Fees)

Description	2018	2019	2020
Budget Application	300 = £474,000	406 = £641,480	300 = £492,000
Completed or Listed	266 = £420,280	311 = £491,380	N/A
Estimated to year end	N/A	311 = £491,380	N/A
Underspend (estimated)	£53,720	£150,100	N/A

Table 1

To 31 August 2019 the SDT had received 76 applications from the SRA and 14 from all other sources. If current levels are maintained this suggests a caseload of 114 applications from the SRA and 21 from all other sources for 2019 as a whole. In 2018 the Tribunal received 113 applications from the SRA and 36 from all other sources.

Each month the SRA provides an estimate of the number of cases it anticipates sending to the SDT in the following month with a maximum and minimum anticipated length for each case. As an example, at the end of August 2019 the SRA indicated that it anticipated submitting between 6 cases (most likely) and 15 cases (worst case scenario) in September, requiring between 28 (most likely) and 38 (worst case scenario) hearing days. However the estimated number of hearing days required for each case is not known until the SDT actually receives the case from the SRA.

Relevant factors in determining the number of hearing days required for a case include:

- (1) the number of respondents;
- (2) the number of allegations made;
- (3) whether the allegations include dishonesty and/or lack of integrity (which are more likely to be defended);
- (4) whether the respondent is legally represented (which can increase or decrease the hearing length);
- (5) whether the allegations are to be defended;
- (6) the number of witnesses to be called;
- (7) the quantity of supporting paperwork;
- (8) the likelihood of an Agreed Outcome based on the papers.

To 31 August 2019 the SDT had sat on 181 days. In that period it had originally been scheduled to sit on 336 days on the basis of the time estimates for the cases due to be heard in that period. It is currently scheduled to sit on 174 days in September to December 2019. If all of these days are effective then the total number of hearing days for 2019 would be in the region

of 355 days. However it is likely, based on previous patterns, that only 50% to 65% of these days will be effective, bringing the predicted number of hearing days for 2019 to between 268 and 294 days.

The figure of 181 sitting days year to date includes 10 days where the Division predominantly dealt with case management hearings, 6 days where the Division dealt with substantive hearings in respect of applications falling within KPM1 (b) and 1 Appeal hearing.

The estimated number of applications for 2020 is a maximum of 170 applications from all sources, including a number of lay applications and applications for non-party disclosure. This includes an estimate of 132 applications from the SRA.

Information provided by the SRA suggests that 80% of the cases which it lodges at the Tribunal will proceed to a hearing, with c.20% resolved by way of an Agreed Outcome. Based on historical patterns the SRA estimates that the cases which proceed to substantive hearing will require 192 hearing days for the substantive hearings themselves. In addition the SRA has estimated that 83 hearing days will be required for preliminary applications, bringing the estimated number of days required by the SRA for all its applications to 275.

The SRA anticipates lodging 8 to 12 further sexual misconduct cases before the end of 2019 in addition to the 7 already lodged. It further estimates 20 such cases being sent to the Tribunal in 2020. On average these cases are likely to require more hearings days (whether for preliminary matters, the substantive hearing or both) than other types of cases.

The estimate of required hearing days for any given year is not a precise science. Matters received by the Tribunal in the second half of the year are generally not heard until the next calendar year. Factors such as the respondent's health or parallel criminal proceedings can result in listed hearings being adjourned. Taking into account all available information the SDT has based this budget application on 300 hearing days in 2020.

General enquiries from members of the public appear to be continuing at previous levels. A minority of those contacting the Tribunal are increasingly litigious, for example including threats of Judicial Review and naming the Tribunal as an Interested Party in Judicial Reviews. There continues to be a notable level of post-hearing contact from a number of respondents (or persons connected with a case) unhappy with the SDT's decision and seeking recourse that is not within the SDT's powers.

In 2018 the number of individuals seeking restoration to the Roll or termination of a period of indefinite suspension was 2, whereas in previous years such applications had been fairly constant at around 5-7 each year. The number of such application so far this year is 1.

In 2019 the number of lay applications for consideration by the Tribunal for certification looks likely to be slightly higher than the 9 received in 2018, having reached 7 to date. There were 3 Section 44E appeal applications in 2018 but none so far this year.

2018 Underspend and 2019 Underspend Estimate

The 2018 underspend and current estimate of underspend in 2019 can be broken down as follows:

2018	Budget (£)	Actual Spend (£)	Under Spend (£)
Employment Costs	1,159,939	1,061,719	98,220
General Administration Costs	927,421	850,089	77,332
Building Costs	641,970	670,310	(28,340)
Contingency	25,000	-	25,000
Irrecoverable VAT	159,190	163,263	(4,073)
Total Costs	2,913,520	2,745,381	168,139
Capital spend	-	36,248	(36,248)
TOTAL EXPENDITURE (REVENUE & CAPITAL)	2,913,520	2,781,629	131,891
2019	Budget (£)	Forecast Actual Spend (£)	Forecast Under- Spend (£)
Employment Costs	1,183,928	1,130,796	53,132
Administrative Costs	1,187,046	1,000,552	186,494
Building Costs	669,604	669,445	159
Contingency	25,000	-	25,000
Irrecoverable VAT	157,616	157,616	-
Total Costs	3,223,194	2,958,409	264,785
Capital spend	-	-	-
TOTAL EXPENDITURE (REVENUE & CAPITAL)	3,223,194	2,958,409	264,785

Table 2

It should be noted that the projected reduction in sitting days in 2019 accounts for just over £220,000 of the total projected underspend of c. £265,000.

Reserves Policy

As part of discussion and agreement of the 2019 budget, the LSB, at its October 2018 Board Meeting, asked the SDT to put forward a proposal for a Reserves Policy. This application is accompanied by a Reserves Policy which was approved by the SDTAL's Board on 28 August 2019.

The SDTAL considers that the purpose of a financial reserve is to provide certainty about the availability of operating and investment funds, enabling the SDT/SDTAL to meet its business objectives and take a strategic, long-term approach to business planning, and function independently of the LSB and TLS.

The SDTAL intends to establish a designated reserve to be funded by under-spends in Members' fees in financial years when the actual number of sitting days is lower than the number budgeted. The first call on this designated reserve will be to fund excess sitting days in the years when they exceed the budgeted allocation.

The 2019 Preliminary Budget Estimate was based on 300 days. This was, on the basis of information provided by the SRA, increased to 406 to include 325 days for general matters and 81 days specifically for sexual misconduct cases. It is proposed that any underspend relating to the additional non-specific 25 sitting days and any of the 81 days requested specifically for sexual misconduct cases be used to establish this designated reserve.

As at the end of August 2019 the SDT has received 7 cases that fall within the category of sexual misconduct. To date, in relation to this cohort of cases, approximately 7 hearing days/part-days have been utilised, primarily for preliminary hearings. A further 31 hearing days/part-days are listed in respect of these cases before the end of 2019.

Any sexual misconduct cases received by the SDT between now and the end of September 2019 are likely to have any initial preliminary hearing first listed in 2019.

Member Recruitment

Following a number of resignations/retirements and having called off the "reserve" list of Members from the 2015 recruitment process, it will be necessary during 2020 to recruit a number of additional Solicitor and Lay Members to ensure that there are sufficient Members available to sit on the listed hearings.

The SDT will focus on reducing the cost of recruitment as far as possible, for example by streamlining advertising costs and adopting flexible selection panel processes to reduce attendance costs. Those involved in the selection panel processes will receive appropriate training. Careful consideration will be given to the placement of advertisements to ensure, insofar as is possible, the potential new Members reflect the diversity of the profession.

Digitisation of Judgments

The SDT retains copies of Tribunal Judgments (available to members of the public) for an unlimited period of time. Currently judgments going back to c1900 are stored on the SDT's website and/or in bound volumes and/or in the SDT's hosted IT system. As set out in the Efficiency Impact Assessment the SDT proposes during 2020 to embark on a project to digitise hard copy Judgments to improve access to records for service users, ensure Judgment records are retained securely for posterity, and reduce retrieval and (in the longer term) storage costs. Specific provision has been made for this project in the 2020 budget application.

Key Performance Indicators

The Tribunal currently has five Key Performance Indicators ("KPIs"). These were last reviewed in 2016 and approved by the LSB in October of that year. Given the time elapsed it is appropriate for the KPIs to be reviewed again. Revised KPIs 1, 2 and 5 are being proposed for consideration by the LSB as part of this application.

Annual Report

The SDT published its Annual Report for the year ended 2018 in June 2018. It was sent to the LSB at the point of publication.

Concluding Remarks

You will see that I have copied Robert Cummings at TLS into this email. I confirm that the Preliminary Budget Estimate 2020 was sent to TLS on 29 May 2019. Since the Preliminary Budget Estimate was submitted the £25,000 contingency has been removed on the assumption that the Reserves Policy is approved. Provision for Member recruitment has been refined and the likely cost estimate reduced by just over £30,000. The budget submission for 2020 now represents a 1.1% increase on the previous year's budget, on a like-for-like basis.

It is not my intention to send hard copies of this letter and enclosures. If hard copies would assist, or if I can immediately help with anything else in relation to this application, please do not hesitate to let me know.

Edward Nally and I are expecting to attend at the LSB Board Meeting on 22 October 2019 for the purpose of presenting the Budget Application and dealing with questions. I will be attending in person and Edward by telephone.

Yours sincerely

[REDACTED]

Geraldine Newbold
Clerk, Solicitors Disciplinary Tribunal
Chief Executive Officer, Solicitors Disciplinary Tribunal Administration Limited

[REDACTED]
[REDACTED]
[REDACTED]

www.solicitorstribunal.org.uk