

To:	Legal Services Board		
Date of Meeting:	24 October 2018	Item:	Paper (18) 56

Title:	Solicitors Disciplinary Tribunal Budget 2019		
Workstream(s):	Performance, evaluation and oversight		
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Status:	Official		

Summary:

Approving the Solicitors Disciplinary Tribunal's (**SDT**) annual budget is a statutory decision which is reserved to the Board.

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.

Ed Nally, President of the SDT, and Geraldine Newbold, Clerk and Chief Executive Officer of the SDT, will attend the Board meeting to present the budget.

The application from the SDT is for approval of an operating budget of £3,223,194, which represents a 10.6% increase compared to the budget approved for 2018. The increase is largely explained by a projected 35% increase in court sitting days based on information supplied by the SRA. However, if variable costs associated with the increased sitting days are excluded, the requested budget represents a decrease of £7,555 or 0.3% as against the 2018 approved application. The SDT has greater confidence in the accuracy of these projections than in the past; this should also mitigate the issue of historically high levels of underspend.

Based on feedback on the 2018 budget application, the SDT has submitted an enhanced set of budget principles and an Efficiency Impact Assessment.

Annexes

Annex A: SDT Budget Application 2019

Annex B: SDT Budget Principles

Annex C: SDT Efficiency Impact Assessment

Recommendation:

The Board is invited to approve the SDT's application for a budget of £3,223,194. This would be an increase of £309,674 (10.6%) compared to the approved 2018 budget.

Risks and mitigations

Financial: N/A

Legal:

[Redacted]

Reputational:

[Redacted]

Resource: N/A

Consultation	Yes	No	Who / why?
Board Members:		X	
Consumer Panel:		X	
Others:	Under the terms of the MoU and the Legal Services Act, LSB is required to consult with TLS on the budget application. No comments were received at the time of preparing the paper. There will be an oral update at the Board if any additional comments are received.		

Freedom of Information Act 2000 (Fol)

Para ref	Fol exemption and summary	Expires
Risks and mitigations: Legal	Section 42: information subject to legal professional privilege	
Risks and mitigations: Reputational	Section 36(2)(b)(ii): information likely to inhibit the exchange of views for the purposes of deliberation	

LEGAL SERVICES BOARD

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Solicitors Disciplinary Tribunal (SDT) Budget 2019

Executive Summary

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 the Law Society (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 2019 budget application was submitted to the LSB on 6 September 2018.
3. We consulted with TLS (in accordance with the statutory requirements and MoU) on 7 September 2018. No comment was received on the application but there will be an oral update to the Board if any comment is made.
4. In our the approval letter to the SDT on the 2018 budget application, it was noted that in the event that it was necessary to call upon the contingency amount for additional sitting days, we would like an explanation of what work is being undertaken to achieve efficiency savings. Although this did not arise, nonetheless the SDT has prepared an Efficiency Impact Assessment outlining steps that the Tribunal has taken during 2018 to improve efficiency and reduce costs where possible. This includes commentary on anticipated benefits from the introduction of CaseLines (a cloud-based evidence management and presentation system).
5. Attached to this paper are the application letter (**Annex A**) and the SDT papers on Budget Principles (**Annex B**) and Efficiency Impact Assessment (**Annex C**). The table under paragraph six sets out a high level summary of the application. A more detailed spreadsheet is available to Board members on request.

The main budget application

6. The application is for the approval of an operating budget of £3,223,194 for 2019. In summary, the budget by category and explanation of the variances compared to 2018 are as follows:

Expense category	2019 budget	2018 budget	Variance from 2018 and primary reasons for change
Salary and related costs	£1,175,418	£1,123,136	4.7% increase on 2018. Includes an additional full-time Deputy Clerk considered necessary due to the anticipated increase in caseload.
General administration	£1,195,556	£964,224	24% increase on 2018. Reflects increased remuneration and expenses for Tribunal members due to anticipated increase in caseload, plus the introduction of a new case management system. Some of this increase has been offset by savings arising from the implementation of CaseLines.
Building costs	£669,604	£641,970	4.3% increase on 2018. This is due to a 5% increase in business rates and a 0.5% rent increase.
Contingency	£25,000	£25,000	Unchanged compared to 2018.
Irrecoverable VAT	£157,616	£159,190	1% decrease on 2018.
Total	£3,223,194	£2,913,520	

7. The total budget request of £3,223,194 represents a 10.6% increase compared to the budget approved for 2018. The increase is largely explained by a projected 35% increase in court sitting days based on information submitted by the SRA (406 in 2019 against 300 in 2018; 205 applications against 131 to 136 in 2018). The budget application notes an expected increase in sexual misconduct cases, although it does not explain the rest of the variation. From follow-up enquiries we gather that there are some micro-trends, such as cases involving dubious investment schemes, but no other discernible pattern to explain the increase.¹
8. The SDT is a demand-led organisation and cannot control the number of cases that it receives. The application notes that when the variable costs associated with the increased sitting days are excluded, the requested budget represents a decrease of £7,555 or 0.3% as against the 2018 approved application. We have verified this claim by asking the SDT for a breakdown of the relevant costs.
9. The Board will be pleased to note the SDT's observation that there has been a marked improvement in the information provided by the SRA in 2018. This should lead to more accurate forecasting with resulting efficiencies in court utilisation.

¹ As additional context the Bar Standards Board reported a 29% increase in misconduct complaints about barristers in its most recent annual enforcement report.

Budget principles

10. The SDT's budget principles paper is provided at **Annex B**.
11. For the 2018 application the SDT developed a set of budget principles for the first time, however the team felt these were more like a set of assumptions around expected case numbers rather than budget principles (broadly, ways in which an organisation approaches budget setting and control of expenditure). The SDT accepted our suggestion to adapt OECD guidance on budget governance to formulate a revised set of budget principles for the 2019 application. We consider the principles are a marked improvement on last year, although some of these are less well-evidenced than others.
12. During the last year we also encouraged the SDT to reflect on our exercise with the frontline regulators to improve transparency on costs. There is some evidence of the SDT taking this into account in paragraph 8 (third sub-bullet).
13. The SDT's key business planning assumptions include that the key performance metrics (KPMs) approved by the LSB Board in October 2016 will remain in place throughout 2019. The Board received a report on the SDT's performance at its April 2018 meeting. In summary, our assessment was that overall, performance was stable compared to the previous year, with most of the performance targets achieved, in the context of a one-third increase in caseload.

Underspend

14. The SDT's actual expenditure has historically been far lower than the budget approved by the LSB, see Table 1 below. Although surplus funds are returned to the profession, clearly this situation is not ideal so we made follow-up enquiries.

Table 1 – Variance between budgeted and actual expenditure

	Budget	Actual	Variance
2017	£2,905,167	n/a	n/a
2016	£2,908,243	£2,377,969	£530,274
2015	£2,752,910	£2,098,733	£654,177
2014	£2,847,020	£1,899,367	£947,653
2013	£2,780,352	£2,103,338	£677,014

15. The main element of recent underspends has been the shortfall of actual hearing days against those assumed in the budget calculations. For example, the 2017 budget was based on 345 hearing days, but the outturn was 266; this accounted for well in excess of half of the underspend in that year (most of the remainder

was due to one-off projects not proceeding as planned). The major contributor to improving expenditure estimates should be more reliable SRA forecasts of hearing days (see paragraph 9) as well as more accurate budgeting by the SDT. The SDT told us it is expecting a much lower underspend this year. While this is encouraging to hear, we will monitor whether the actual outturn bears this out and we could underline the importance of this issue in our decision letter.

Memorandum of Understanding

16. The Memorandum of Understanding (MoU) between the LSB, SDT, Solicitors Disciplinary Tribunal Administration Ltd (SDTAL) and TLS is due to be reviewed in 2019. The MoU largely gives effect to the statutory procedure for LSB's approval of the budget. However, there is an opportunity to take account of any reflections from the Board on the current and previous budget applications.

Proposal

17. The Board is invited to approve the SDT's application for a budget of £3,223,194. This would be an increase of £309,674 (10.6%) compared to the approved 2018 budget.

Next steps

18. The Chair will write to the SDT President to confirm the Board's decision, which will reflect key points in its discussions at the meeting.

19. A process will begin to review the MoU, due to be signed in August 2019.