

Direction 168 issued under Part 3 of Schedule 4 to the Legal Services Act 2007 to the Law Society (TLS)

1. This is a direction issued pursuant to paragraph 19(3) of Schedule 4 to the Legal Services Act 2007 (the Act).
2. Unless stated otherwise, words in this direction are used as they are defined in the Act.
3. In accordance with paragraph 19(3) of Schedule 4 to the Act, the Board has directed that the following alteration by the Law Society to its regulatory arrangements be treated as exempt alterations for the purposes of paragraph 19(2)(c) of Schedule 4:

The insertion of a new provision in paragraph 15 of the Law Society/Solicitors Regulation Authority Limited Assurance Protocol (“Assurance Protocol”)

Proposed changes

4. On 9 July 2020, the LSB directed that TLS’s alterations to its regulatory arrangements relating to the delegation of its regulatory functions to the Solicitors Regulation Authority were exempt under paragraph 19(3) of Schedule 4 to the Act.
5. Those alterations to TLS’s General Regulations and for an Assurance Protocol between TLS and the Solicitors Regulation Authority Limited (“SRA Ltd”), were made to comply with the LSB’s Internal Governance Rules 2019. The changes were intended to facilitate the future disestablishment of the Solicitors Regulation Authority Board as a Board of the Law Society Council. The delegation of regulatory functions would transfer from the Solicitors Regulation Authority Board to SRA Ltd, a separate new company limited by guarantee and wholly owned subsidiary of TLS. The transfer of the regulatory functions to SRA Ltd is now anticipated to take place on 1 June 2021.
6. An application for SRA Ltd to register as a charity was submitted to the Charity Commission in November 2020. This followed TLS’s agreement to the Solicitor Regulation Authority’s proposal for SRA Ltd to be constituted as a charity. TLS cites two primary reasons for seeking charitable status. First, to strengthen SRA Ltd’s accountability to the Charity Commission for the public benefit it will provide through its regulatory functions, and to the legal profession and public for the way it uses funds. Second, to allow SRA Ltd to benefit from tax reliefs available to charities for the benefit of consumers, and authorised persons who fund its work.¹
7. The alteration here is to allow TLS to intervene in the SRA Ltd to protect the delivery of the regulatory functions, should the latter be registered as a charity. Such an intervention will only occur in the exceptional circumstance that SRA Ltd ceases to operate due to intervention by the Charity Commission. The alteration will only become operative when SRA Ltd’s registration as a charity is approved by the Charity Commission.
8. Paragraph 15 of the Assurance Protocol provides that TLS:

¹ This includes delivering the Solicitors Qualifying Examination with fees for candidates exempt from VAT, through SRA Ltd on the basis that charitable registration for the Ltd is being sought.

“may only seek to amend or revoke the terms of delegation or to intervene in the exercise of regulatory functions in exceptional circumstances. The expectation is that such circumstances would only arise if:

- a. the SRA [Ltd] becomes ineffective or ceases to operate within the ambit of the Act and the IGR and, due to the delegation, the issues fall outside the Law Society’s control,*
 - b. the SRA has been given a reasonable opportunity to rectify the issues of concern and has failed to do so in a reasonable time”.*
9. The alteration will insert the following as new subparagraph (b) (meaning current subparagraph (b) will become (c)):
 - b. the SRA ceases to operate due to intervention by the Charity Commission;*
and

Reason for exemption direction

10. The amendment to **The Assurance Protocol** does not represent a change in regulatory policy or approach under the Act. The amendment is necessary to safeguard the delivery of the regulatory functions in exceptional circumstances.
11. A copy of the alteration was submitted to the Board on 01 April 2021.
12. This direction is to be deemed made on and to be effective from 22 April 2021.

For and on behalf of the Legal Services Board

22 April 2021