

Legal Services Board
The Rookery (3rd floor)
2 Dyott Street
London
WC1A 1DE

Attn: Administrator for Regulatory Arrangements Alterations
By email to: schedule4approvals@legalservicesboard.org.uk

19 April 2022

Dear Sir/Madam

Application for approval of alterations to the Law Society's regulatory arrangements

In an application dated 1 April 2021 the LSB was asked to approve amendments to the Assurance Protocol between the Society and Solicitors Regulation Authority (SRA). Those amendments were consequent to the SRA's proposed charitable status. The LSB issued an exemption direction on 22 April 2021, stating that the alterations be treated as exempt alterations for the purposes of paragraph 19(2)(c) of Schedule 4 of the Legal Services Act 2007 (the Act).

As set out in a letter from the SRA to the LSB on 4 February 2022, the SRA Board decided to withdraw the application for charitable registration at a meeting on 19 January 2022.

Pursuant to Part 3 of Schedule 4 to the Act, the Society is now writing to seek exemption, in line with previous connected applications, under the LSB's rules for applications to change regulatory arrangements. This is a minor change to the Assurance Protocol to reflect that the SRA will no longer be seeking charitable status and that, accordingly, the Society will not require powers to intervene into the SRA as a result of any intervention by the Charity Commission.

The LSB has indicated previously that changes to the Assurance Protocol between the Society and the SRA fall within the definition of regulatory arrangements in section 21(1)(i) of the Act. The amendment concerns a minor change to the performance of the Society's residual assurance role in respect of regulatory functions in accordance with Rule 3 of the Internal Governance Rules (IGRs).

In preparing this application the Society has consulted the IGRs and IGR Guidance. The application also follows the suggested format set out in the Rules for changes to regulatory arrangements. Attached to this application are:

Annex A – Assurance Protocol between the Society and the SRA showing the relevant amendment falling within the scope of this application (as tracked changes);

Annex B – a table responding to questions following the LSB's Significance, Impact and Risk Framework and following recent discussion with the LSB.

We look forward to receipt of confirmation from the LSB that the application has been approved, alternatively that it meets the criteria for exemption.

9a. Contact details for applicant

Pieter de Waal, General Counsel [pieter.dewaal@lawsociety.org.uk and phone number 0208 049 4019] may be contacted for any enquiries relating to this application.

9b. Details of the proposed alterations

The Society has identified a change that is required to be made to its regulatory arrangements in respect of its assurance functions under the IGRs.

As the LSB is aware, the Society has delegated the regulatory functions previously performed by the SRA Board to Solicitors Regulation Authority Ltd (SRA Ltd) as a corporate entity and subsidiary of the Society, with effect from 1 June 2021. This decision was made in the context of wider changes to governance arrangements in order to comply with the IGRs. Following this decision, the Society applied to the LSB for approval, or exemption, of the changes required to its General Regulations and the introduction of a new Assurance Protocol. On 9 July 2020 the LSB directed that the alterations be treated as exempt alterations.

Subsequently steps were taken to register SRA Ltd as a charity, and changes were made to its constitution to give effect to this. Given the additional requirements that charitable registration would have placed on the SRA, the Society identified changes that were required to the Assurance Protocol to ensure that the Society would have appropriate means of intervention in the exercise of regulatory functions in circumstances where the SRA had to cease to operate due to any intervention by the Charity Commission. These changes were approved by the LSB (also as exempt alterations) on 22 April 2021.

As a result of the SRA's decision to no longer proceed with the application for charitable registration, these provisions are no longer required and accordingly this application seeks to reverse the previous alterations.

9c. Details of the Society's regulatory arrangements affected by the proposed alteration

As stated above, the Society will give effect to the relevant changes through an amendment to the Assurance Protocol.

9d. Statement of adherence to regulatory objectives

The Society acknowledges that under section 28 of the Act an approved regulator has a duty, so far as reasonably practicable, to act in a way which is compatible with the regulatory objectives and to have regard to the better regulation principles and best regulatory practice in discharging its regulatory functions. The Society considers that the proposed alteration meets the requirements for approval under Schedule 4, Part 3 of the Act. The arrangements which are the subject of this application are designed and intended to ensure compliance with the IGRs in respect of the residual regulatory functions which the Society performs as approved regulator. The alteration reflects a minor change to those arrangements and does not affect compatibility with the regulatory objectives.

9e. Statement of compliance with section 28 of the Act

The proposed alteration does not impact on the way that regulation is undertaken, or represent a change in regulatory policy or approach. The alteration is limited to clarifying the Society's limited powers of intervention as reflected in the IGRs. The Society considers that the proposed arrangements are compatible with section 28 of the Act and with the regulatory objectives.

9f. Statement of desired outcome of the changes

The change is being implemented to reflect that the Society no longer requires powers to intervene in the exercise of regulatory functions in the event that the SRA ceases to operate

due to an intervention by the Charity Commission. Provision for such intervention by the Society is no longer required, because the SRA is no longer seeking charitable registration.

9g. Consultation statement re: other approved regulators

The Society has consulted with the SRA in developing the revised governance arrangements. The SRA has also corresponded with the LSB regarding the withdrawal of the SRA's application for charitable registration.

9h. Intended implementation date

As soon as possible.

9i. Consultation processes

See section 9g above.

9j. Other explanatory material (if applicable)

Please see the Annexures attached.

Yours faithfully

A handwritten signature in black ink, appearing to read 'Pieter de Waal', written in a cursive style.

Pieter de Waal
General Counsel