

Application made by the Solicitors Regulation Authority Board to the Legal Services Board under Part 3 of Schedule 4 of the Legal Services Act for the approval of changes to regulatory arrangements relating to Compensation Fund contributions.

A. Proposed Alterations

Compensation Fund contributions

1. The SRA needs to set the Compensation Fund contributions for the practising year 2011/12. The methodology used to allocate the cost of the Fund throughout the regulated community remains the same as last year. 50% of the funding requirement will be met by a fixed contribution of £60 from regulated individuals, and 50% by a fixed contribution of £772 from regulated firms . Last year the equivalent contributions were £10 and £120.
2. The contributions are not Practising Fees under the LSA 2007, and so approval is required under Part 3 of Schedule 4 rather than under s 51 of the LSA2007.
3. It is proposed, in anticipation of the Law Society becoming a Licensing Authority, that the contribution for Licensed Bodies also be set at £772.
4. The only other minor change to the policy adopted last year is that a new firm setting up during the practising year will pay a compensation fund contribution pro rata according to the quarter in which the firm set up. So a firm setting up in July 2012 will only pay a quarter of £772.

B. Details of the relevant Regulatory Arrangements

Nature and effect of the existing position

5. The SRA is required by statute to provide a Compensation Fund to compensate consumers who lose money due to the dishonesty or failure to account of solicitors (RELs and RFLs) or recognised bodies. The Law Society's Application to become a Licensing Authority extends the same Compensation Fund provisions to Licensed Bodies. This required statutory amendments under s69 LSA2007 which were made after the necessary consultation by the LSB.

6. The statutory powers permit the SRA to require the regulated community to contribute to the Compensation Fund. The Compensation Fund Rules require both regulated individuals and regulated firms to make an annual contribution, collected mainly during the annual renewal/data collection exercise. Payment is required by 31st October for the following practising year.

7. During 2010 the allocation of the cost of the Fund among the profession was reviewed, in the light of the move to firm based regulation, and, after consultation, changed to provide that 50% of the cost should be borne by regulated individuals and 50% by regulated firms, both through a fixed fee. This change was approved by the LSB in 2010.

8. Each year the SRA Board reviews the funding requirements for the following practising year and sets the individual and firm contributions at a level which ensures that the funding requirement is met. The contributions are required to fund the cost of claims, reserves and the cost of handling the claims. The SRA Financial Protection Committee reviews the claims experience, level of reserves and budget for staff to handle the claims before making a recommendation to the SRA Board. The SRA Board then makes a recommendation to The Law Society Council which is required, under the General Regulations, to approve the overall funding requirement. The SRA Board then makes the final decision on apportionment and sets the contribution by resolution (the Compensation Fund determination).

C. Nature and effect of the proposed change

9. The Financial Protection Committee, having gone through a detailed review, recommended that the funding requirement for 2011/12 should be £13.5 m. The paper from that Committee to the SRA Board as attached as **Annex 1** and sets out the relevant financial analysis to support the recommended £13.5 requirement. The SRA Board approved the recommendation, and made the same recommendation to the Law Society Council. The SRA therefore now seeks the approval by the LSB of the following determinations:

Annex 2: Compensation Fund determination:

This prescribes the individual and firm compensation fund contribution.

Annex 3: Licensed Body Compensation Fund contribution determination:

This prescribes the contribution payable by Licensed Bodies, and has been made in anticipation of the designation of the Law Society as a Licensing Authority.

D. Rationale for change

10. The funding requirement for the Compensation Fund will vary year on year depending on claims experience. Over the years there have been variations with sometimes significant increases, for example, during property recessions. The recently adopted reserving policy referred to in the Annex 1, and forward forecasting seeks, as much as possible, to avoid large swings. The rationale for the change is set out in the annexed paper, and largely relates to the claims experience and forecasting of claims for next year.

11. In 2010 the £2.1m requirement was stated to be unusually low and that was for two reasons. Firstly, as explained in consultations, the SRA Board decided that the Compensation Fund contributions should only fund the cost of claims, reserves and the cost of handling the claims. In previous years the contributions had also (as permitted by statute) funding certain of the operating costs of the SRA. The SRA Board considered this was not transparent and such general costs should be borne through the practising fees. The second reason is that the reserves in the Fund had grown to beyond those required by the reserving policy adopted by the Board. Public statements about the contributions last year made it clear that it was an unusually low requirement and that it would be higher this year.

E. Statement in respect of the Regulatory Objectives

12. The existence and effective operation of a Compensation Fund primarily protects and promotes the interests of consumers, in ensuring that they receive compensation if their money is lost while in the hands of a solicitor or firm. However it also promotes the public interest and improves access to justice in giving the public the confidence to entrust funds to solicitors and so facilitate many legal transactions. That is why statute requires such funds to be provided by the legal profession. Given the existence of such funds it is also in consumers interests to ensure that they are adequately funded and so able to meet claims without undue delay.

13. The SRA Board have considered, given the rise in the contributions over the previous year, whether there may be a negative impact on access to justice if the increase were to cause financial difficulty to small firms, and so whether some discount for small firms should be considered. The Board concluded that, partly in the light of the reduction in the regulatory funding requirement, (which should more than offset the increases in the Compensation Fund contributions), and partly because the amount is still relatively low, that no such discount should be introduced this year. Therefore it is believed that the setting of the contributions this year should not have a negative impact on competition or on encouraging a strong, diverse and effective legal profession.

F. Statement in respect of the Better Regulation Principles

14. The way in which the Compensation Fund requirement is allocated among the profession was reviewed in 2010 particularly in order to improve transparency and accountability. Following the Board's review, the structure remains the same this year, it is only the amounts that have changed. Although the final requirement was not set by the Council until July the SRA Board's early communications with the profession made it clear that the contributions would go up this year, and the on-line calculator, which has been available on the SRA web site since May, included realistic indicators of the likely contributions. This too has been reported in the legal press. The Board have had regard to proportionality and targeting in considering the impact on small firms in particular.

G. Statement in relation to desired outcomes

15. The desired outcome in relation to the alteration is to achieve a properly funded Compensation Fund that is able to meet claims as they fall due without undue delay. The Fund is reviewed annually and is also subject to audit. Regular reports on claims experience are made to management and the financial status of the Fund is a key priority for the SRA Financial Services Committee.

H. Statement in relation to impact on other Approved Regulators

16. The changes in the contribution amounts should not have an impact on other Approved Regulators

I. Implementation Timetable

17. The SRA Board and Council finalised the total funding requirements on 13/14 July and seek LSB approval. During August final preparations for this year's renewal exercise, which will be on-line for the first time this year, will be made and in September firms and individuals will be contacted and asked to make the various renewal applications on line and submit the relevant Compensation Fund contributions and other fees by 31 October 2011.

J. Stakeholder engagement

18. Letters were sent to key stakeholder groups including the "top100" firms in March 2011, explaining that it was proposed to maintain the same fee structure as last year but also saying that while the regulatory requirement may reduce the Compensation Fund requirement would increase. No responses were received about the increase in the Fund requirement. No figures were included however as they were not known at that time. In April the SRA Board considered the paper from the Financial Protection Committee in confidential session, but in order to give the profession as much notice as possible, reported in public session that the recommended requirement was £13.5m. In the light of that the on-line calculator was updated in mid May with more realistic contributions figures and a letter sent to all firms in May referred

to the updated on-line calculator. There have been a few general queries about the reasons for the uplift but no complaints.

K. Further explanatory information

19. The concurrent Application from the SRA to the LSB under s51 LSA2007 contains further explanatory material, in particular the review document which was a review of the overall changes made last year, including the Compensation Fund structure, and an Equality Impact Assessment.

SRA contact for matters relating to this application

Jackie Corcoran
Legal Adviser
Legal Department
SRA, Ipsley Court, Berrington Close, Redditch, B98 0TD

tel:01527 517141 ext 3881
Email:Jackie.corcoran@sra.org.uk

Annex 1 April SRA Board paper on the Compensation Fund requirement

Annex 2 Determination of Compensation Fund contributions [2011]

**Annex 3 Determination of Compensation Fund contributions for
Licensed Bodies [2011]**



Classification - Public

Compensation Fund contribution setting for 2011/12

Summary

1. At its meeting on 31 March 2011 the Financial Protection Committee (FPC) was invited to make a recommendation to the SRA Board as to the level of Compensation Fund contribution to be sought from the profession for the practising year 2011/12. The Committee agreed to recommend that the Compensation Fund raises contributions for 2011/12 totalling £13.5million.
2. The paper considered by the FPC is attached as **Annex A**. The paper provides the background and factors taken into account in calculating the minimum reserve level and a summary of the recommendations. The paper annexes financial forecasting information in support of its recommendations.
3. The proposed contribution level of £13.5million equates to a fee of approximately £58 per individual and £775 per firm holding client money..
4. Following the Board's decision in relation to the proposed funding levels for the 2011/12 Compensation Fund contribution, the matter will be considered by the Law Society Council at their meeting on ??.

Recommendation

5. The Board is invited to accept the Financial Protection Committee's recommendation that the Compensation Fund should raise contributions totalling £13.5 million for the year 2011/12.

This matter is for decision.

Annex A	Financial Protection Committee paper and annexes 1-5
Annex B	Risk Assessment
Annex C	Equality and Diversity risk assessment

Director: Heather Lees, Executive Director of Resources
Author: Karen Bevan, Head of Claims Management, SRA

Date of report: 4 April 2011

SRA BOARD

13 April 2011

CLASSIFICATION

FINANCIAL PROTECTION COMMITTEE

Confidential – Item 10

31 March 2011

Compensation Fund contribution setting for 2011/12

1. Introduction

The Financial Protection Committee (the Committee) is invited to make a recommendation as to the level of Compensation Fund contribution to be sought from those we regulate for the practising year 2011/12.

This paper sets out the SRA's financial projections for forthcoming years and is for decision.

2. Background

The basis of the Compensation Fund contribution was changed in the 2010/11 practising year to include a firm based element as well as an individual element¹. At the same time a decision was taken to use the reserves in the Compensation Fund to allow a lower than usual contribution in the 2010/11 practising year; contributions totalling £20.1m were received in 2009/10. A contribution of £2.1m was recommended by the Committee, resulting in an individual contribution of £10 and a firm contribution of £120.

At their meeting in April 2010, the Committee was also provided with a forecast for the 2011/12 and 2012/13 practising years. These indicated that contributions of £8.5m and £17m would be required in November 2011 and November 2012 respectively to maintain reserves above the agreed minimum level.

2.1. Recharged costs

The Committee have previously expressed a view that the Compensation Fund recharge² should be reduced to reflect only the direct costs of administering the Fund. With this in mind, several elements of the recharge which were considered to be indirectly related regulatory costs were removed from the 2010/11 practising year onwards. This will reduce the recharge by almost £7.5m in the 2010/11 year; from £21.3m in 2009/10 to £13.8m in 2010/11.

¹ The contribution was split 50/50 between firms and individuals in 2010/11 and it is assumed that this will continue in 2011/12. It may though be reconsidered in future years once the effect on the profession has been assessed.

² The transfer from the Fund to the Law Society and SRA to pay costs incurred in establishing, maintaining, protecting, administering or applying the Fund.

SRA BOARD

13 April 2011

CLASSIFICATION

It was agreed that the cost of legal fees and forensic investigations would remain as part of the recharge for 2010/11, therefore reducing the reserves. However, it is intended that these elements are removed from the recharge in 2011/12, reducing the recharge by a further £8.7m – to £5.1m in 2011/12. The forecast has been compiled on this basis.

A review of the recharge will be undertaken following completion of the restructure within the SRA. This review will ensure that all recharged costs are within the agreed principles, in line with the rules of the Fund³ and provide a clear rationale and audit trail.

2.2. Forecast of Compensation Fund grants

The forecast level of grant payments for 2010/11 has been revised to £26.1m based on all available information as at the end of February 2011. This is broadly in line with the forecast of £25.8m made in April 2010.

2.3. Maintaining a steady contribution level

The Committee has previously expressed a desire that the level of the contribution remain steady, avoiding large fluctuations from year to year wherever possible. This has been considered in the recommendations made to the committee in this paper.

3. Calculation of recommend contribution

The forecasting process for this paper was conducted using the same methodology as for the 2010/11 contribution paper. Further details can be found in annex 5.

3.1. Minimum reserve

The Committee has previously established the means by which the minimum reserve is to be calculated. The Committee discussed this methodology at their meeting in January 2011 and expressed the view that it should remain unchanged.

The minimum reserve at the end of the 2011/12 practising year is therefore :

$$\begin{aligned} & (1.5 \times \text{average annual grants over previous 7 years}) + (3 \\ & \text{months' recharges}) \\ & = (1.5 \times £17.8\text{m}) + (£1.3\text{m}) \end{aligned}$$

³ As per the Fund rules Section 2 (7). www.sra.org.uk/sra/regulatory-framework/solicitors-compensation-fund-rules-2009.page. See annex 4 for more detail.

SRA BOARD

13 April 2011

CLASSIFICATION= **£27.9m**

See annex 2 for detailed calculation of the minimum reserves for forthcoming years.

3.2. Cash outflows

The significant outflows from the Fund are the payment of grants and the recharge to the SRA and the Law Society.

Grants paid totalled £28.9m in the 2009/10 practising year. Grants are forecast to be £26.1m in the current practising year, £26.3m in 2011/12 and £17m in 2012/13. The work in progress is expected to be much reduced in the next 12 months as older matters are closed and new claims reduce. 2009/10 was seen as an exceptional year due to a small number of high profile and costly interventions, the impact of which is still being felt in 2010/11. As there have been no similar sized interventions in recent months, the number of new claims, and consequently grants, is forecast to fall.

The main factors in forecasting grants are the current work in progress and the expected number of future interventions. The expectation of the SRA is that the number of interventions will fall in coming years due to the implementation of Outcomes Focused Regulation (OFR). To be prudent, this forecast is based on 80 interventions in this and subsequent practising years⁴. There were 17 interventions between November 2010 and February 2011.

The amount claimed on the claims being investigated at the end of February 2011 was £175m⁵. These claims are expected to generate in the region of £30m in grants as historical data shows that the vast majority of claims do not result in grants. Due to the time taken to investigate and pay claims, these grants are forecast to be paid over the current and next practising year.

As previously outlined, the recharge to the SRA and the Law Society is reducing from £21.3m to £13.8m in 2010/11 and is expected to reduce again to £5.1m from 2011/12 onwards.

3.3. Cash inflows

The main cash inflows to the Fund excluding contributions are transfers from statutory trust accounts (STAs) through rights of subrogation⁶ and the transfer of dormant funds⁷.

⁴ 2007/08 - 66 interventions, 2009/09 - 89 interventions and 2009/10 - 74 interventions.

⁵ Adjusted for amounts already identified as outside the remit of the Fund.

⁶ Recovery of grants paid where funds are found to be held by the Society in STAs

⁷ Remaining funds in STAs once all reasonable efforts have been made to trace beneficiaries

SRA BOARD

13 April 2011

CLASSIFICATION

During 2009/10 the process of transferring dormant balances from the statutory trust accounts (STAs) began. This resulted in inflow to the Fund of £15.7m. As there are still a significant number of historic accounts⁸ to be investigated this unusually high inflow is forecast to continue into 2011/12.

The Statutory Trust Project Team is expected to fully investigate and close all historic accounts by the end of December 2011. Of the £40.6m held in STAs at the end of February 2011, £35m relates to these historic accounts, therefore the benefits of this work will be felt in this and the 2011/12 practising years.

Based on evidence of previously closed STAs and the ongoing work on live accounts, dormant funds are expected to total £11.8m in this year, falling to £5.7m in 2012/13 as older accounts are investigated and closed.

As in the 2009/10 year, a significant inflow of funds via rights of subrogation is expected during 2010/11; £10.4m compared with £18.6m in the previous year. This figure is then forecast to fall in 2012/13, as a result of historic accounts being closed.

4. Assumptions and Risks**4.1. Assumptions**

The following assumptions have been made in preparing this paper:

- 80 interventions in the 2010/11 practising year and each year thereafter
- The claims profile of current and future interventions will not differ significantly from previous interventions
- The recharge will reduce to c.£5.1m
- Rates of recovery from existing and future statutory trust accounts will not differ significantly from previous accounts
- The introduction of Alternative Business Structures⁹ will not have a significant impact on the Fund in 2011/12, either through increased contributions or increased claims.

4.2. Risks and mitigation

⁸ Accounts related to interventions prior to 30th June 2010.

⁹ Alternative Business Structures are expected to begin to come into effect from 6 October 2011

SRA BOARD

13 April 2011

CLASSIFICATION

There is a risk that any departure from the assumptions above may result in lower than expected inflows to the Fund or higher than expected outflows, both of which would result in lower than expected reserves.

These assumptions are based on all available information at the time of writing the paper. The underlying assumptions surrounding the forecast are regularly reviewed to ensure that there have been no significant changes that will affect the Fund in the future.

Overall, the risk to the Fund of increased outflows or reduced inflows is mitigated by maintaining a robust reserve.

5. Proposals for decision

With regards to the level of the Compensation Fund contribution for 2011/12, this paper makes the following proposals for the Committee to consider:

- a) Raise a minimum contribution while still maintaining the minimum reserve:

In order to maintain a reserve no lower than the agreed level, contributions of at least **£11.2m** should be raised in the 2011/12 practising year

- b) Raise an amount which allows a more constant contribution in forthcoming years:

In order to maintain a stable contribution over the next three years, contributions of **£13.5m** should be raised in the 2011/12 practising year

This paper takes the following into consideration when proposing these levels of contributions for 2011/12

- The minimum reserve using the formula agreed by the Committee is £27.9m at the end of the 2011/12 practising year
- The forecast reserve at the end of the 2011/12 year excluding contributions is £16.7m.
- Contributions of £40.6m will be required over the next three years to maintain the reserves above the agreed minimum level.

5.1. Impact on the Fund and those we regulate

- a) A contribution level of **£11.2m** in 2011/12 would result in Compensation Fund reserves falling to the minimum acceptable level at the end of the

SRA BOARD

13 April 2011

CLASSIFICATION

period. The expected minimum contribution in the following year would be £16.2m.

The effect of an £11.2m contribution on the profession would be approximately £50 per individual and £640 per firm holding client money.

- b) A contribution level of **£13.5m** would result in reserves £2.3m above the minimum agreed level at the end of the period. A contribution level of £13.5m could then be repeated in the following year.

The effect of a £13.5m contribution would be approximately £60 per individual and £770 per firm holding client money.

Annex 3 provides an illustration of how the individual and firm contributions may change in forthcoming years.

6. Recommendation for decision

The Committee is invited to recommend to the SRA Board either that:

- a) the Compensation Fund raise contributions totalling no less than £11.2m for the 2011/12 practising year, or
- b) the Compensation Fund raise contributions totalling £13.5m for the 2011/12 practising year.

Annexes

Annex 1 Compensation Fund forecast 2010-2014

Annex 2 Minimum reserve calculations

SRA BOARD

13 April 2011

CLASSIFICATION

Annex 3 Compensation Fund funding requirements and indicative fees

Annex 4 Extract from the SRA Compensation Fund rules

Annex 5 Brief outline of methodology used

Director: Heather Lees, Executive Director of Resources

Authors: Karen Bevan, Head of Claims Management

David Adams, Financial Accountant

Date: 25 March 2011

This paper is for decision

SRA BOARD
13 April 2011

CLASSIFICATION

Annex 1

Compensation Fund forecast 2010-2014

	2010-11 (£'000s)	2011-12 (£'000s)	2012-13 (£'000s)	2013-14 (£'000s)
Opening balance as at 1st November	52,216	36,994	27,911	29,152
Cash Outflows				
Compensation Fund Grants	26,147	26,346	17,217	15,218
Fees, tax and other costs	111	111	111	111
SRA support costs recharged	13,840	5,097	5,097	5,097
Total cash outflow in period	40,098	31,554	22,425	20,426
Cash inflows				
Subrogated claims	10,379	5,146	4,787	5,469
Compensation Fund recoveries	176	176	176	176
Dormant funds	11,829	5,678	2,177	2,481
Bank & investment income	283	283	283	283
Total cash inflow before contributions	22,667	11,283	7,423	8,409
Net cash inflow / outflow before contributions	(17,431)	(20,271)	(15,002)	(12,017)
Balance before contributions	34,785	16,723	12,909	17,135
Compensation Fund contributions	2,208	11,188	16,242	13,186
Net cash inflow after contributions	(15,223)	(9,083)	1,240	1,169
NET BALANCE AFTER CONTRIBUTIONS	36,993	27,911	29,151	30,321
variance from target reserve after contributions	11,883	0	0	0
Calculated minimum reserve:	25,110	27,911	29,152	30,322

SRA BOARD

13 April 2011

CLASSIFICATION**Annex 2****Minimum reserve calculation**

Practising year	Contribution year			
	2010 / 11	2011 / 12	2012 / 13	2013 / 14
2004-05	£13.3 m			
2005-06	£11.4 m	£11.4 m		
2006-07	£9.8 m	£9.8 m	£9.8 m	
2007-08	£8.8 m	£8.8 m	£8.8 m	£8.8 m
2008-09	£13.5 m	£13.5 m	£13.5 m	£13.5 m
2009-10	£28.3 m	£28.3 m	£28.3 m	£28.3 m
2010-11 (forecast)	£26.1 m	£26.1 m	£26.1 m	£26.1 m
2011-12 (forecast)		£26.3 m	£26.3 m	£26.3 m
2012-13 (forecast)			£17.2 m	£17.2 m
2013-14 (forecast)				£15.2 m
Average	£15.9 m	£17.8 m	£18.6 m	£19.4 m
Average times 1.5	£23.8 m	£26.6 m	£27.9 m	£29. m
3 months recharge	£1.3 m	£1.3 m	£1.3 m	£1.3 m
Minimum balance	£25.1 m	£27.9 m	£29.2 m	£30.3 m

These tables show the calculation of the minimum reserve in forthcoming practising years. The reserve is set at one and a half times the average grants in the previous 7 periods plus three months expected recharge.

SRA BOARD
13 April 2011

CLASSIFICATION

Annex 3

Compensation Fund funding requirements and indicative fees

(a) Minimum funding requirement to maintain reserve above agreed level

	Actual fee 2010/11	2011/12 as forecast April 2010	Future years as forecast March 2011		
			2011-12	2012-13	2013-14
Total contribution	£2,100,000	£8,500,000	£11,188,194	£16,241,927	£13,185,557
Individual Fee	£10	£39	£48	£70	£57
Firm Fee	£120	£599	£638	£926	£751
Firm : Individual split	50/50	50/50	50/50	50/50	50/50

(b) Funding requirement to maintain a consistent fee over the next three years

	Actual fee 2010/11	2011/12 as forecast April 2010	Future years as forecast March 2011		
			2011-12	2012-13	2013-14
Total contribution	£2,100,000	£8,500,000	£13,538,559	£13,538,559	£13,538,559
Individual Fee	£10	£39	£58	£58	£58
Firm Fee	£120	£599	£775	£775	£775
Firm : Individual split	50/50	50/50	50/50	50/50	50/50

Annex 4

Extract from the SRA Compensation Fund Rules 2009

2. Maintenance of and contributions to the Fund

(7)

The Fund may be applied by the SRA for the following purposes (in addition to the making of grants in respect of compensation claims):

- (a) payment of premiums on insurance policies effected under paragraph (5);
- (b) repayment of money borrowed by the Society for the purposes of the Fund and payment of interest on any money so borrowed under paragraph (6);
- (c) payment of any other costs, charges or expenses incurred by the Society in establishing, maintaining, protecting, administering or applying the Fund;
- (d) payment of any costs, charges or expenses incurred by the SRA in exercising its powers under Part 2 of Schedule 1 to the Act (intervention powers);
- (e) payment of any costs or damages incurred by the Society, the SRA, their employees or agents as a result of proceedings against any or either of them for any act or omission of its or theirs in good faith and in the exercise or purported exercise of such powers.

A complete copy of the rules is available on the internet.

<http://www.sra.org.uk/sra/regulatory-framework/solicitors-compensation-fund-rules-2009.page>

Annex 5

Brief outline of methodology used

The value of expected Compensation Fund grants has been determined by examining six different aspects that will impact upon payment levels. The expected grants in respect of each of these six provide our estimate. By breaking down our forecast in this way we are able to use known data where possible and reduce assumptions.

I - future payments on claims currently in progress

Using details of claims in progress together with historical averages we can predict the average payments each claim will generate during the relevant period.

II - payments on future claims relating to previous interventions

In addition, using historical data we can predict levels of grants in the future in relation to these particular interventions.

III - payments on future claims relating to future interventions

Interventions which have not yet taken place will also generate claims and subsequent payments. Based on an assumption concerning the numbers of

interventions that we expect, the historical averages have been used to generate grant predictions.

IV - allowance for files to be reopened in the future

Some files which have previously been closed may later be re-opened. These will not have been covered by any of the above, so an adjustment is made for the small amount expected to be paid on files previously closed or put on hold whilst the claim is pursued elsewhere, for example with insurers.

V - adjustment for emergency funding & ratification

These grants are paid in particularly short timescales and are often high value. As such they are treated as a separate case. See below for further information.

VI - allowance for claims not relating to interventions

A small portion of claims each year do not relate to an intervention. These are generally claims that relate to firms that are no longer trading. An adjustment has been made to take account of the expected grants paid on these claims.

Emergency Funding

'Emergency funding' is the name given to the funds provided at the time of intervention to enable the SRA's appointed agents to meet any urgent funding requirements (e.g. completion monies for a property purchase), since a firm's accounts will be frozen and client funds inaccessible until forensic accounting has been undertaken.

Agents are initially provided with a sum around £125k - £250k, and will typically return any unused funds within a week. Often the full amount of emergency funding is returned unused. If conversely more is required, the SRA may issue further funds to the Agent.

The agents must then ensure that they account properly for all of the monies used and an SRA adjudicator will then ratify the emergency grant.

Forecast of transfers to the Compensation Fund from statutory trust accounts

In addition to the level of grant payments we have also estimated the amounts that will be returned to the Compensation Fund from statutory trust accounts.

Subrogated claims made by the Fund

Where beneficiaries of the monies held in statutory trust accounts are identified as having already made a successful claim on the Compensation Fund, the Fund can make a subrogated claim in their place. Due to the nature of intervention, money may often be missing from client accounts and as such trust distributions may be lower than the Compensation Fund grant issued.

Forecasting has taken into account all monies currently held and any that we can expect to receive in future. Historical averages provide a breakdown of how much of the amount held we expect to be subrogated in future and timing information tells us when we can expect it.

Transfer of dormant funds held in STAs

It will not always be possible to distribute the full balance held in an STA. Once all avenues have been exhausted, funds are designated as dormant.

Once a three month period has elapsed these Funds are then transferred to the Fund.

Board/committee risk assessment

1.1.1.1 Summary of issues for consideration

(What are the key issues arising from this paper/proposal/strategy?)

Each year the SRA Board is required to make a recommendation to the Law Society Council as to the level of the contribution required from the profession at the beginning of the following practising year to meet the demands on the Compensation Fund, This paper sets out the Financial Protection Committee's advice to the Board on the appropriate level of funding for the contribution year 2011-2012.

1.1.1.2

1.1.1.3 Report is for

Noting/information

Decision

Approval

1.1.1.4 Business/operational risk

(What are the risks and benefits of proceeding with this paper / proposal / strategy?)

Key benefit is:

- The Compensation Fund reserve is maintained at a level sufficient to mitigate excessive increases in the contributions for future years.

Key risks are:

- There is a reputational risk that if the contribution level is set too low that a mid-year contribution call may need to be made.
- There is a reputational risk that if the contribution is set too high that reserves may be considered to be unnecessarily excessive.

1.1.1.5 Finance

(What are the financial implications?)

If the funding level is set too low the Compensation Fund may experience cash flow problems which would limit its ability to pay grants. However, based on the current level of reserves and the forecasted assumptions, the level of contribution recommended for the 2011-2012 practising year provides sufficient cover to meet forecasted claims and maintain the desired minimum reserve, whilst ensuring contribution levels remain consistent for the next 2 years.

1.1.1.6 Communications

(What are the communications implications?)

Communications regarding the contribution level will be handled by the Fees Project

Board.

1.1.1.7 Equality and diversity implications

(What are the potential implications/impact on equality, diversity and human rights?)

Covered in separate paper.

Director Heather Lees, Executive Director of Resources

Author Karen Bevan, Head of Claims Management

Date of report/paper being drafted 4 April 2011

ANNEX 2

Determination of Compensation Fund contributions [2011]

This determination is made by the Solicitors Regulation Authority Board under rule 2(2) of the Solicitors' Compensation Fund Rules 2009 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 2011, 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 2011, shall pay with the fee payable in respect of that application, a contribution of £60 to the Fund.
- (2) Every recognised sole practitioner or recognised body that:
 - (a) applies for renewal of authorisation as a recognised sole practitioner or renewal of recognition as a recognised body to commence on or after 1 November 2011; and
 - (b) has held or received client money (as defined in the Solicitors Accounts Rules 1998) during the period 1 November 2010 to 31 October 2011

shall pay with the fee payable in respect of that application, a contribution of £772 to the Fund.

- (3) Every person that:
 - (a) applies for initial authorisation as a recognised sole practitioner or initial recognition as a recognised body to commence during the period 1 November 2011 to 31 October 2012; and
 - (b) intends to hold or receive client money (as defined in the Solicitors Accounts Rules 1998) at any time during the period 1 November 2011 to 31 October 2012

shall pay with the fee payable in respect of that application, a contribution to the Fund as follows:

- i. £772 on applying for initial recognition to commence in the period 1 November 2011 to 31 December 2011 ;
- ii. £579 on applying for initial recognition to commence in the period 1 January 2012 to 31 March 2012;
- iii. £386 on applying for initial recognition to commence in the period 1 April 2012 to 30 June 2012;
- iv. £193 on applying for initial recognition to commence in the period 1 July 2012 to 31 October 2012.

ANNEX 2

- (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 recognised body or recognised sole practitioner and the predecessor body or practitioner has already paid a contribution to the Compensation Fund.
- (5) In this determination:

Fund means the Solicitors' Compensation Fund established and maintained under rule 2(1) of the Solicitors' Compensation Fund Rules 2009;

All other terms are to be interpreted in accordance with the Practising Certificate Fee Determination [2011].

- (6) This determination shall come into force on 1 November 2011.

ANNEX 3

Determination of Compensation Fund contributions for Licensed Bodies [2011]

This determination is made by the Solicitors Regulation Authority Board under rule 2(2) of the Solicitors' 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 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 2012 shall pay, with the initial periodical fee, a contribution to the Fund as follows:
 - i. £772 on being authorised in the period to 31 December 2011 ;
 - ii. £579 on being authorised in the period 1 January 2012 to 31 March 2012;
 - iii. £386 on being authorised in the period 1 April 2012 to 30 June 2012;
 - iv. £193 on being authorised in the period 1 July 2012 to 31 October 2012.
- (2) The SRA may waive the contribution payable under paragraph (1) 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.
- (3) In this determination:

Fund means the Solicitors' Compensation Fund established and maintained under rule 2(1) of the SRA Compensation Fund Rules [2011];

All other terms are to be interpreted in accordance with the Licensed Body Fee Determination [2011].

- (5) This determination shall come into force on [the date on which the SRA is designated as a licensing authority]