

SRA BOARD
11 March 2015

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Chief Executive's Report

Purpose

- 1 This report sets out progress against the SRA's strategic objectives and provides an update on operational performance.
 - Section 1: reports on our priorities and progress against the 2014/15 Business Plan.
 - Section 2: provides an update on operational performance.
 - Section 3: provides details on publication and engagement activity.

If you have any questions about this paper please contact: Paul Philip, Chief Executive, paul.philip@sra.org.uk, 0121 329 6940.

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Section 1: Priorities for 2014/15

- 2 This section provides an update to the Board on our key priorities, starting with an update on any key developments and then moving onto an update against our 2014/15 Business Plan.

Criminal Legal Aid

- 3 The Judicial Review into the Government's plans for the way duty solicitors are provided to those entitled to legal aid was rejected. However, on 27 February, it was announced that the Court of Appeal had granted the Law Society and practitioner groups permission to appeal the High Court's decision. A suspension on the tender process for duty provider contracts therefore remains in place. The appeal will be heard on 10 and 11 March.
- 4 We have plans in place to handle the anticipated increase in work if the appeal is lost and the tender exercise reopens. Our plans focus on increasing decision making capacity through overtime and bringing in additional staff from other parts of the business. We will also look to run targeted events, including a webinar and drop in sessions to provide advice to criminal legal aid firms on the authorisation process.

Regulation of Consumer Credit Activities

- 5 At its meeting on 21 January, the Board agreed to seek an extension from the Financial Conduct Authority (FCA) to the transitional arrangements for the regulation of consumer credit activities. The FCA has since agreed with this request. The transitional period, previously due to end on 1 April 2015, will now run until 31 October 2015.
- 6 We are exploring alternatives to the incorporation of the FCA's sourcebook for consumer credit (CONC) into our Handbook, prior to entering into detailed discussions with the FCA. A communications plan is being prepared to ensure that SRA-authorized firms and other key stakeholders are informed of the position and directed to support or advice available during the extended transition period. HM Treasury is still considering our representations about the 'contentious business' exclusion and payment by instalments and we wait to hear further on when any changes to legislation will be made.

Professional Indemnity Insurance

- 7 At the January Board meeting, we committed to publishing the list of Firms that do not have Professional Indemnity Insurance. We have now conducted further analysis of the data, which showed that the majority had entered the Extended Indemnity Period (EIP) and/or the Cessation Period (CP) legitimately, generally while merging or closing down, when the use of the EIP is a genuine way of having protection in place for consumers as those processes are completed. As a result of this work, we are proposing to publish the

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names of the remaining firms, with the appropriate explanation and context, soon after the Board meeting.

Quality Assurance Scheme for Advocates

- 8 We still await the outcome of the appeal against the Quality Assurance Scheme for Advocates (QASA) and registrations onto the scheme will remain suspended until we do. The claimants have received permission to appeal to the Supreme Court. The Supreme Court declined permission to appeal against the Court of Appeal's finding that the principle of independence of the advocate was not infringed by QASA. The appeal will now consider whether QASA is an authorisation scheme within the meaning of the EU Provision of Service Regulations 2009, and if so whether it is justified in the public interest. The hearing has been provisionally listed for 16 March 2015.

LSB Regulatory Standards Report

- 9 In September 2014, the Board approved our update to our 2013 self assessment against the Legal Services Board's Regulatory Standards. On 25 February 2015, the LSB published the report on its assessment of how we and other legal services regulators are progressing against those standards. The report recognises real improvement in our performance, including better communication with complainants, our work on risk and overall improvements to capacity and capability. The LSB has set out recommendations for further work in 2015/16, which we already have in hand and had identified as part of our business planning and overall programme of operational development and regulatory reform. These include:
- Implementation of IT systems and how they are impacting on improving consistency of risk assessment and supervision.
 - Maintain work on the Board holding the Executive to account for performance.
 - Increase transparency on our performance and information on the activity of the Board.

Progress against our 2014/15 Business Plan

- 10 We are progressing well on the activities being undertaken to deliver our objectives in the Business Plan. For the first time this month, we have decided to report to the Board against the Business Plan by highlighting whether objectives are on track and providing any further updates on key activities that the Board needs to be aware of.

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Objective 1: We will reform our regulation to enable growth and innovation in the market and to strike the right balance between reducing regulatory burdens and ensuring consumer protection

On track

11 Overall we are on track to achieve this objective. Key updates to note include:

- Our consultation on the Separate Business Rule closed on 11 February 2015. We received 19 responses, which we are currently analysing. The Board will have a discussion on the outcome of the consultation in June 2015.
- We received 14 responses to the small firms discussion paper (including the Sole Practitioners Group and the Law Society). The initiatives proposed / already implemented were welcomed. The proposal to allow deemed approval of COLP/COFA in certain circumstances in small firms was universally supported. We also received some suggestions for further initiatives that we are exploring.

12 We still await the outcome of the appeal against the Quality Assurance Scheme for Advocates (QASA) and registrations onto the scheme will remain suspended until we do. The claimants have received permission to appeal to the Supreme Court. The Supreme Court declined permission to appeal against the Court of Appeal's finding that the principle of independence of the advocate was not infringed by QASA. The appeal will now consider whether QASA is an authorisation scheme within the meaning of the EU Provision of Service Regulations 2009, and if so whether it is justified in the public interest. The hearing has been provisionally listed for 16 March 2015.

13 We are also proposing to delay the implementation of further changes to the requirements for accountant's reports from April 2015 to November 2015 in response to the recent consultation. This is a substantive item for discussion on the Board's agenda.

Objective 2: We will work with solicitors and firms to raise standards and uphold core professional principles

On track

14 We are on track to deliver our activities against this objective. Key updates to note include:

- Good progress is being made to design the assessment plans for new apprenticeships. The assessment plan for the Trailblazer apprenticeship was submitted to the Department of Business Innovation and Skills on 12 February 2015. The Welsh apprenticeship is due to be submitted for approval at the end of March 2015. The plans are subject to our consultation, testing and impact assessment procedures. If both plans are approved, we expect that the first apprenticeships would be from September 2016.

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- Following on from Board approval in May 2014, we have now had the first person qualify to practice as a solicitor through the new equivalent means route.

Objective 3: We will improve our operational performance and make justifiable decisions promptly, effectively and efficiently

On track

- 15 We are on track to deliver our activities against this objective. Progress against the Equality, Diversity and Inclusion Strategy and action plan is reviewed every month and is also reported to the Equality, Diversity and Inclusion Committee. We have achieved a number of key actions in the plan including: the recruitment of external members to the E,D&I Committee, all staff completing mandatory e-learning on diversity and inclusion, cleansing our workforce diversity data, the publication of our discussion paper on small firms and the publication of the diversity data benchmarking tool.

Objective 4: We will work with our stakeholders to improve the quality of our services and their experience when using them

On track

- 16 I have previously informed the Board of the implementation of a new approach in how we communicate with complainants who contact us wishing to complain about a solicitor - we now communicate the outcome of the report to the complainant. This was implemented in November last year and the approach has been well received with a slight decrease in overall complaints recorded at the end of January. However, as expected, volumes have increased in February as complainants are now informed when we decide not to investigate issues reported to us further. We are working to ensure that we are communicating our decisions in the most effective and helpful way and will continue to monitor volumes closely.

Section 2: Operational Performance

Handling Concerns about Solicitors

- 17 We are continuing to publish data on how long it takes us to deal with concerns about solicitors through my public report to the Board. As we have a limited run of data we still do not yet fully understand how the data 'behaves' over a full year, or what influences the results.
- 18 The percentage of files closed within 12 months of receipt in Supervision was 82% in January. Currently, this key performance indicator measures all the files closed in any given month, including the files that were older than the 12 month reporting period. Our expectation is that this figure will fluctuate in the months ahead as we continue with our focus on closing files that are over 12 months old. Given this, we are proposing to amend the data reported from next month to ensure that it covers only those files that have been opened and closed within the 12 month period.

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- 19 The average number of days to close Tribunal proceedings increased from 586 days in November 2014 to 598 days in January 2015. This figure can be influenced by the low number of cases actually issued (the point at which a case is sent to the Solicitors Disciplinary Tribunal) in any given month. It can only take one or two newly issued cases to be older than the norm, which could be due to the complexity of the case and the material that needs to be collated, to have an impact on the reporting.

Core Service KPIs

- 20 The renewed focus on case management in Supervision has resulted in the reduction of unallocated files from over 300 in October to 28 in mid-February. Allocated files are also progressing well with over 80% of files being reviewed in Supervision and a decision taken about the course of action within 25 days of receipt, demonstrating that the reduction in unallocated files is accompanied by improved timeliness of decision making and progression. The Assessment Team has also made significant progress with the total unassessed work in progress having reduced to 32 files in mid-February, with the oldest file being just 2 days old.

Section 3: Publications and Engagement Activity

- 21 We have placed key comment pieces in the trade press, with articles from our Chair in Modern Law Magazine and Legal Compliance Bulletin on our strategy and reform programme, Martin Coleman writing on continuing professional development in the Solicitors Journal and senior staff pieces in the gazette and other outlets.
- 22 Board members and members of the Senior Management Team will be visiting local law societies over the course of the year as part of our planned stakeholder engagement activities. So far we have twelve confirmed events and a further five in hand. The programme includes invitations to host dinners with the law societies in Northern Ireland, Scotland and the Isle of Man.
- 23 We have now moved onto the second phase of the research we are undertaking with the Legal Services Board into how law firms, and others providing legal services, are changing the way they operate. The research aims to understand what innovation means in the legal services market, explore what is driving innovation, including the impact of competition in inspiring firms to try new approaches, and understand the barriers to greater innovation. The first phase involved a literature review and interviews with around 20 organisations across the legal sector. In the second phase, an independent research company will be calling potential participants to invite them to give their views by taking part in a short survey over the next few weeks.

Author Paul Philip, Chief Executive
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