

SRA BOARD**CLASSIFICATION – PUBLIC**

SOLICITORS REGULATION AUTHORITY
Minutes of the SRA Board meeting
held on 3 March 2020 at 11.30
at the Chester Grosvenor Hotel, Eastgate Street, Chester CH1 1LT

Subject to final approval by the SRA Board at its meeting on 2 June 2020

Present: Anna Bradley (Chair)
Peter Higson
Paul Loft
Barry Matthews
Dame Denise Platt
Selina Ullah
Elaine Williams
Tony Williams
David Willis

In attendance: Paul Philip, Mark Draisey, Robert Loughlin, Jane Malcolm, Juliet Oliver, Liz Rosser, Julie Brannan, Chris Handford, Dominic Tambling

1 APOLOGIES

1. The Chair welcomed Board members to the meeting. Apologies had been received from David Heath and Geoff Nicholas.

2 MINUTES OF THE MEETING HELD ON 21 JANUARY 2020

- 2.1 The minutes of the meeting held on 21 January 2020 were approved as a true and accurate record.

3 MATTERS ARISING AND DECLARATIONS OF INTEREST

- 3.1 There were no matters arising that would not be covered elsewhere on the agenda and all actions due had been completed or were in hand.
- 3.2 Interests were as previously declared and available to view on the SRA website. Members would declare any additional particular interest in an individual item if necessary.

4. CHAIR'S UPDATE

- 4.1 The Chair thanked those Board members who had attended workshops with the public the previous afternoon. The first had been to gather views to feed into our current Compensation Fund consultation, aimed at making sure the Fund is sustainable. This runs to 21 April 2020. The second looked at how people feel about using technology to access legal services, including how people could know what to trust and whether there was a continuing need for expert, professional advice from a person at certain points with certain types of problem.

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- 4.2 The Board had also met around 20 different local organisations, from local law societies, through business groups and universities to disability charities for discussions. Board members had found this very interesting. Topics discussed included developing Welsh law, the risks around legal aid deserts, and what the SRA should be doing to respond to climate change as a regulator.
- 4.3 The Chair thanked Board members for attending the morning workshop session which included discussion about the continuing competence of solicitors. Board members had been updated on developments in this area over recent years. These included the Statement of Solicitor Competence and the move away from prescribing a number of hours of Continuing Professional Development to a more modern model that requires solicitors to reflect on their practice and take steps to address any areas of weakness. The Board had also discussed the importance of continuing to monitor competence concerns in our disciplinary processes, and the potential for thematic reviews into high risk areas.
- 4.4 The Board had also considered the results from the latest SRA Staff Survey, progress against results from previous surveys and the actions proposed to address any areas where improvement was sought.
- 4.5 The Chair reported that she and the Chief Executive had had further discussions with their counterparts at the Law Society about the future relationship between the two bodies and that there was good progress on moving forward in a way which would enable both organisations to work more effectively.
- 4.6 The Chair noted that with the CEO she had met Lord Thomas of Cwmgiedd to discuss the recent report from the Commission on Justice in Wales, which he chaired, on setting a long-term vision for the future of justice in Wales. They had also met Jeremy Miles AM, the Counsel General for the Welsh Assembly on a range of issues including how to ensure parity in terms of the services we provided for solicitors and consumers in Wales and in England. This had included our plans for dealing with the Solicitors Qualifying Examination in Welsh in an incremental manner.
- 4.7 The Counsel General had been positive about our plans and the Chair had undertaken to write to him to provide a further update in relation to the decisions to be made by the Board in item 10 of this agenda.

5 COMMITTEE CHAIR REPORTS

- 5.1 The Board considered a written update from the Chair of the Finance and Audit Committee, which had met on 25 February 2020.
- 5.2 The Board noted the report including updates on the Committee's discussions on the Modernising IT Programme, first consideration of the level of Compensation Fund contributions for 2020/21, and ongoing auditing arrangements.

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NB: the paper relating to this item will not be published as it relates to issues that are commercially sensitive.

6 CHIEF EXECUTIVE'S REPORT

- 6.1 The Chief Executive presented his report. The Board noted ongoing work to ensure that firms were compliant in relation to anti-money laundering regulations and our transparency rules and the increase in resources which was required for these activities.
- 6.2 The Chief Executive reported on action being taken to introduce additional checks on applications to become Registered European Lawyers (RELs) following the submission of a number of certificates of attestation reputed to come from the Bucharest Bar Association that were not genuine. We had completed an audit on all applications submitted from Romania and had taken immediate steps in relation to those which had been discovered to be false (including revoking registrations where necessary). Only one of these applicants had notified us that they had taken up practise here, having very recently been employed by a large firm. We had also taken additional steps to further tighten controls for registering all RELs, including contacting the home member states of all RELs registered with us to validate that they are registered and eligible to practise.
- 6.3 The Board noted that following the introduction of the new Standards and Regulations in November 2019 we had 57 solicitors registered as freelancers on the Solicitors Register. It was confirmed that those freelancers offering reserved services were required to make a statement to us confirming that they had adequate and appropriate insurance in place. We had followed up the statements with assurance telephone calls.
- 6.4 The Board noted ongoing work in relation to the Legal Choices website. There was a discussion about the current collective ownership model and it was agreed that it is no longer appropriate for managing a sector wide, high-profile digital property, which needs to be both responsive and have a clear forward programme of work. It was agreed that the CEO would write to the Legal Services Board (LSB) proposing that the LSB takes ownership of Legal Choices, as the oversight regulator for the sector.
- 6.5 It was also noted that our new Executive Director of Strategy and Innovation, Tracy Vegro, would join us on 9 March 2020 and be responsible for developing the organisation's strategy.
- 6.6 The Board welcomed the news that in the latest Stonewall Workplace Equality Index, which assesses employers' commitment to LGBT inclusion, we had been placed in the top 100, at 93, an improvement of 30 places on last year.
- 6.7 Board members noted the work that had been done to address the potential threat of the coronavirus to date, and the plans in place to deal with any escalation of the situation. Board members asked that contingency plans should include arrangements for forthcoming Board meetings.

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6.8 The Chief Executive introduced new draft quarterly reports on performance. These comprised an update on progress against our work programme and a developing balanced scorecard, which would be published. The Board discussed these reports and agreed to their publication. The Board also noted that in future the reports would be presented and published under a separate agenda item.

NB: Some of the annexes to this paper will not be published because they contain information which is commercially sensitive

7 SRA STRATEGIC RISK UPDATE

7.1 The Board was asked to consider a progress report on the management of the SRA key risks set out in the Strategic Risk Register and the periodic review of the SRA risk appetite.

7.2 The Board noted that some small changes had been made to the register since the last time it had been presented, including to reflect the successful launch of the new Standards and Regulations in November 2019. The Board also noted the outputs arising from the Board risk workshop in December 2019 set out in paragraph 7 of the paper and that there would be further discussion of risk management at a Board meeting in the coming months.

7.3 The Board discussed the Strategic Risk Register and noted the work taking place on the further development of risk governance and risk management.

NB: the Strategic Risk register will not be published as it includes discussion of risk that might be exacerbated by publication.

8 CORPORATE STRATEGY 2020-2023 CONSULTATION FEEDBACK AND NEXT STEPS

8.1 The Board was asked to consider consultation responses and draft stakeholder feedback received in relation to our draft Corporate Strategy for 2020-2023.

8.2 The Board noted that we had received 17 formal written responses to the consultation and had also delivered a programme of consultation events with a wide range of stakeholder communities. Board members' attendance at some of these events had been very well received by stakeholders. There had been a positive response to our decision to consult on the Strategy in this way and it had afforded the opportunity to explore further areas of mutual interest with groups like Age UK.

8.3 The draft Strategy had been generally well received. Some responses had cautioned against becoming distracted from our core regulatory work as set out in Objective 1 on the setting and maintaining of high standards for the profession and ourselves. Board was clear that the majority of our resources would always be committed to this critical work. The Board also welcomed the suggestions for collaborative work from respondents, while recognising that we would need to

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prioritise such collaboration carefully. Proposed changes to areas of strategic focus under some of the objectives were set out in paragraph 15 of the paper and agreed by the Board.

- 8.4 The Board noted the summary of feedback and agreed that, subject to some minor amendments, we should publish an analysis of consultation responses and stakeholder views. The Board also agreed to the publication of the Corporate Strategy 2020-2023.

9 ASSURING ADVOCACY STANDARDS: CONSULTATION RESPONSES

- 9.1 The Board was asked to agree to the publication of our analysis of the responses to our consultation on assuring advocacy standards. There had been 61 responses to the consultation, most from members of the profession. There had been a high level of support for most of the proposals but a more mixed response for two areas.
- 9.2 The first of these related to the proposal to introduce a single assessment provider for the Higher Rights of Audience (HRA) qualification. Some respondents believed that this could lead to increased cost and limited availability of the assessment.
- 9.3 The second main area of concern related to proposals to require solicitors advocating serious cases in the youth courts to have a higher rights qualification. This was both because respondents were concerned that it would mean some advocates currently doing such work would be unable to do so in future and because it was felt that the requirements of the HRA were not well aligned with the skills needed for practice in the youth court.
- 9.4 Further work would now be undertaken on the best way to move forward on these issues including the detail of what central assessment would look like, Recommendations would be brought to the Board for decision later in the year.
- 9.5 The Board agreed to publish the consultation responses document subject to some minor amendments, including being clearer about feedback received from consumers of advocacy and those representing those consumers. The Board asked that as we developed our thinking further the views of consumers should be proactively sought to inform final decisions.

10 NEXT STEPS FOR OUR WORK IN WALES

- 10.1 The Board was asked to consider an update on key developments on Wales and proposals for an SRA office and team based in Wales. Around 2.6 percent of the practising solicitors and some 4 percent of the firms we regulate are based in Wales.
- 10.2 The paper set out some of the work we have been doing in Wales over recent years. We have increased our engagement and activities in Wales, for example routine consultation events for the public and the profession, small firm events, Board meetings, stakeholder receptions and dinners and meetings with key

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institutions. We also publish a range of material in Welsh language. Over 1000 solicitors tell us that they are able to speak Welsh and we issue more than 750 practising certificates in Welsh every year.

- 10.3 The paper proposed the establishment of a small staffed office in Wales to help us to further develop our work there and in the light of significant developments in Wales in relation to justice and Welsh language policy. It was likely that this would be in Cardiff, in order to work closely with the Senedd and other agencies, but a key priority would be to ensure engagement with the public, key organisations, advocacy groups and the profession right across the country. Paragraph 22 listed some of the benefits of establishing such an office including being a local point of contact for consumers, the profession and stakeholders and providing additional resource for engagement on the implementation and delivery of the Solicitors Qualifying Examination in Wales.
- 10.4 The Board noted our increased work in Wales in recent years and developments in Wales and agreed that we should establish an SRA office presence in Wales.

11 SOLICITORS INDEMNITY FUND

- 11.1 The Board was asked to consider an update on plans for bringing the work of the Solicitors Indemnity Fund (SIF) to a close and what would happen to any residual funds it holds at the point it closes its books.
- 11.2 The Board had received an update on the ongoing activity of the SIF at its January 2020 meeting. The Board had noted that the costs of operating the SIF were becoming increasingly disproportionate as the number and value of new notifications and claims that it deals with continue to reduce over time. The paper included a summary of the history of the SIF and recent regulatory decisions relating to the provision of professional indemnity cover.
- 11.3 The Board noted that decisions on any indemnification arrangements relating to loss arising from civil claims is – under section 21 of the LSA – a regulatory function, which has been delegated to the Board. Therefore, any decision about the future of the Fund, and what if anything might replace this, including any insurance policy, is a matter for the SRA Board. If the Board decided that the SIF should be wound up at some point it would also need to make a decision about the use of any residual funds held at that point.
- 11.4 If the Board did not consider that there is an indemnity purpose to which the residual funds could be put, then as these were originally monies collected from the profession they must, by the SRA Indemnity Rules, be used for the overall benefit of the profession. Such purposes were for the Law Society in its representative role, rather than for us and would not include making any alternative indemnity provision for the profession. It was suggested by one member that the residual monies might be placed in the Compensation Fund, but the Board was reminded that this was not an indemnity purpose and so ineligible.

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- 11.5 The Board discussed the information and assurances that it would need in order to make final decisions in relation to the winding up of SIF and the use of any residual funds and the need to ensure that these decisions were properly communicated at the appropriate time.
- 11.6 The Board had taken a number of decisions in relation to indemnity in recent years. These included decisions on key issues such as the six-year mandatory run off cover and the post six-year cover provided by the SIF.
- 11.7 Given these past decisions and the Board's understanding of the facts at this moment, the Board could see no alternative indemnity purpose for any residual funds. The Board would need to review the position to see if there is any material change in the situation, once a formal proposal is presented from the SIF Board. In the event the SRA Board's view remains unchanged, the funds would be released to the Law Society for the benefit of the profession.

12 OUR WORK TO PROMOTE EQUALITY, DIVERSITY AND INCLUSION IN THE PROFESSION – REPORTING AND FUTURE WORK

- 12.1 The Board was asked to consider a review of our external work to promote equality, diversity and inclusion (EDI) in the profession and the publication of three reports. The paper consolidated those discussed at the Board's January 2020 meeting.
- 12.2 The Board discussed the reports, including the difficulties associated with terminology such as 'BAME' which may risk seeing communities as homogenous. It also discussed the consideration of socio-economic factors and its part in intersectionality between the full range of protected characteristics, whilst recognising that it was not in itself a protected characteristic. The Board agreed that the intended work on developing a more sophisticated profile of the profession set out at the end of the five-year summary report, would provide the opportunity to better understand the challenges. This would help us and the many other organisations involved in this area.
- 12.3 The Board noted our work to promote EDI in the profession over the past five years and planned next steps, our annual work summary and the figures and trends from the 2019 workforce diversity data exercise and agreed to the publication of the three documents.

13 REVIEW OF MEETING AND ANY OTHER BUSINESS

- 13.1 There was no other business. The Chair thanked Board members for their contributions.
- 13.2 The Board would next meet on Monday 20 April at the St Pancras Renaissance Hotel, Euston Road, London NW1 2AR.