

SRA BOARD

20 July 2021

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This paper will be published

2021/22 Practising Fees and Compensation Fund contributions

Purpose

- 1 To finalise the 2021/22 Practising Fees and Compensation Fund contributions.

Recommendations

- 2 The Board is asked to make the following determinations:
 - (a) the Practising Certificate Fee Determination [2021] in annex 1 (paragraph 13)
 - (b) the Recognised Body and Recognised Sole Practice Fee Determination [2021] in annex 2 (paragraph 14)
 - (c) the Licensed Body Fee Determination [2021] in annex 3 (paragraph 15)
 - (d) the Determination of Compensation Fund contributions for individuals and firms [2021] in annex 4 (paragraph 16)
 - (e) the Determination of Compensation Fund contributions for Licensed Bodies [2021] in annex 5 (paragraph 17)

If you have any questions about this paper please contact

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Equality, Diversity and Inclusion considerations

- 3 This paper refers to the Practising Fees and Compensation Fund contributions for the coming financial year and does not, therefore, deal with any specific issues relating to EDI. Board papers which deal with initiatives and projects funded from this budget will continue to consider EDI issues in detail.
- 4 We carried out an initial impact assessment on our fees alongside our business plan and budget consultation, This is discussed further from paragraph 18.

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2021/22 Practising Fees and Compensation Fund contributions

Background

- 5 The Board is asked to make its final decision on Practising Fees and Compensation Fund contributions apportionment for 2021/22, following the decision of the Law Society Council on the total funding requirement on 14 July 2021.
- 6 The Board agreed the SRA funding requirement for 2021/22 at its meeting on 1 July and this was included in the overall Law Society group funding requirement. The Law Society Council considered this on 14 July and, at the time of writing, are expected to approve an overall requirement of £104.3m.
- 7 This requirement represents an increase of £3.1m (3.1%) on the figure for 2020/21. The overall requirement is split between individuals and firms, 40% and 60% respectively. Individuals pay a flat fee and SRA authorised firms also pay an entity fee based on their UK turnover. The proportion of turnover charged declines as turnover decreases.
- 8 Despite the increase in the overall requirement, the growing population of practising solicitors means that the individual practising certificate fee will actually reduce in 2021/22, from £278 to £266. The total amount to be collected from firms through the entity fees will increase from £60.7m to £62.6m.
- 9 £41.7m will be collected from individuals which, based on an assumption of just over 156,000 practising certificates holders, equates to an individual fee of £266. At the end of May 2021 there were just over 158,000 practising solicitors and Registered Foreign Lawyers, and there will be additional entrants to the profession during the late summer and early autumn. A prudent assumption would be that at least 158,000 individuals will renew their practising certificates in 2021/22. As there are discounts available to some individuals, such as those on maternity leave, this would be the equivalent of between 156,000 and 157,000 full practising fees. Any further reduction in the practising certificate fee would risk an under collection of funds in 2021/22.
- 10 The Compensation Fund contribution for individuals will reduce from £50 last year to £40 this year and for firms holding client money from £950 to £760. These figures were previously approved by the Board on 27 April 2021.

Fee/ Compensation Fund contribution determinations for regulated individuals and authorised bodies

- 11 The draft fee and contribution determinations are attached as annexes to this paper and broadly follow those made last year. The fees and detail in the turnover table are based on achieving the current estimated total funding requirement for 2021/22.

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- 12 The key points to note in relation to all of the draft practising fees and Compensation Fund contribution determinations are summarised below.

Practising fees determinations

- 13 Annex 1: Draft Practising Certificate Fee Determination [2021]. This:
- sets the practising certificate fee and equivalent registration and renewal fees for Registered European Lawyers (RELs) and Registered Foreign Lawyers (RFLs). Following the UK's exit from the EU, only Swiss registered European lawyers (REL) can continue as an REL up to 1 January 2024. All other RELs are now registered foreign lawyers.
 - provides for a 50% reduction for those who are or who have been on maternity leave or a period of leave equivalent to statutory maternity leave.
 - preserves a lower fee for RFLs who are based abroad and deals with other special cases
- 14 Annex 2: Draft Recognised Body and Recognised Sole Practice Fee Determination [2021]. This:
- sets the application fee for authorisation as a recognised body or a recognised sole practice
 - makes it clear that where the recognition commences in a different period from the one in which the application was made, the fee will be adjusted accordingly
 - sets the annual periodical fee for recognised bodies and recognised sole practices (based on turnover) with different provisions applying to brand new firms, continuing firms and firms who have been affected by an acquisition, merger or split in the last 12 months
 - deals with special cases such as overseas offices
 - sets the fee at £250 for the SRA to determine relevant turnover following a Notice of Succession where the firms cannot agree.
- 15 Annex 3: Draft Licensed Body Fee Determination [2021]. This:
- sets the application fee payable by licensable bodies, which comprises a minimum set fee, plus an additional amount for each person requiring approval as a role holder, with the possibility of fees being increased if the work in relation to the application is more than covered by the basic fee and for any costs of external agencies to be passed on to the applicant

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- sets the initial periodical fee payable by a licensed body on authorisation, based on estimated turnover for the first 12 months and calculated in accordance with a banded turnover table
 - sets the annual periodical fee for licensed bodies (based on turnover)
 - includes an adapted definition of turnover to give us discretion to amend the figure where it appears that the turnover figure does not fully reflect the value of the legal services provided
 - adapts the definition of turnover to relate it to turnover from regulated legal activities
- 16 Annex 4: Draft Determination of Compensation Fund Contributions [2021]. This prescribes the individual and firm Compensation Fund contribution.
- 17 Annex 5: Draft Determination of Compensation Fund Contributions for Licensed Bodies [2021]. This prescribes the Compensation Fund contribution payable by Licensed Bodies.

Equality Impact Assessment

- 18 In approving our application in 2020 the LSB noted that an Equality Impact Assessment had not been completed for some time. In 2021 the LSB issued revised guidance on Practising Fee applications, an extract from which follows¹
- Before submitting a practising fee application to the LSB, each approved regulator is required to conduct an initial Equality Impact Assessment (“EIA”) and consider the impact of the level of the fee on legal services carried out by authorised persons. 114.
 - A full EIA must be carried out if the initial EIA finds an adverse impact on persons with (any of the) protected characteristics as defined under the Equality Act 2010. This must also be completed prior to a practising fee application being submitted to the LSB. 115.
 - The approved regulator is required to provide a summary of the equality impact assessment and consideration of the impact of the level of the fee and their findings, 17 explain details of action taken, or if no action was taken, why this was not necessary or practicable.
- 19 In preparation for our practising fee application this year we undertook an initial equality impact assessment in relation to our fees which identified no adverse impacts that required further action. As part of our consultation on the SRA business plan and budget we asked for comments on the assessments and for respondents to send information to help build our understanding on the impacts

¹ Paras 113-115 [PCF Final guidance for Publication \(legalservicesboard.org.uk\)](https://legalservicesboard.org.uk)

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on different groups of solicitors. We received nothing to suggest that our analysis was incorrect or to suggest that the fees were disproportionate. We have also kept the LSB informed on our approach in preliminary discussions with them.

Recommendations: the Board is asked to make the following determinations:

- a) the Practising Certificate Fee Determination [2021] in annex 1**
- b) the Recognised Body and Recognised Sole Practice Fee Determination [2021] in annex 2**
- c) the Licensed Body Fee Determination [2021] in annex 3**
- d) the Determination of Compensation Fund contributions for individuals and firms [2021] in annex 4**
- e) the Determination of Compensation Fund contributions for Licensed Bodies [2021] in annex 5.**

Next steps

- 20 The Practising Fees and Compensation Fund contributions are subject to final approval by the Legal Services Board and we will make the appropriate application if the Board agrees the recommendations in this paper.

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Supporting information

Links to the Corporate Strategy and/or Business Plan and impact on strategic and mid-tier risks

- 21 Approval of the fees to allow collection of the overall group funding requirement is essential to the delivery of all strategic objectives.

How the issues support the regulatory objectives and best regulatory practice

- 22 The draft SRA Budget for 2021/22 which underpins the SRA proportion of this funding requirement has been set in order to allow us to deliver against our strategic objectives, supporting our regulatory objectives.

What engagement approach has been used to inform the work and what further communication and engagement is needed

- 23 The proposed budget for the SRA was included in the recent consultation on the 2021/22 business plan. The responses to this consultation were considered by the Board on 1 July 2021.

What equality and diversity considerations relate to this issue

- 24 The approach to setting practising fees and Compensation Fund contributions follows the structure adopted in 2010 as a result of the three Fairer Fees consultations. An initial Equality Impact Assessment was carried out this year and identified no impacts that required further consideration.

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Annexes

Annex 1: Draft Practising Certificate Fee Determination [2021]

Annex 2: Draft Recognised Body and Recognised Sole Practice Fee Determination [2021]

Annex 3: Draft Licensed Body Fee Determination [2021]

Annex 4: Draft Determination of Compensation Fund contributions [2021]

Annex 5: Draft Determination of Compensation Fund contributions for Licensed Bodies [2021]