

SRA BOARD

8 June 2021

CLASSIFICATION – PUBLIC*This paper will be published***Update on the transfer of regulatory functions to SRA Ltd****Purpose**

- 1 This paper updates the Board on the transfer of the regulatory functions to Solicitors Regulation Authority Ltd (SRA Ltd) and next steps.

Recommendation

- 2 The Board is asked to:
 - a) make the resolution attached at annex 1, which formally adopts the decisions and policies for the delivery of the regulatory business made by the SRA Board prior to transfer.

If you have any questions about this paper please contact: Juliet Oliver, General Counsel juliet.oliver@sra.org.uk

Equality, Diversity and Inclusion considerations

Consideration	Paragraph nos
This paper discusses the transfer of the SRA's regulatory business, including arrangements for delivering the Solicitors Qualification Examination, to a vehicle which ensures that VAT liability on candidate fees is minimised, thus supporting social mobility and diversity within the profession. The transfer also supports the delivery of our functions through a tax efficient vehicle to ensure sound stewardship of the funds that we levy from across the full diversity of the profession and firms. A separate corporate vehicle will enhance confidence in the independence of regulation for the public and consumers from every background.	Supporting information, paragraph 12,15,16
We have engaged all our staff, which reflects the diversity in the workforce in both Birmingham and London, most recently through TUPE consultation with new joiners.	5 iii

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Update on the transfer of regulatory functions to SRA Ltd

Background

- 3 This is the first meeting of the Board of SRA Ltd, as a fully operational incorporated regulatory body.
- 4 SRA Ltd was incorporated in May 2020 and its articles were amended to charitable form in November 2020. At its last meeting on 27 April 2021, the Board considered the decision of the Law Society Council, of 23 March 2021, that we could proceed with a transfer of regulatory functions to SRA Ltd in advance of achieving registration with the Charity Commission, subject to receiving assurances that tax liabilities would be mitigated in the meantime. The Board agreed to those assurances.
- 5 Subsequently, we completed the final preparations for go live, including:
 - i. Gaining approvals for final changes to our regulatory arrangements, such as changes to the Assurance Protocol with the Law Society to reflect the clause relating to intervention by the Charity Commission in our articles, and amendments to the rules relating to Statutory trust accounts to reflect that these will be held in bank accounts in the name of the SRA, rather than the Law Society, going forwards.
 - ii. Finalising the position in relation to the opening balance sheet from 1 June, including the calculation of assets, liabilities, working capital and reserves, and ensuring separate banking, treasury and other arrangements are in place.
 - iii. Conducting a final TUPE consultation with those recent new starters who had not been captured in the previous consultation last year.
- 6 As you will be aware, the Board resolved, by circulation, to transfer the regulatory business, and the Chair of the Board completed the necessary legal agreements, on behalf of the Board, accordingly. Completion therefore took effect as of 1 June 2021.

Effect of transfer

- 7 The latest July 2021 version of the Law Society's General Regulations have the effect of transferring the regulatory functions to the new company, and legal documents transfer all associated assets and liabilities. Whilst this allows for continuity of operations, it would be prudent for the SRA Ltd Board to formally adopt any decisions, rules and policies made by the previous Board, as a way of formally recording the position. A form of resolution is attached accordingly at annex 1.

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Recommendation:

The Board is asked to make the resolution attached at annex 1, which formally adopts the decisions and policies for the delivery of the regulatory business made by the SRA Board prior to transfer.

Next steps

8 Following the transfer, we have a number of immediate activities, which include:

- i. Notifying all relevant parties of the change and any consequential impacts: including confirming to staff members of the change in employer; confirming to suppliers the novation of contracts and updating the arrangements where there is split billing etc; and notifying change of parties to the Courts and the Solicitors Disciplinary Tribunal .
- ii. Carrying out any necessary registrations, such as HMRC and the Information Commissioner's Office.
- iii. Updating our website, email footers, and communications to reflect our new status.
- iv. Implementing consequential revisions to the Governance Handbook, and arranging any associated training for Board members/Trustees. Sending out updated contracts to Board members to reflect the new Trustee role.
- v. Winding up SRA Assessment Limited, the subsidiary of SRA Ltd which was incorporated in order to deliver the SQE, but which is no longer required.

9 We will also need to address the following further areas:

- i. Reserves and Investment Policy. As a separate corporate entity with control over our finances, we will need to develop a reserves policy, as well as an investment policy to support this. This will identify our approach as an organisation to the right level of capital to ensure continuity of delivery of our core objectives, as well as cover to allow us to take unexpected opportunities or deal with unexpected risks.

It also helps us in respect of the new obligation under the Legal Services Board's new Practising Certificate Fee Rules, and the obligation to control and account for our target level for practising certificate fee reserves. It also allows us to put appropriate governance in place for the ongoing management of our Investment funds. The Board has previously agreed to establish a Working Group to take this forward and we will establish this in the coming months as we move to our year end to ensure that our position on cash and reserves is properly dealt with.

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- ii. Charity Commission Application. As members will recall, the Law Society and the Board made the decision to proceed with the transfer of the regulatory business, on the basis that charitable registration for SRA Limited is being sought and that, in the interim, the company would actively seek to mitigate any tax liability as far as possible.

We are currently finalising our response to the queries raised by the Charity Commission to our initial application, and plan to submit this as soon as possible following the Board meeting. As highlighted previously, we have been advised to reframe the way in which we articulate our charitable objects in our Articles of Association.

The purpose of the key changes is to better describe our charitable objects. The articles originally submitted to the Charity Commission focused primarily on the promotion of the sound administration of law. The reframed articles focus on: the promotion of high standards of ethical conduct amongst regulated persons; the advancement of education and training in the law; and the promotion of the sound administration of the law. We propose to send a further version in draft to the Commission, for comments. The amended draft is attached at annex 2, and if the Commission are content we will seek the Board and Law Society's formal approval to make those changes.

- iii. Shared services. The ongoing arrangements allow for the Law Society to continue to provide a range of facilities services to us, at a cost of £460,000 per annum (to be reviewed annually). We are able bring to an end all or part of the shared services, on 20 business days' notice. This is something that we propose to revisit once the changes have been made to our office space, including the move out of the 11th and 12th floor of the Cube and Martin Lane, and the consequential refit.

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Supporting information

Links to the Corporate Strategy and/or Business Plan

- 10 This paper relates to objective 3 in the corporate strategy as regards the delivery of regulation through an effective, efficient corporate vehicle: We will work better together, and with others, to improve our overall effectiveness, our responsiveness and the delivery of our regulatory functions.

How the issues support the regulatory objectives and best regulatory practice

- 11 The issues in this paper do not directly impact on the SRA's approach to regulatory policy or practice.

Public/Consumer impact

- 12 A separate corporate vehicle will enhance confidence in the independence of regulation for the public and consumers from every background. Achieving a VAT exempt vehicle to deliver the SQE will ensure that candidate fees are minimised, supporting social mobility and diversity within the profession, so that it better reflects the communities it serves.

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

- 13 The issues in this paper have been discussed with the Separate Legal Entity Board working group.
- 14 We have worked collaboratively with the Law Society throughout this project.

What equality and diversity considerations relate to this issue

- 15 The requirements surrounding the delivery of the SQE are key to ensuring that we are able to minimise VAT liability for solicitor candidates, supporting social mobility and diversity within the profession.
- 16 We consider it important that we can deliver our functions through a tax efficient vehicle to ensure sound stewardship of the funds that we levy from across the full diversity of the profession and firms.

How the work will be evaluated

- 17 There are no formal evaluation arrangements for the proposals in this paper. A review of the governance arrangements for the new company is included as part of the internal audit forward plan.

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Annexes

Annex 1 Resolution to adopt the decisions and policies for the delivery of the regulatory business made by the SRA Board prior to transfer.

Annex 2 Draft revised Charitable Objects for SRA Ltd