

Chief Executive's Report

Purpose

- 1 This report sets out progress against our strategic objectives and provides an update on operational performance. It also highlights any important external developments.
 - Section 1: reports on our priorities and progress against the 2018/19 Business Plan.
 - Section 2: provides an update on operational performance, including our resource monitoring information and key performance indicators.
 - Section 3: provides information on important external developments and our relationships with key stakeholders.

Recommendations

- 2 The Board is asked:
 - a) to consider the Chief Executive's report.
 - b) to note the appointment of Mark Draisey (interim Executive Director) as a Director of the Solicitors Indemnity Fund Limited and to appoint Tom Fothergill, Chief Operating Officer at The Law Society, as a Director of the Solicitors Indemnity Fund Limited for a further period of 5 years.
 - c) to delegate authority to the Chair to agree to make the further changes needed to the Standards and Regulations and any associated commencement orders.

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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Chief Executive's Report

Section 1: Priorities for 2018/19

- 3 This section provides an update to the Board on our key priorities, starting with an overview of any key developments, followed by an update against our 2018/19 Business Plan.

Solicitors Indemnity Fund Limited (SIFL) – Appointment of a new SRA member

- 4 The Board will recall that the Solicitors Indemnity Fund (SIF) (the legacy of the system under which, until 2000, Professional Indemnity Insurance for law firms was provided by the Law Society) is now being run off, and the balance of contributions collected prior to 2000 together with investment income is being used to fund the handling, defence and settlement of claims which fall to be dealt with by SIF. SIF Limited (SIFL) is a company limited by guarantee which was set up by the Law Society in 1987 for the purpose of managing and administering the SIF. The Law Society Council has the power to appoint new directors and has delegated that power to the SRA Board on the basis that SIFL is fulfilling mainly regulatory functions. The SIFL Board consists of four directors: an independent Chair, one nominee from the Law Society, one from the SRA and an insurance industry expert.
- 5 At the last meeting, the Board agreed to delegate to the Chair the appointment of the SRA's nominee to the SIFL Board. Mark Draisey, interim Executive Director, has been appointed as a director of SIFL with effect from March 2019.
- 6 We have also received a letter from The Law Society to ask the Board to extend the appointment of its nominee on the SIFL Board, Tom Fothergill, Chief Operating Officer at The Law Society, for a further period of 5 years.

Recommendation: the Board is asked to note the appointment of Mark Draisey (interim Executive Director) as a Director of the Solicitors Indemnity Fund Limited and to appoint Tom Fothergill, Chief Operating Officer at The Law Society, as a Director of the Solicitors Indemnity Fund Limited for a further period of 5 years.

Solicitors Disciplinary Tribunal (SDT) – Standard of Proof

- 7 Last summer, the SDT consulted on the making of procedural rules in relation to applications to the Tribunal, which included the standard of proof it applies to the cases it hears and the solicitor / lay composition of its panels.
- 8 The SDT published its response to the consultation on 8 April 2019. The response sets out its intention to move away from applying the criminal standard of proof to cases it hears in favour of the civil standard of proof on the basis that it provides better public protection. We welcome this change, which we have argued has been necessary over the last few years.
- 9 In our response to the consultation, we argued for panels to have a lay majority to remove the perception of structural bias in favour of solicitors. However, the SDT

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has taken the decision not to move away from solicitor dominated hearings. The SDT’s response to all of the issues that it consulted on can be found at the following link: <https://www.solicitortribunal.org.uk/news/response-consultation-making-procedural-rules-relation-applications-tribunal>.

Executive Director, Resources

- 10 Liz Rosser has been appointed to the role of Executive Director of Resources. She joins us on 17 June 2019 from The Quality Assurance Agency for Higher Education (QAA). Mark Draisey will remain on the Senior Management Team with responsibility for the Modernising IT Programme.

Progress against our 2017/18 Business Plan

- 11 We are making good progress to achieve the objectives set in our 2018/19 Business Plan. Below I highlight key areas of development to note against each Business Plan objective.

Objective 1: We will set and apply consistently high professional standards for the individuals and firms we regulate and make sure they are appropriate to meet the challenges of today and the future	On track
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- 12 We are on track to deliver this objective.

Solicitors Qualifying Examination (SQE)

- 13 The SQE 1 pilot took place on 20 – 22 March 2019. Candidates are due to receive their results in the summer and at the same time, we will publish findings from the pilot. We are also working with Kaplan to plan the SQE 2 pilot and we expect assessments to take place towards the end of the year with recruitment for the pilot over the summer.
- 14 Stakeholder engagement continues. We are planning to meet with stakeholders to explore the options for making the SQE available in Welsh. We are using the SQE Reference Group to get input into the assessment content and design. We are also publishing and seeking views on the questions we discuss with the Reference Group through our LinkedIn SQE group, in order to ensure the widest possible engagement. We will continue to work with our Reference Group to look at the outcome of the SQE 1 pilot, and to refine the Assessment Specification for both SQE 1 and 2. A series of webinars is also planned to continue to explain and promote the SQE.

Advocacy Standards

- 15 We will be updating the LSB this month on our upcoming advocacy work following its transitional regulatory performance assessment last year, in which the LSB

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found that it was unable to assess our advocacy work as complete until our new approach to assuring the competence of solicitor advocates had been completed.

- 16 We continue to keep under review our approach to continuing competence for solicitors. We monitor the activities solicitors undertake to maintain their competence using a targeted, risk-based approach. We ask for training records when there is a report on a possible conduct issue and as a routine part of thematic reviews. Going forward, we will refresh our online continuing competence resources for solicitors. We will remind solicitors of their continuing competence obligations and engage directly with those who are not complying.
- 17 We will share with the Board before publication our evaluation of the new approach which was introduced in November 2016.
- 18 We will be publishing a consultation this summer that sets out a range of initiatives designed to support solicitor advocates and improve standards. The objective of our work on advocacy will be to improve standards through more rigorous entry assessment and to enhance post-entry enforcement when we identify incompetence.

Residential conveyancing thematic review

- 19 In April we published our thematic review of residential conveyancing, which has raised concerns over how open solicitors are about costs and whether they are doing enough to make sure buyers understand any potential contractual obligations. While all the firms we reviewed gave clients quotes before agreeing to work with them, we found that in one third of cases (34%) these initial quotes did not include fees for additional work which should have been reasonably anticipated at the outset.
- 20 There were also issues about solicitors not properly explaining the long-term implications of complex contractual clauses. In nearly a quarter (23%) of leasehold purchases, we found solicitors did not explain the difference between freehold and leasehold models of ownership. This is of particular concern, as leasehold purchasers can find themselves liable for fast rising charges, such as ground rents. The full report can be found at the following link:
<https://www.sra.org.uk/sra/how-we-work/reports/residential-conveyancing-thematic-report.page>.

<p>Objective 2: We will make sure our regulatory requirements are proportionate, providing solicitors and firms with the flexibility to innovate and better meet the needs of members of the public</p>	<p>On track</p>
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and businesses, while maintaining appropriate levels of public protection	
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21 We are on track to deliver this objective.

Preparing for the new Standards and Regulations

- 22 Following the last Board meeting, we have announced confirmation that our new Standards and Regulations will come into force on 25 November 2019. As part of this announcement, we also confirmed that the SRA digital badge would also become a mandatory requirement for all regulated firms who run a website from November 2019 (just over 40% of firms are displaying the badge voluntarily).
- 23 We are well underway with our preparations to implement the new Standards and Regulations. We have developed a comprehensive training plan for the organisation, which has been successfully piloted and builds on the training on our new enforcement strategy. This plan builds on a very significant training programme undertaken last year to ensure we are taking a proportionate approach to compliance with our rules and ethical guidance. Training will be taking place over the summer and early autumn with follow up training close to the go-live date to help ensure that our new regulatory approach is embedded.
- 24 We have developed and are testing externally our new beta site for presenting the new Standards and Regulations and connected material in a user-friendly way. We are also producing information to support those we regulate transition to the new Standards and Regulation. This includes guides, case studies and check lists. We are targeting guidance at areas where we have received feedback that it is most needed and areas where there is significant change. We have engaged the profession in developing the guidance and the first tranche of guidance to support the new Standards and Regulations will be issued in the summer.

Correspondence with the LSB about new SRA Compensation Fund Rules (CFRs) and SRA Professional Indemnity Insurance Rules (SIIRs)

- 25 The Board made the Compensation Fund Rules and SIIRs at its December meeting. The new rules reflect the simpler approach we have taken to drafting across our new Standards and Regulations and implement decisions made as part of our reform programme, including to reflect the changes to the ways that a solicitor may practise.
- 26 Following the Board's decision, we applied to the LSB for approval of the new rules. At the end of March, the LSB extended its initial 28 -day decision period for the new rules to 2 June. The LSB has asked for clarifications about certain aspects of how insurance requirements and compensation fund arrangements will work in different circumstances.

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- 27 The LSB has also received correspondence about the rule changes from the Law Society and the Consumer Panel, which it has published on its website and which we have addressed in our response.

Decision notice from the LSB on Reporting Concerns

- 28 The LSB wrote to us on 9 May 2019 to tell us that it had granted in full our application for approval of changes to the SRA Regulatory Arrangements (Reporting Concerns) (Amendment) Rules 2019.

Delegated authority for any outstanding changes to the Standards and Regulations

- 29 When the Board agreed to commence the new Standards and Regulations to come into force on 25 November, we made Board members aware that we may need to make minor technical changes to the Standards and Regulations before they go-live on 25 November. Before 25 November, the Board will also be asked to commence any rules which it has made (for example the CFRs and SIIRs), but which are still subject to a decision by the LSB.

Recommendation: The Board is asked to delegate authority to the Chair to agree to make the further changes needed to the Standards and Regulations and any associated commencement orders.

Policy reform evaluation

- 30 We have started work on the evaluation of our regulatory reform programmes: Looking to the Future and Better Information, More Choice. This will help us to understand whether these reform programmes are having the desired impact on the legal services market and are improving access to justice for consumers. We will consider the full range of consumer, equality and diversity and market impacts. Our approach will build on the high-level evaluation framework that was established by the Centre for Strategy and Evaluation Services in 2017, which was [published](#) following Board review.
- 31 We have just gone out to tender for an independent supplier to develop more detailed frameworks for each of our reforms. This will include detail about what we ought to measure during the course of the evaluation and the data approach for doing so.

Legal Access Challenge

- 32 We launched the [website](#) for the Legal Access Challenge on Wednesday 1 May. Working with Nesta, our delivery partner, the Challenge is looking for innovative legal solutions that help individuals and small and medium-sized enterprises (SMEs) to better understand, prevent and resolve their legal problems. As the Board is aware, this work is funded from the award we won last year from the Regulators Pioneer Fund (RPF) to take forward innovation in the legal services sector. The application window will open on 30 May 2019.

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<p>Objective 3: We will increase the availability of relevant and timely information to help people make informed choices in the legal services market</p>	<p>On track</p>
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33 We are on track to deliver this objective.

Transparency Rules

34 We have conducted our first web sweep to check compliance with the SRA Transparency Rules that came into force on 6 December 2018. We checked the websites of 500 randomly selected firms. Early analysis indicates that a majority of firms have engaged with the new requirements, but further work is needed to bring them into full compliance. We are finalising our analysis and next steps following the web sweep.

SRA Website

35 The SRA website performed strongly in the first six months of 2018-19. Visits were up 17% from a year earlier to 1.8 million for the six-month period. Our bounce rate (the number of one-page visits as a proportion of all visits) was down by 17% from a year earlier. These are all signs that the website is doing a better job of meeting users' expectations.

<p>Objective 4: We will make sure that our regulatory arrangements work as effectively as possible for the public, businesses, solicitors and firms in the context of constitutional developments within the UK and any new relationship with the EU</p>	<p>On track</p>
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36 We are on track to deliver this objective.

Anti-Money Laundering (AML)

37 We have now published our annual AML thematic project report on Trust and Company Services work with an associated warning notice. Our report showed that a significant minority of law firms were falling short of AML requirements. It can be viewed at the following link: <http://www.sra.org.uk/sra/news/press/aml-tcsp-review-2019.page>. This report has been covered in the national press.

38 At the end of March, we put firms on notice of our intention to write to a sample of 400 firms asking them to demonstrate compliance with the Government's 2017 Money Laundering Regulations. This follows concerns as a result of our thematic work and visits to firms. We want to make sure that firms have a money laundering risk assessment in place, as it forms the backbone of the firm's

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policies procedures and controls. If firms are not complying, or do not respond to the request for information, we will take appropriate enforcement action.

- 39 Tackling money laundering is a key priority for us and we intend to do more to ensure compliance. Given this, we are setting up an AML team to lead on the work. Recruitment is taking place and the team will be up and running on a phased implementation this month.
- 40 We have responded to a further Financial Conduct Authority consultation on the fee structure to be used to recover the costs of the Office for Professional Body Anti-Money Laundering Supervision (OPBAS) at the end of April. This is the third consultation on the fee structure. Our response was supportive of the FCA’s proposals as they reflected suggestions we made previously and are in line with our original expectations in terms of the fees we would be charged.
- 41 HMT has launched a policy consultation into the implementation of the 5th Money Laundering Directive and we have until 10th June to respond. This directive will have less of a direct impact on our regulatory regime than the previous one, implemented in 2017. It will widen the scope of the regulations, with a particular focus on cryptoassets and electronic currencies. It sets out stricter requirements in relation to customer due diligence (CDD), the identification of beneficial owners and a new requirement to report discrepancies in corporate ownership to Companies House. We expect a further consultation on the new regulations in the autumn, with the new legislation coming into force late 2019 or early 2020.

<p>Objective 5: We will work better together, and with others, to improve our overall effectiveness, our responsiveness and the delivery of our regulatory functions.</p>	<p>On track</p>
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Section 2: Operational Performance

KPIs

42 Our KPI results for March 2019 were:

87% of conduct matters closed within 12 months of receipt against a target of 93%. This is up from 83% in February. We expect to be back in line with the 93% KPI by the end of November

- 83% of Compensation Fund claims were closed within 12 months against a target of 90%. This is up from 79% in February. We expect to be back on track from July.
- 92% of medium / high risk applications closed within 3 months in Firm Based Authorisation against a target of 90%.

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Section 3: External Developments, Publications and Engagement Activity

Legal Services Board (LSB) updates

- 43 On 2 May 2019, the LSB published a further consultation in relation to its review of the Internal Governance Rules. This follows a consultation on the proposed updated IGRs in November 2018. The LSB is considering amending Rule 1 (The Overarching Duty) of the IGRs to replace the term ‘influence’ with ‘prejudice’ so it more closely reflects the terminology of Section 30 of the Legal Services Act 2007. However, consequential amendments would also need to be made to three further rules as they currently use the term ‘influence’. This new consultation seeks feedback specifically on the proposed amended wording to these three Rules and accompanying guidance. The consultation closes on 12 June 2019 and can be viewed at the following link:
https://www.legalservicesboard.org.uk/news_publications/LSB_news/PDF/2019/2019_0502_LSB_Consults_On_Refinements_To_Proposed_IGR.html.

Stakeholder Engagement

- 44 Our ongoing engagement programme with stakeholders continues. We have held several meetings with parliamentarians from both Houses, including Justice Minister Lucy Frazer QC MP, Chair of the Commons Justice Committee Bob Neill QC MP, and Chair of the Commission for Justice in Wales Lord Thomas of Cwmgiedd. Julie Brannan, Director of Education, also gave evidence to the Commission for Justice in Wales on the SQE.
- 45 I gave oral evidence to the Commons Women and Equalities Committee Inquiry into the use of non-disclosure agreements in discrimination cases. We also responded to the Department for Business, Energy and Industrial Strategy consultation on confidentiality clauses: measures to prevent misuse in situations of workplace harassment or discrimination.
- 46 The LegalEx Conference took place on Wednesday 27 and Thursday 28 March. It is the third year we have been at the conference and this year we arranged a full theatre programme as well as having a stand. Around 300 attendees came along to the theatre sessions on our approach to regulation, with more than 350 other people watching online.
- 47 We again sponsored the Sole Practitioner Group annual conference, which took place in Manchester in April and we also spoke at the conference on the new Standards and Regulations with an emphasis on flexibility in sole practice.
- 48 We continue to promote diversity and inclusion in the profession through a range of activities. We sponsored InterLaw’s Winter Carnival in London to celebrate LGBTQ+ inclusion. Anna Bradley spoke in Manchester at the Women in Law’s dinner to celebrate International Women’s Day and we held a women’s and consumer group workshop to discuss the use of non-disclosure agreements in the harassment and discrimination in the workplace. In association with the Black Solicitors Network, we invited firms to our Birmingham office to talk about the

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23 May 2019



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opportunities for widening pathways into law through the SQE and legal apprenticeships.

Author Paul Philip, Chief Executive
Date 7 May 2019