



## SRA BOARD

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**SOLICITORS REGULATION AUTHORITY**  
**Minutes of the SRA Board meeting**  
**held on 13 September 2022 at 09.00 by Zoom**

*Subject to final approval by the SRA Board at its meeting on 18 October 2022*

Present: Anna Bradley (Chair)  
Ann Harrison  
Paul Loft  
Lisa Mayhew  
Vikas Shah  
Liz Smart  
Selina Ullah (for items 1 to 7 and 10)  
Nicola Williams

In attendance: Paul Philip, Robert Loughlin, Jane Malcolm, Juliet Oliver, Liz Rosser, Chris Handford, David Adams, Dominic Tambling, Catherine Stalker (Independent Audit)

#### **1 WELCOME AND APOLOGIES**

- 1.1 The Chair welcomed Board members to the meeting and especially Nicola Williams. This was her first meeting as a Board member having previously attended as an observer since the start of the year. The Chair also welcomed Catherine Stalker from Independent Audit who was observing the meeting as part of a Board effectiveness review. There were no apologies.

#### **2 MINUTES OF THE PREVIOUS MEETINGS ON 19 JULY 2022**

- 2.1 The minutes of the meeting held on 19 July 2022 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. All actions due had been completed.
- 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 reported that, due to a casual vacancy we had been granted a waiver from the Legal Service Board's (LSB) requirement that we have a lay majority when making decisions until the end of December, in line with our current Board recruitment timetable. We had agreed that we would ensure a lay majority for potentially significant or controversial decisions. As we did not have a lay majority in this meeting, solicitor member Nicola Williams would therefore stand down as a

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voting member of the Board for item 10 on the agenda on post six-year negligence and the Solicitors Indemnity Fund.

- 4.2 The Chair reported that we had scheduled a Board session on 4 October 2022 to discuss the Chartered Institute of Legal Executives' (CILEX) proposals to transfer the regulation of its members to us.
- 4.3 The Chair thanked Liz Smart and Juliet Oliver for joining her at a Meet the Board event with Nottingham Law Society the previous week. It had been well attended with wide ranging discussion.

### 5 COMMITTEE CHAIR REPORTS

- 5.1 The Board was asked to consider reports from the Chairs of Nominations and Audit and Risk Committees (ARC) on their meetings held on 5 and 8 September 2022 respectively.
- 5.2 The Chair of Nominations Committee reported that the Committee had discussed the recruitment of two lay members of the Board. The recruitment campaign would begin this week and the Chair was grateful to Board members who had agreed to be members of the appointment panels.
- 5.3 The Chair of ARC reported on progress in tendering for internal audit services. The Committee had undertaken a deep dive into the risk on cyber security on the Mid-tier Risk Register including lessons to be learned from the recent cyber-attack on the Bar Standards Board. New controls that had been put in place.

*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 and asked the Board to note the steps we were taking after an IT failure at one Solicitors Qualifying Examination (SQE) test centre in July prevented around 100 candidates sitting the assessment on one day, which was frustrating and disappointing. We were working with Kaplan, our SQE provider, to address and learn from this including reviewing the contingency arrangements in place and the speed with which they could be implemented if required in future. The Board noted that we had received positive feedback from a number of affected candidates about the steps that we had taken since the incident. The CEO reported that Kaplan would attend a Board meeting in the New Year.
- 6.2 The Chief Executive highlighted HM Treasury's published response to its consultation reviewing anti-money laundering (AML) supervision and regulations. This set out options for the future of AML supervision, ahead of further consultation would be published. The Board noted that uncertainty around future arrangements, combined with high AML salaries being offered in the private sector was creating challenges for retaining staff in the AML team. The Board also noted that the Office

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for Professional Body Anti-Money Laundering Supervision would be undertaking one of its regular assessments of our AML function in October 2022.

- 6.3 The Board was reminded that the Financial Guidance and Claims Act 2018 provided a duty for us to make rules to provide an “appropriate degree of protection for consumers against excessive charges” from law firms when they provide claims management activities relating to certain financial products and services. The Board had previously advised that we should use the Financial Conduct Authority’s (FCA) (which had a similar duty) fees restrictions model as a benchmark for our approach. Having engaged with a variety of stakeholders we had prepared a position for consultation based on our understanding about the type of work undertaken by the law firms we regulate.
- 6.4 However, in June 2022, in light of an application for judicial review against the FCA the Board had decided that we should wait before consulting so that we might better understand the basis of this challenge and how it might impact our options. The judicial review against the FCA had now been refused permission to proceed, and we had taken steps to assure ourselves that our proposals were legally sound. It was now therefore timely to proceed to consultation.
- 6.5 The Board agreed that a short paper setting out the principles on which we would be consulting should be circulated to the Board and, subject to this, agreed to delegate to the Chair the approval of the consultation on restricting fees for some claims management services.
- 6.6 The Board noted plans to re-tender for a provider of legal services for our enforcement work. The current contract with Capsticks had successfully delivered improved value for money and greater financial certainty as to spend. There were however strong business and commercial reasons to go out to market and ensure that we were still receiving value for money and a high-quality service. In response to questions from Board members it was confirmed that the recent increase in our fining powers might impact on our requirements, although any impacts would be unlikely to materialise for some time. The Board also received an update on a number of high-profile cases which were currently underway and were likely to receive significant media coverage.
- 6.7 The CEO reported on the introduction of our new organisational values. The Board had agreed three of these – ‘Accountable’, ‘Customer focused’ and ‘Inclusive’ – and that staff should decide whether the fourth should be ‘Agile’ or ‘Proactive’. There had been a clear preference for ‘Proactive’ and staff had also been asked to identify associated behaviours and a strapline for each of the new values. These would be finalised later in the month. An opportunity for the Board to consider how its behaviours reflected the values would be scheduled for 2023.
- 6.8 The Chief Executive also updated the Board on the work we had done to continue the development of our relationship with the Law Council of Wales. This included a constructive meeting between the Chief Executive and SRA Chair with the Law Council Chair at which we had discussed opportunities for engagement with the Council. He also reported that our new office would be opening in central Cardiff

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within the next few weeks and that a formal opening would be held later in the year.

#### 7 SRA THIRD QUARTER PERFORMANCE REPORT

- 7.1 The Board was asked to consider the performance report for the third quarter of 2021/22.
- 7.2 The Board noted the key achievements which had been identified for the quarter relating to greater activity on anti-money laundering, the increasing of law firm diversity data and the support of legal technology and other innovation that assisted the legal sector. The Board also noted the three activities that had been reported as amber for the quarter and that they were all expected to be completed in the year.
- 7.3 In relation to the update on financial performance the Board noted that the current provision for the year was favourable and that this was due in part to a higher number of solicitors than had been predicted on the roll and therefore paying practising certificate fees. The Board noted the reduction in reserves arising from a fall in investments as a result of a number of global developments including the war in Ukraine but agreed that this was not currently of any great concern.
- 7.4 The Board discussed the significant increase in the cost of living and the ways in which its impact on staff might be alleviated. It was agreed that it would be appropriate to use part of the forecast surplus to support staff at this time, in particular the lower paid staff within the organisation, whilst recognising this would delay the building of reserves to within our desired reserves range. The Board approved a one-off cost of living payment for staff in post on 31 October 2022, to a maximum cost to the SRA of £550K, with the detail to be agreed by the Executive.
- 7.5 The Board reviewed the update on progress against activities in our annual planned work programme and the latest balanced scorecard. In response to questions from Board members it was reported that good progress had been made in dealing with older cases in the investigation and enforcement system and that a more detailed update would be provided with the fourth quarter performance report in December.
- 7.6 The Board noted the content of the quarterly performance report and the commentary provided.

*NB: annex 1 of this paper will not be published because it contains information which is commercially sensitive*

#### 8 SRA STRATEGIC RISK UPDATE

- 8.1 The Board was asked to consider a progress report covering the quarter 3 (May – July 2022) period of the SRA Strategic Risk Register (SRR) and an update on the development of risk management.

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- 8.2 The Audit and Risk Committee had reviewed both the SRR and the Mid-tier Risk Register (MRR) at its meeting the previous week and agreed that there were no risks which needed to be escalated from the MRR to the SRR.
- 8.3 The Board noted that the annual review of the Risk Management Framework had been undertaken and would be reported to the Board as part of the December Risk Update and also noted progress on the ongoing development of risk management.

*NB: the annex of this paper will not be published as it includes discussion of risk that might be exacerbated by publication.*

### 9 SRA BUDGET 2022/23

- 9.1 The Board was asked to consider an update on the proposed budget for 2022/23. Approval of the budget had previously been delegated by the Board to the Board Chair but given a number of changes and developments the Board was being asked to give final approval.
- 9.2 It had been anticipated that we would add £700K to our reserves in the next financial year but the proposal was now for a balanced budget. The key reasons for this change were set out in the table in paragraph 8 of the paper. These included increased energy costs which were likely to be significant. Inflation was now forecast to be higher than it had been when the budget had previously been discussed though the Board also noted continuing uncertainty around this and a number of other factors.
- 9.3 In considering the proposed budget the Board recognised that given the number of uncertainties at the present time it was conceivable that the Executive might ask for reserves to be called on and that the current level of reserves was slightly below the preferred position. The Board agreed this position and noted that the Executive would be doing what it could to mitigate against any call on reserves and would be providing the Board with regular updates on the position. The Board also considered a number of opportunities and risks that would affect the budget that we would look to realise and mitigate respectively during the year.
- 9.4 The Board also considered work which was being undertaken on activity based costing to better understand the costs to the organisation of the main activities that we undertake. This would ensure that we could more accurately measure our resources expended on each activity and therefore provide greater transparency on where practicing fees were used. A further report would come to the Board as this work progressed.
- 9.5 The Board approved the proposed budget for 2022/23 and noted the work done on activity based costing.

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#### **10 POST SIX-YEAR NEGLIGENCE AND THE SOLICITORS INDEMNITY FUND: POLICY OPTIONS FOR FUTURE CONSUMER PROTECTION**

- 10.1 The Board was asked to consider a paper setting out the case for future consumer protection for post six-year negligence and recommending a model for delivering this going forward.
- 10.2 The Board had decided in June 2021 to consult on the future of the Solicitors Indemnity Fund (SIF) and agreed on 5 April 2022 that we should seek a 12 month extension to the September 2022 deadline for notifying post six-year claims to the SIF, to allow further consideration of the issues and evidence raised in the consultation. The Board had considered the emerging findings of this further work in an informal workshop session in July 2022.
- 10.3 The Board noted that responses to a high-level discussion paper issued to stakeholders in July had shown a preference for the continuation of the current arrangements through SIF. There had though been an indication from some, including the Law Society and the Legal Services Consumer Panel, that an SRA run scheme would be acceptable if the same level of cover was provided.
- 10.4 The Board agreed that we should maintain consumer protection for post six-year negligence as a regulatory arrangement with the same level of cover as the SIF. The Board further agreed that we should provide this protection via an indemnity scheme operating under the direct control of the SRA, to, enable us to realise potential cost efficiencies give us clear oversight of its operations and keep under review the costs and benefits of this protection.
- 10.5 The Board:
- i. dismissed the option of a new compensation fund with discretionary criteria for the payment of post six year grants, equivalent to those applied to payments under the existing SRA Compensation Fund
  - ii. dismissed the option of retaining the SIF operated by SIFL as a separate corporate entity. This will entail closing this to notifications of new post six-year claims from 30 September 2023.
  - iii. agreed that we establish an indemnity scheme operating under the direct control of the SRA to deliver post six-year consumer protection
  - iv. agreed that the consultation paper setting out our approach and the detailed rules for implementing the scheme should be signed off by the Chair.
- 10.6 Following the Board's decision we will consult for 12 weeks on our approach and the draft rules for a new indemnity scheme, so the consultation will run until the end of 2022. The Board would then be asked to confirm the final rules in early 2023 before their submission to the LSB for approval.

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*NB: the annexes to this paper will not be published as they relate to emerging strategy or policy*

#### **11 REVIEW OF MEETING AND ANY OTHER BUSINESS**

11.1 The Chair thanked Board members for their contributions and reported on the process of appointing a new Senior Independent Director as a successor to Tony Williams who had left the Board at the end of August 2022. The Board agreed that Ann Harrison should be appointed as the new SID for a period of 2 years.

11.2 The next meeting would be held on 18 October 2022.