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This paper will be published

Chief Executive's Report

Purpose

- 1 This report provides an update to the Board on our priorities and any key developments that it needs to be aware of. It also provides information on important external developments and our engagement activity with key stakeholders.

Recommendations

- 2 The Board is asked:
 - a) to consider the Chief Executive's report
 - b) to make the SRA Regulatory and Disciplinary Procedure (Amendment) Rules [2021] attached at annex 1.

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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Update against priorities / key developments

Covid-19

- 3 Our staff continue to work from home, with our office at The Cube open three days a week for a few essential business needs. We have made arrangements for a very small number of additional people to go into the office who have personal circumstances that make it particularly problematic for them to work from home. We continue to keep a careful watch on staff sickness levels as a result of Covid-19 and those staff that may be struggling at home. A number of staff initiatives also continue to be organised to help keep staff connected and to maintain a sense of community whilst working remotely.
- 4 In view of the recent government announcement on 22 February 2021, we are considering when we might be able to open the office and implement our new operating model. We are hoping that we will be able to do so in early summer (subject to government guidance). We are also hoping in due course to run some pilots for additional usage of the office for specific activities where we consider it might enhance working practices (such as induction and some training).
- 5 We have experienced some delays in processing casework during the recent national lockdown although this has been relatively limited compared to the first national lockdown where we saw up to 120 disciplinary investigations directly impacted. We have taken a robust approach to granting extensions while continuing to support individuals. In February, 11 disciplinary cases were delayed due to Covid-19 related issues.

Premises update

- 6 As agreed by the Board at its January meeting, we have served notice to exit the 14th floor at The Cube, which we will leave by 1 March 2022. At the time of writing, we were finalising negotiations on the 11th and 12th floors, in accordance with the offer discussed with the Board. A verbal update will be provided on progress at the meeting.

Practising Certificate revocation

- 7 We are currently in the process of revoking practicing certificates of solicitors' who did not renew in the last Practising Certificate Renewal Exercise. This will involve a final reminder and a formal revocation notice by 14 April 2021. We normally have around 3,000 solicitors that do not renew each year that require a formal revocation notice and expect to see similar numbers this year. As is our normal process, any solicitor that continues to practice without renewing will be referred to our enforcement team.

CLASSIFICATION – PUBLIC***Solicitors Qualifying Examination (SQE)***

- 8 The new SQE Regulations will come into force on 1 September 2021 and we are pressing ahead with our preparations. We have opened 2021 with a series of webinars focused on the SQE, which have attracted around 2,000 views.
- 9 In spring and early summer, we intend to introduce new processes to enable candidates to register periods of Qualifying Work Experience with us and for qualified lawyers to apply for SQE exemptions, where they can demonstrate qualifications or experience which are equivalent in content and standard to the SQE. We will also launch the SQE website and then open registration and bookings for the first assessments.
- 10 Before going live, we will be undertaking checks to ensure we are confident that everything is ready, and that Kaplan has the systems and processes in place to run the first live assessments. There will also be input from our independent reviewer about readiness to start delivering assessments. Readiness decisions will be made in a series of meetings over the spring and summer 2021 and will be taken jointly by both Kaplan and us. We will report the outcomes of these decisions to the Board.

Continuing Competence

- 11 The Legal Services Board (LSB) has now [published](#) the findings of its call for evidence last year on continuing competence. Its overarching conclusion is that there is ‘a strong rationale’ for further work in this area. The LSB is planning to set clear and consistent expectations for legal services regulators that it will require regulators to consider when setting requirements for those they regulate. It is planning to consult on these expectations in the second half of 2021.
- 12 We responded to the LSB’s call for evidence, highlighting our competence statement and the range of regulatory tools we have in place to identify and address concerns about competence, some of which are highlighted by the LSB in its report. We are currently undertaking a strategic review of our approach to continuing competence and will continue to engage with the LSB on its work in this area.

Anti-Money Laundering (AML)

- 13 We are expecting the Treasury to publish a response to the consultation on the economic crime levy in the spring. If government decides that supervisors, rather than a central body, should collect the levy from regulated firms, it will create a resource impact for us to calculate, collect and enforce the levy. We would need to make significant systems changes to collect the levy as part of the practising certificate fee and may need to collect additional information from firms to allow us to charge the correct levy. It is likely that fraud prevention will remain outside of the levy.

CLASSIFICATION – PUBLIC***Brexit / EU work***

- 14 Since the introduction of the UK EU Trade and Cooperation Agreement, and the end of the transition period on 31 December 2020, we have been working closely with The Law Society (TLS) and meeting regularly with the Ministry of Justice and the Department for Business, Energy and Industrial Strategy (BEIS) to discuss Government priorities for agreeing Free Trade Agreements with international jurisdictions.
- 15 BEIS is keen to have regulators work with it on a new, cross jurisdictional project, named 'Agile Nations', aimed at facilitating global co-operation on innovative working in professional services, including law firms. Early planning is underway, and we are engaged in initial workshops.
- 16 Alongside this, we have been working on our arrangements by which qualified lawyers from EU countries can apply for exemptions from the SQE, where they can demonstrate qualifications and/or experience which is equivalent in content and standard.

Whiplash claim reforms - a ban on 'pre-medical offers'

- 17 The Civil Liability Act 2018 (the Act) is due to come into force in May 2021 and introduces a ban on regulated people from offering or agreeing to settle road traffic accident-related whiplash claims without a medical report. Solicitors and law firms will, therefore, only be able to make or accept an offer to settle a claim after seeing a medical report.
- 18 We are required under the legislation to have arrangements in place for monitoring and enforcing this prohibition and we are proposing to make a minor change to the SRA Regulatory and Disciplinary Procedure Rules to make reference to the Act. The effect of this change will be that an alleged failure to comply with this ban could be treated as an allegation of misconduct and, if it is proved, appropriate sanctions could be imposed. We will also take the opportunity to include, for completeness, a reference to section 58 of the Criminal Justice and Courts Act 201, which bans inducements in personal injury. Following Board approval, we will submit the rule change application to the LSB.

Recommendation: the Board is asked to make the SRA Regulatory and Disciplinary Procedure (Amendment) Rules [2021] attached at Annex 1.

Technology and innovation

- 19 We continue to play a lead role in the Ministry of Justice funded Law Tech UK sandbox. Five tech innovators, which target different segments of consumers, are being supported and the initiative brings together government, regulators, investors, law firms, innovators, and others to collaborate to identify and address barriers to transformative lawtech.

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20 We are most involved with the following three pilots:

- a proof of concept for a secure data sharing platform being tested with two law firms, two corporate clients and two regulators
- developing a regulatory navigation tool for innovators wishing to enter the legal sector
- developing tools to improve confidence in and take up digital ID checking services.

21 Being involved in the Law Tech UK sandbox means that we are able to build-up our knowledge and play an active part in a practical way, which helps our Corporate Strategy objective 3 goal of being an authoritative voice on lawtech. We have also been involved in the University of Swansea’s Innovation Laboratory launch in January and have had follow up conversations about a possible collaboration to support lawtech in Wales.

Expert panel

22 The Expert Panel has not yet met in person, but the virtual sessions are working well. At the Panel’s last meeting in January, it discussed the Competition and Markets Authority’s (CMA) legal services sector progress report and possible ideas in response to the CMA, which we will reflect in the proposals the Board will be considering in the April policy work programme discussion. We also updated the Panel and invited input into the Oxford University technology adoption research that is a key year one activity to progress the Board’s Corporate Strategy commitment to improve our knowledge and understanding of developing technologies and how they may impact on the way that legal services are delivered and used.

Quality Indicators

23 We launched our quality indicators pilot in February after several months of development work. We are working in partnership with the Council for Licensed Conveyancers and CILEx Regulation and in discussion with the LSB. This moves us forward against a key recommendation in the Competition and Market Authority’s December 2020 legal services sector progress report.

24 The pilot brings together law firms and digital comparison tool providers to trial approaches that have the potential to increase the information about the quality of legal services that is easily accessible to individual and small business consumers. The pilot has been developed based on the evidence from our one-year Transparency Rules research, consumer research, workshops with digital comparison tool providers, consumer representative organisations and our Expert Panel. Regulated firms and representative bodies, including TLS, have also helped shape the pilot.

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- 25 The first phase of the pilot will explore approaches to increase the numbers of consumers leaving reviews online about their experiences of law firms, and the numbers of consumers who use such reviews to help them select a legal services provider.

Strategic review of fees

- 26 Following discussion at the Board's workshop in December, we have prioritised progressing work on the Equality Impacts Assessments (EIAs) for both the Compensation Fund contributions and the Practising Certificate Fee, which will feed into this year's consultations and LSB approval application. We have discussed this with the LSB, who appear to be content.
- 27 We have also been scoping the wider strategic review of all our fees and our approach to keeping the roll. We are mindful of the Board's view that we develop a holistic and phased approach to the programme, as it will have to be run and implemented over more than one year. We have begun to map out the workstreams, their interdependencies and business impacts. We are now looking to appoint a dedicated Programme Manager.

Standards and Regulations evaluation

- 28 We have appointed the Centre for Strategy and Evaluation Services to work with us on the first, one-year direction of travel evaluation of the Standards and Regulations. The evaluation will include analysis of our internal data as well as primary research to understand the impacts of our reforms on solicitors and consumers, as well as on other parts of the legal services market, such as unregulated providers. We are aiming for the fieldwork to be completed by Summer 2021.

Transparency work

- 29 We are continuing to tackle areas of non-compliance in relation to our transparency rules. This has included contacting a further 2,000 firms to gain assurance that the necessary information is available to consumers. From this sample, we have opened 102 new disciplinary investigations either because the firm has confirmed they do not comply or because we have found, following a dip sample check, that the firm is non-compliant. An earlier check last year led to 12 firms receiving regulatory outcomes. We will continue to publicise the steps we are taking, including further regulatory outcomes, and intend to undertake a further series of random checks from April.

Professional Indemnity Insurance (PII): affirming cyber cover

- 30 The Prudential Regulation Authority (PRA) that regulates insurers has asked them to identify, quantify and manage cyber insurance underwriting risk. They are particularly concerned that some insurance policies are not specific enough about exactly what cyber-related losses are and are not covered. Lloyd's of London (who manage syndicates operated by insurers) have followed with their

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own review, which has gone further, by mandating that all policies of its syndicate members must provide clarity regarding cyber coverage by either expressly excluding or expressly providing affirmative cyber cover.

- 31 We are proposing to consult on small changes to our minimum terms and conditions (MTCs) for professional indemnity insurance (PII). The purpose of the proposed change is to be clear about what is and is not covered by a PII policy in the event of a law firm being subject to a cyber-attack, without changing the scope of consumer protection. We consider that a change to our MTCs is the most practical solution that would: maintain the current level of consumer protection intended by our insurance arrangements, provide clarity for law firms, and would allow insurers to manage their exposure. This has involved adapting a 'model' clause that has been developed by the insurance trade body, the International Underwriters Association (IUA). We are meeting with the PRA to update on our approach on 25 February 2021 and will update Board verbally at its meeting. This is the solution being adopted by other professional regulators.
- 32 We plan to consult for six to eight weeks to seek views on the drafting and to be sure that the changes do not inadvertently reduce or expand the scope of cover provided by our MTCs. The changes are not intended to do that. We will return to the Board to make a decision on how to proceed post-consultation.

SRA TLS collaborative working protocol

- 33 There are three areas listed in the protocol that we have agreed to work collaboratively with TLS on in particular: technology, anti-money laundering (AML) and equality, diversity and inclusion (EDI).
- 34 We have continued to work closely and collaboratively with TLS on AML. Joint AML guidance was published in January in conjunction with TLS and all other legal sector supervisor and regulatory bodies. We spoke at a series of TLS webinars throughout January and February to explain changes to the guidance. We have liaised closely with counterparts at TLS on preventing fraud, the economic crime levy and in the run-up to the Economic Crime Strategic Board meeting in February.
- 35 On EDI, we have been discussing with TLS support for our campaign to encourage solicitors to complete their diversity data on mySRA and how to align our diversity data reporting. We spoke at the Law Society's Equality Diversity and Inclusion Committee in February on our approach to reports we receive about harassment, bullying and discrimination and about the overrepresentation of men and BAME groups in our enforcement processes.
- 36 We meet with TLS innovation team monthly to share ideas for and updates on work to support innovation and technology in the legal sector. This helps us ensure that our work is complementary, and not duplicative, to maximise benefit. In this context, we have begun exploring a joint SRA and TLS information product aimed to direct innovators to the available support from each of us. TLS colleagues have actively promoted our Quality Indicators pilots with firms who may wish to participate. They have also agreed to be interviewed as part of our

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Oxford University lawtech adoption research and we have engaged them about how we can each best support a research proposal by a regtech provider.

External Developments and Engagement Activity

Stakeholder Engagement

- 37 Our ongoing engagement programme with stakeholders continues. We have contacted all MPs in England and Wales and all Members of the Welsh Parliament to provide them with a general update on our work. The Chair and I have had meetings with the Counsel General for the Welsh Government, Jeremy Miles, and the new UK Minister with responsibility for legal services, Lord Wolfson. I have also met with Shadow Solicitor General Ellie Reeves MP, and Conservative member of the Justice Committee, James Daly MP. On 17 February, I attended the Economic Crime Strategic Board chaired by the Home Secretary.
- 38 The first of our Board virtual outreach events took place in February, with a useful discussion with members of Devon and Somerset Local Law Society. Issues covered included the impact of the Covid-19 pandemic, publishing consumer information, AML and SQE. At the time of writing, we were due to hold our second Board virtual event with Manchester Law Society on 8 March.
- 39 We have continued to engage with diversity groups and others about our reporting in our Upholding Professional Standards report on diversity in our enforcement processes, including sessions with the Association of Regulatory and Disciplinary Lawyers, LawCare, the Sole Practitioners Group, six groups representing Black and Asian solicitors, and collectively with a range of women's groups and LGBTQ+ groups in the profession. We are implementing the commitments we made to address the issues raised in the report, including: planning to commission the external research and audit work, finalising the details of our campaign to improve the disclosure of diversity data to be launched in March, holding events about regulatory issues to support small firms and planning to deliver the next round of unconscious bias training for staff during March.

Author Paul Philip, Chief Executive

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Annexes

Annex 1 SRA Regulatory and Disciplinary Procedure (Amendment) Rules [2021]