

SRA BOARD
12 September 2023

CLASSIFICATION – PUBLIC



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 to:
 - a) consider the Chief Executive's report.

If you have any questions about this paper please contact: Paul Philip, Chief Executive, paul.philip@sra.org.uk, 0121 329 6940.

Chief Executive's Report

Update against priorities / key developments

CILEX consultation

- 3 On 14 August, CILEX [announced](#) its consultation on changes to the way its members are regulated. This includes the proposal to redelegate regulation of CILEX members to us. The consultation closes on 5 November. On 31 August, we [published](#) our consultation on the potential changes to our regulatory arrangements that would be required should regulation of CILEX members move to us. The consultation closes on 22 November.

Professional Enablers roundtable on misconduct in the legal sector

- 4 Early in August, I met the Home Secretary, Lord Chancellor and Justice Secretary and other key organisations as part of the Government's 'Professional Enablers' roundtable on misconduct in the legal sector with a focus on immigration services. We responded to a letter from the Lord Chancellor and Justice Secretary on immigration services, setting out the action we had taken in response to allegations made by the Daily Mail against law firms involving immigration services, as well as setting out our follow-up actions from our 2022 thematic review into immigration lawyers. The letter was [published](#) on our website. This attracted extensive coverage in national, regional and trade media.

Anti-Money Laundering (AML) update

- 5 The consultation into the future of AML supervision closes on 30 September 2023. We will be submitting a response guided by the discussion with the Board at the July meeting.
- 6 We expected the Economic Crime and Corporate Transparency Bill to have been given royal assent ahead of the summer recess, however, the Bill has been delayed. We are anticipating that the Bill will give us unlimited fining powers for future economic crime offences, wider information gathering powers outside of an investigation, a definition of strategic litigation against public participation (SLAPP), and a new regulatory objective to promote the prevention and detection of economic crime. The Bill is expected to enter its final stages this month.

Solicitors Qualifying Examination

- 7 The results for candidates who took SQE2 in April 2023 were released on 22 August. The pass rate for candidates who took the assessment for the first time was 80%. The overall pass rate, including candidates who took the assessment for the second or third time, was 77%. This compares with overall pass rates in October 2022 of 71% and in April 2022 of 77%. The April 2023 cohort had a significantly lower proportion of candidates who were not required to first pass SQE1 (because they had started to qualify under the legacy routes) than was the

case with the previous sittings. The data shows that candidates who have not been required to pass SQE1 have lower pass rates than those who have taken and passed SQE1. The statistical report, [published](#) on 22 August, includes further data on candidates' performance.

- 8 The results for July 2023's sitting of SQE1 were released to candidates on 31 August. The statistical report, that will include the pass rate and demographic data, will be published in the autumn. There is a delay between releasing the results to candidates and publishing the statistical report to allow mitigating circumstances applications to be fully considered and the outcomes reflected in the statistical report, without delaying the release of results to candidates.

Continuing competence

- 9 We [published](#) our first annual determination of competence on 2 August. The report is part of our enhanced approach to identifying and addressing competence concerns. It outlines findings from our review into how solicitors keep their skills and knowledge up to date and how firms make sure they are competent to provide the legal services they offer. We also set out the action we will take where we have identified a competence concern.

Equality, Diversity and Inclusion (EDI) research

- 10 During June we published the literature reviews on our two large-scale EDI projects:
- [Differential outcomes](#) ('attainment gaps') by ethnicity in professional qualifications, delivered by the University of Exeter, and
 - [Overrepresentation of Black, Asian and minority ethnic solicitors](#) in reports made to us about solicitors and in our enforcement processes, delivered by the Universities of York, Lancaster and Cardiff.
- 11 These reviews have been instrumental in shaping the next steps of the primary research for each project, which include in-depth interviews and detailed data analysis to help understand the factors causing each.

Artificial Intelligence (AI)

- 12 We responded to the Government's consultation on a 'pro-innovation approach to AI regulation' which ran until 21 June 2023. We also continue to meet with the Office for AI, a unit of the Department of Science, Innovation and Technology, to inform their work and maintain our sectoral input in helping to shape their final response. The Government's response to this consultation is intended to be published in the autumn along with a roadmap. The Government also announced that the UK will host the first major global summit on AI safety in the autumn.

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- 13 We have received a request from the Committee on Standards in Public Life to update on our progress in responding to the regulatory challenges posed by AI. This is a follow up from the 2020 request to regulators to show how we were adapting, which culminated in a report, Artificial Intelligence and Public Standards.
- 14 In July we organised a 'deep dive' for regulators focused on AI, which is one of the biggest priority risk areas identified through our horizon scanning work. The session was designed to share knowledge among attendees and help with a greater understanding of the potential risks and opportunities. It included a focus on the ways in which the market for legal services is adopting AI, as well as expert views from those outside legal regulation.

SRA Innovate

- 15 We ran two successful SRA Innovate events in London and Bristol, which attracted the highest number of attendees since we launched these events in 2016. Nine out of 10 delegates said the events were very useful or useful.
- 16 We have started our first Innovate trial, a business plan commitment to help test new products against our regulatory framework and produce evidence of benefits and risk mitigation. Through the trial we will explore and test how AI-based technology can be used to help simplify and make documents within the legal sector more accessible, especially for consumers. We are running the trial in partnership with Nottingham University and a start-up who are providing the technology.

Non-disclosure agreements

- 17 In August we [published](#) the outcomes of our thematic review into how non-disclosure agreements (NDAs) are prepared between employers and their staff, and the role of law firms in drafting and agreeing these. Among the issues highlighted were the potential imbalances of power between employers and employees, and that the risks and consequences arising from NDAs are routinely underestimated. The review follows on from our 2018 [warning notice](#), which made it clear that NDAs must not be used to influence, prevent, impede, or deter, a person from reporting potential misconduct to the police or regulators.
- 18 Following the report, we will run a proactive awareness campaign to reinforce the issues highlighted in our warning notice. We have also responded to the LSB's call for evidence on the misuse of NDAs.

Keeping of the Roll

- 19 The Keeping of the Roll (KoR) exercise for 2023 has now been completed. This is the first time the exercise has run since 2014 and it will run annually going forward. Following an extensive contact strategy, a cohort of around 60,000

solicitors were notified in March that they needed to apply to stay on the roll and pay an administration fee of £20.

- 20 The application window was open for 56 days from 3 April 2023. Several reminders were issued during this time, as well as press and social media activity. Those who did not make an application while it was open were issued with notice that they would be removed from the roll, following a 28-day appeal window. We took a supportive approach to individuals who wanted to appeal and provided guidance for those who did not apply or appeal on how they could be restored to the roll should they choose to. We received 2,020 appeals which were reviewed on a case-by-case basis. To date a total of 565 have applied to be restored to the roll.
- 21 The outcome was a total of 33,627 solicitors applied to stay on the roll. This figure includes those that applied during the exercise, those that applied following appeal and restorations to the roll post exercise. This figure will continue to change slightly given remaining case work, ongoing restorations and removals. The fee was set to cover the administrative costs of running the exercise, including the development of a new ICT application. Assuming the fee remains at £20 for future years the activity is set to break even within 2-3 years.

Firm diversity data collection

- 22 We have been collecting firm diversity data over a four-week reporting period during the summer. The response rate has been good, 98% at the time of writing, with more firms reporting promptly. We are currently engaging with those yet to report. The data includes a more granular picture of seniority as this time we have asked firms to report diversity of equity and salaried partners separately.

Axiom intervention

- 23 On Friday 11 August we intervened into the practice of Mr P Modhwadia on the grounds of suspected dishonesty and on the grounds of breaches of the Solicitors Accounts Rules for 2 other regulated individuals. This decision suspended their Practising Certificates with immediate effect.
- 24 We are in regular contact with the directors of Axiom to make sure it can meet its regulatory duties, including working in the best interests of its clients. Although Axiom continues to trade, they have said it 'will likely be unable to continue in its current format'. We will continue to closely monitor the position and engage with its directors.

Legal panel to support our investigation and enforcement work

- 25 Further to the update in June, we have now finalised the contracts for the legal panel to support our investigation and enforcement work, in advance of the start of the new arrangements on 1 November 2023. The panel will include our existing legal partner, Capsticks, along with Blake Morgan, and will help to handle

cases prosecuted before the Solicitors Disciplinary Tribunal and litigation relating to our disciplinary work.

- 26 As anticipated, the new arrangements reflect an increase in external legal spend of approximately £760k (to include panel firm costs, counsel fees and other disbursements) as against the current annual cost, driven in part by inflation. However, we are confident that the thorough tender exercise, and our decision to move forwards with more than one provider, will deliver a range of benefits including driving improvements in service and ensuring value for money, and we are looking forward to working together with both firms on these goals going forwards.

Annual reports published

- 27 In July we [published](#) our latest annual corporate reports on our operational work during 2021/22. The reports cover: education and training, enforcement, approval of new firms and solicitors, and the activity of the compensation fund.

SRA Law Society (TLS) collaborative working protocol

- 28 There are three areas listed in the protocol that we have agreed to work collaboratively with TLS on in particular: technology, AML and EDI.
- 29 We continue to work with TLS on AML and economic crime matters. We have discussed key messages on the consultation into the future of AML supervision. Our Director of AML and Head of AML Policy will speak at the Law Society AML and Economic Crime conference on 27 September.
- 30 On technology, we are supporting TLS with work to update their practice note on unbundling, drawing on our experience from our unbundling pilot for which we [published](#) our final report in June 2023. We have been engaging with TLS in its capacity as a member of the consortium for our Regulators Pioneer Fund project. We have also shared insights to inform responses to the Government's consultation on AI and understand potential impacts on the legal sector.
- 31 We continue to liaise with TLS about our EDI work to avoid duplication and increase the impact of our collaborative work. We met to discuss how we might get better information about roles and seniority in the solicitors' profession to better understand diversity at different levels with the challenges this presents being fed back to the Judicial Diversity Forum. We came together to discuss disability inclusion with the LSB and disability stakeholders in the profession. We also joined the Law Society's joint Large Firm and In-House Diversity and Inclusion Forum to discuss data collection and best practice on social mobility.

Legal Services Board (LSB)

- 32 In July, we submitted our annual regulatory performance assessment response to the LSB, which the Board discussed in June. The LSB will publish the outcome of the assessment in November. We expect to have sight of the report beforehand.

- 33 On 31 August, the LSB approved our Practising Certificate fee application for 2023/24. This follows discussion at the July Board meeting. The decision notice has been [published](#) on the LSB's website. In it the LSB commended us for the level of transparency in our application in relation to our planned activity, the benefits of it and how it would be measured. It also sets out its expectation for next year's application for us to consider levels of engagement and consultation with our regulated community. We are also asked to explain any variances over five percent between forecast and actual budgets.
- 34 The LSB has [issued](#) a consultation, which we plan to respond to, on its draft statutory guidance for regulators on promoting technology and innovation to improve access to legal services. The guidance sets out proposals that regulatory bodies should pursue three outcomes, which align with our regulatory approach and strategic objective of supporting innovation and technology.
- 35 The LSB has also [launched](#) a consultation on its draft proposals to publish revised requirements and guidance and a new statement of policy on first-tier complaints. The proposals set out outcomes for regulators to pursue in respect of the collection and analysis of intelligence on complaints made to legal service providers about their services. We will respond to the consultation, which closes on 17 November.
- 36 At its July meeting, the LSB Board considered a paper on its work to identify the options for a single service or tool that collates regulatory information into a single place. This follows on from the 2020 Competition and Markets Authority report, which recommended the development of a single digital register for legal services. The LSB has commissioned a study to identify possible options for the register and that study has now reported. As a result, we expect further engagement from the LSB on next steps, including how it could be funded and the appropriate governance model for it.

Stakeholder engagement and public affairs

- 37 Along with the Board Chair, I met Mike Freer MP, Parliamentary Under-Secretary of State for Justice. Our discussions focused on lawtech, our international work, the SQE and diversity. Our Head of Welsh Affairs also met Mark Isherwood MS, Welsh Conservatives justice spokesperson in the Senedd to discuss our proposed corporate strategy priorities and provide an update on our broader work in Wales.
- 38 We attended the Sole Practitioners conference in June, focusing on our corporate strategy. We have also had our regular quarterly meeting with the Sole Practitioners group.
- 39 We joined colleagues from across the legal sector in Pride events in London, Birmingham and Cardiff.

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