

## SRA response

### *Review of Licence and Practice Fee Arrangements, Council for Licensed Conveyancers consultation*

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#### *Introduction*

1. The Solicitors Regulation Authority (SRA) is the independent regulatory arm of the Law Society for England and Wales . We regulate individual solicitors, certain other lawyers and non lawyers with whom they practise, solicitors' firms and their staff.

2. The SRA is also currently reviewing arrangements for managing practising certificate fees and Compensation Fund contributions within our regulatory framework, and in recent months we have carried out consultation to modernise our approach. We welcome the opportunity to take part in this consultation, and have set out some comments below.

#### *SRA comments*

*Q1. Do you think that Practices which are more likely to generate a claim on the Compensation Fund should make a greater contribution relative to their turnover?*

3. This should certainly be a proposal considered by the Council for Licensed Conveyancers (CLC). In January 2010 the SRA consulted on proposals to reform the way in which contributions are made to the Compensation Fund we manage, and as part of this work we are also considering the role of turnover in setting appropriate contribution levels.

*Q2. Do you think that the fee for the Manager's licence should be more than the fee for the employee licence, or do you think they should be the same?*

4. The creation of a single licence fee applicable to both Employed Licensed Conveyancers and Manager Licensed Conveyancers may be helpful in addressing the renewal period issues experienced by the CLC. Paragraph 30 of the consultation paper highlights the shifting emphasis for legal services regulators toward entity based regulation, and correlates this with the decision to potentially reduce the licence fee "...to reflect more closely the costs of regulating individuals relative to Practice.". We agree that the CLC is right to re-position its fee policy in such a way that it accounts for this shift in emphasis.



*Q3. Do you think that licence holders should as individuals make contributions to the Compensation Fund?*

5. We do not have a particular view on this, but would mention that it is clearly essential, in the interests of effective consumer protection, that any change in approach to the funding arrangements do not place at risk the important consumer safeguards and protections that exist as a result of the Fund.

*Q4. Do you agree that an additional fee should be paid where a licensed conveyancer is issued with, for example, a probate licence?*

6. We do not have any comments.

*Q5. Do you agree the general approach proposed to separate the funding of some regulatory activities from the Compensation Fund?*

7. Yes. We agree that the CLC is right to distinguish between the way in which certain regulatory activities are funded and the resources sitting within the Compensation Fund. The cost of regulatory activities should properly be covered by the Practice Fee, including those relating to the management of the Compensation Fund, such as paying and administering claims. It is important in terms of regulatory accountability and transparency that those being regulated are able to understand and support the way in which the CLC manages fees and contributions, and are able to appreciate the overall costs of regulation.

*Q6. Do you agree that the contribution to the Compensation Fund should be determined as a percentage of turnover? Should each Practice make the same contribution regardless of size?*

8. We agree that it is fair for all those regulated by the CLC to be required to make some contribution (but not necessarily the same contribution in all cases) into the CLC's Compensation Fund. Paragraph 38 of the consultation paper rightly points out that "...the public confidence which the Fund provides benefits the entire regulated community." We have also consulted recently on proposals to determine Compensation Fund contributions for those we regulate using firm turnover as the main criterion, as a means of taking into account how much business a firm does, and allowing a good fit in terms of the ability to pay that contribution.

*Q7. Do you agree that the Practice Fee should be calculated on the basis of turnover? Do you think that a different method of calculation, such as the number of transactions, is preferable? Should each Practice*



*contribute a fixed sum? What would be your preferred method of calculation?*

9. We believe that a calculation method using turnover as the main determinant is likely to result in a fairer Practice Fee policy for all those sitting within the CLC's regulatory reach. We do not believe that the traditional fixed 'one size fits all' approach to fee setting is the fairest or most proportionate way of managing the regulatory fees process, and the SRA is also moving away from charging fixed sums for practising certificate fees to introduce a flexible turnover-driven approach.

*Q8. Do you agree that there should be a minimum Practice Fee fixed for those Practices with a turnover of less than a certain level? Do you agree the minimum Practice Fee payable should be set at £1,000?*

10. We have no comment on the proposed minimum Practice Fee level.

*Q9. Do you agree that the proportionate reduction in the Practice Fee and Compensation Fund contributions payable for Practices with higher levels of turnover should be continued, assuming that Compensation Fund contributions are based on turnover?*

11. We note the CLC's statement at paragraph 47 of the consultation paper that "...in order to function effectively Practices with greater turnover must necessarily have invested significantly in effective auditing systems and internal controls so enabling less regulatory intervention relative to other Practices ." Providing the CLC is comfortable with the evidence provided by a particular Practice that it is operationally sophisticated and robust enough to warrant less regulatory attention than other Practices, there may well be a basis from which to offer a proportionate reduction in Practice Fee and Compensation Fund contributions.

*Q10. Do you agree that the Practice Fee and Compensation Fund contributions payable by new Practices should be fixed at the minimum levels paid by existing Practices? If not, what do you think would be a fair way of assessing the contributions new Practices should make?*

12. We agree with the CLC's approach in setting a realistic Practice Fee and Contribution Fund contribution for new Practices. As there will initially be no turnover data available for new Practices, we agree that the most suitable approach would be to require fees capable of covering the cost of regulatory activity associated with the start-up period for new Practices coming under the CLC's remit. In particular, we support the CLC's rationale for this proposal, as set out at paragraph 48 of the consultation paper, namely that "...regular contact at this stage enables important guidance to

*be provided which reduces substantially the risk of regulatory intervention  
(at greater cost) at a later date."*