

To: SRA Board Members
C/o Anna Bradley (Chair of the Board)

23 March 2022

Dear Anna

Decision on the future of the Solicitors Indemnity Fund and post six year run-off cover

I am writing to you following the SRA's recent consultation on the future of the Solicitors Indemnity Fund (SIF) and post six year run-off cover (PSYROC).

In its consultation response, the Society has set out its position for the retention of the SIF, funded by a compulsory levy on firms. We believe that this is necessary because of the consumer need for ongoing protections. We are aware of the significant number of responses to the consultation, and based on our extensive engagement with the profession and wider stakeholders, we believe that the overwhelming majority of respondents also support this position.

Alternative options

It is suggested in the consultation document that if the SRA decides to close the SIF and decides that there is no case for ongoing PSYROC, there might be options available to the Society to support its members and to help provide the 'sleep easy' factor for retired solicitors.¹ It has previously also been suggested that the Society would not be prevented from establishing an alternative product as part of its representative role.² However, it is recognised in the consultation document that the Society would not be able to introduce a regulatory arrangement that would provide like for like indemnity to that currently provided by the SIF.

The only 'alternatives' referenced in the consultation document are:

- A. For affected consumers to seek redress through the courts whilst recognising that this is a more complex, less accessible and more costly route with less guarantee of success; or
- B. For firms and solicitors to obtain PSYROC on the open market, although it is acknowledged in the consultation document that universal cover is unlikely to be available - consistent with the Society's own research and investigations which have not identified the availability of *any* viable alternative to SIF in the current market.

Reference is also made to mitigating actions such as providing support to firms to help them understand their options when they close and how to attract a successor practice; and ensuring that

¹ It should be noted that, as set out in its response to the consultation, the Society's concerns about the discontinuation of the SIF and PSYROC is focused primarily on consumer detriment rather than any 'sleep easy factor'.

² See SRA Board paper dated 9 March 2016.

The professional body for solicitors

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appropriate information is provided to clients when a firm closes so that the client is in a position to take pro-active steps, for example taking out insurance themselves.³

None of these suggestions or mitigating factors reflect any real options as an alternative to the protection that is provided by PSYROC through the SIF. We take this opportunity to invite the SRA Board to set out clearly what it now considers those options to be.

Timescales

If the SRA's preferred option is implemented, the provision of PSYROC through the SIF will no longer exist beyond the end of September 2022. Adequate planning and preparation would necessitate due consideration of the immediate implications of this option. However, the consultation has made no allowance for, or given any indication of, the SRA's timescales for taking the consequential steps of seeking approval from the Legal Services Board or for making appropriate decisions under the Indemnity Rules relating to the future use of the SIF surplus before any proposed changes come into effect.

It is said in the consultation document that if a decision is made to close the SIF and there is no case for ongoing PSYROC in the regulatory arrangements, the SRA would *then* propose to consider and consult as appropriate on any new regulatory arrangements at that time. However, this ignores the reality that the SIF would become closed to claims from the end of September 2022 without any alternative or transitional surplus arrangements in place.

The Society requests the SRA to indicate when it intends to seek approval from the LSB before discontinuing the provision of on-going PSYROC through the SIF, and to indicate its planned timescales for making and implementing decisions under the Indemnity Rules relating to the future use of the surplus in the event that its preferred option is followed.

I invite the SRA Board to consider the above information and requests before making a final decision on the future of the SIF and PYSROC and look forward to hearing from you.

Yours sincerely



I. Stephanie Boyce
President of the Law Society of England and Wales

CC Helen Philips, Chair, Legal Services Board

³ The Legal Services Consumer Panel, which represents the voice of consumers of legal services, has cast serious doubt on the appropriateness of such a solution. Its consultation response states: "The Panel is not convinced that providing information to clients when a firm closes, including information on taking out insurance, is realistic or reasonable."