

*This paper will be published*

### **The keeping of the roll consultation and next steps**

<b>Reason for paper</b>	This paper provides the Board with the results of the keeping of the roll consultation (which ran from March to May 2022), the issues raised and our suggested post-consultation position.
<b>Decisions(s)</b>	<p>The Board is asked to agree that:</p> <p>a) we announce that the keeping of the roll exercise will be restored on an annual basis, starting from April 2023</p> <p>b) (i) we will seek to recover all costs, including the upfront IT development and other direct costs and overheads during a 2-3 year period.</p> <p>(ii) the initial annual fee will be confirmed later this year when the full costs are known. The annual fee is likely to be between £20 and £40. We will commit to keeping the operating costs under review as the project moves forward.</p>
<b>Previous Board and committee consideration</b>	<p>The Board discussed this issue:</p> <ul style="list-style-type: none"> <li>• at a Board workshop in December 2020</li> <li>• following a CEO update in February 2021</li> <li>• following a CEO update in September 2021</li> <li>• following a CEO update in March 2022</li> <li>• following an entry in the June 2022 CEO report.</li> </ul>
<b>Next steps</b>	<p>To continue with the operational preparation for restarting the keeping of the roll exercise in April 2023.</p> <p>To complete the necessary financial modelling and finalise the amount of the administration charge</p> <p>To prepare a submission to the Legal Services Board (LSB) to seek agreement on altering the regulations to reflect the reintroduction of an administration charge.</p>

**If you have any questions about this paper, please contact: Tracy Vegro, Executive Director, Strategy and Innovation [tracy.vegro@sra.org.uk](mailto:tracy.vegro@sra.org.uk) or Liz Rosser, Executive Director of Resources [liz.rosser@sra.org.uk](mailto:liz.rosser@sra.org.uk)**

**SRA BOARD**

19 July 2022

**CLASSIFICATION – PUBLIC****The keeping of the roll consultation and next steps****Summary**

- 1 This paper reports on the results from the [“Restoring the keeping of the roll” consultation](#) which ran from March until May 2022. We asked a series of questions on whether we should restore the annual keeping of the roll exercise to begin in April 2023. We also asked whether it would be fair and proportionate to begin to charge again for this and indicated that the proposed charge would be £30-40. We also provided a draft equality impact assessment and asked whether the proposals would have a negative impact on any group.
- 2 Whilst some respondents felt an annual exercise in keeping of the roll was excessive, it is necessary if we are to meet the requirements to keep our records for solicitors without practising certificates accurate and be clear who currently has this status. Information on the roll is publicly accessible. There are also requirements under the General Data Protection Regulation (GDPR) 2016 we must follow. Under GDPR we have responsibility as a data controller to ensure we maintain accurate data relating to individuals and we are processing it fairly and lawfully. In addition, personal data may only be kept in a form that permits identification of the individual for no longer than is necessary for the purposes for which it was processed.
- 3 Whilst understanding of the need to reintroduce an annual keeping of the roll exercise, the responses we received to the consultation were, unsurprisingly, opposed to the reintroduction of an administration charge to cover the cost of the work. The amount proposed of £30-40 was viewed to be too high, especially when compared with the £20 previously charged up to 2015.
- 4 We will be seeking to recover all upfront development costs over a 2-3 year period. We are currently calculating what the new charge is likely to be and financial modelling suggests it will be between £20 and £40. The aim is to recover all upfront costs quickly and then the ongoing costs are expected to be low. We will confirm the final amount later in the year when we are clear of the total expenditure, including IT development costs, administration costs and an appropriate share of the overheads. We have committed in the consultation response to keep the charge under review and adjust it if the costs reduce over time. Further details on our consultation response and next steps can be found in annex 1.

**Background**

- 5 The Board asked us in December 2020 to examine how we could restore the keeping of the roll exercise after it had ceased following a consultation in 2014. After carrying out an examination of this work, we informed the Board about the proposed consultation at its 22 March Board meeting and said that we would proceed and then return to the Board with the responses received.

**SRA BOARD**

19 July 2022

**CLASSIFICATION – PUBLIC**

- 6 In our consultation we explained why the data environment had altered since 2014 and it has become necessary for us to restore the keeping of the roll exercise to meet data quality and data retention obligations. Also, the introduction of a new IT system has improved the way for any updates or notifications of changes of status to be carried out. The result is the process is no longer administratively burdensome for solicitors or for us as it was at the time of the 2014 consultation. Our new approach allows solicitors to update their records easily using mySRA. These changes help ensure accuracy and completeness of our records, which is fundamental to our role as a regulator
- 7 For these reasons, we need to regularly review the information we hold. As stated in our consultation, an annual keeping of the roll exercise is the most efficient way to satisfy this requirement to ensure these records are up to date. To do so less frequently, as some respondents suggested, could lead to poor data quality and a delay in the updating the records that we hold., Our proposed approach, enabled by advances in our IT systems, will be quick, simple to use and delivered through the mySRA portal. It offers data accuracy and is a proportionate option. We will provide support for users who are not familiar with mySRA.

**Discussion**

- 8 Based on feedback from the consultation, the view is that updates to the data on the roll is necessary. There was some commentary on the proposed annual exercise, but the consensus was that it was the best way of keeping our records up to date.

**Consultation response**

- 9 We received 503 responses to the three questions in the restoring the keeping of the roll consultation. Of the total, 497 were from respondents providing input in a personal capacity. Six of the responses were on behalf of organisations: two from law firms or legal services providers and three from local law societies. The Law Society also provided their own response. Further details of the consultation responses we received can be found in annex 2.

**Restoring the annual keeping of the roll exercise**

- 10 Some respondents agreed that there was a need to restore the keeping of the roll annual exercise but had reservations about some aspects of the proposal. Some felt the proposed fee was too high, with others saying it should not be reintroduced at all, or should be paid by those currently on the roll.
- 11 Many who supported the proposal simply said 'yes' without explanation or cited the reasons given in our consultation document including the GDPR requirements. The Law Society response offered a balanced response between the benefits of restoring the keeping of the roll and the impacts of the proposals. It supported the SRA's intention to improve the management, including data quality, of those on the roll.

**SRA BOARD**

19 July 2022

**CLASSIFICATION – PUBLIC**

- 12 As we explained in our consultation, our responsibilities to ensuring the data we hold is correct and is retained only as long as necessary means that we need to restart the keeping of the roll exercise. Without restarting this work, the quality of the data that we hold will continue to degrade.
- 13 The case was made by some respondents that we should not restart the keeping of the roll exercise at all and they thought that, on an annual basis, would certainly be too frequent. Our view remains that running the exercise on an annual basis will address, in the most efficient and least costly way, the key issue of maintaining data quality and ensuring we have the most update to date record for solicitors without practising certificates. More importantly, it meets the requirements to keep our records for solicitors without practising certificates accurate and be clear who currently has this status. Information on the roll is publicly accessible.
- 14 There are also requirements under GDPR. We have responsibility as a data controller to ensure we maintain accurate data relating to individuals and we are processing it fairly and lawfully. In addition, personal data may only be kept in a form that permits identification of the individual for no longer than is necessary for the purposes for which it was processed.

**The Administration Charge**

- 15 In terms of the suggested fee, individual respondents, the Law Society and the Birmingham Law Society all believed it appears high for what is expected to be a highly automated process. as the previous application fee (prior to 2015) was £20. They felt that with the benefit of the SRA's improved technology to assist with both processes and automation, the fee being proposed was disproportionately high compared to the fee that was applied before these improvements were implemented.
- 16 The administration charge was the issue that raised the most challenge. Our stated intention is for it to be proportionate. We proposed in the consultation an indicative amount in the range of £30 to £40. We also said the amount would be confirmed in light of responses to the consultation and once our proposals have been approved.
- 17 We operate under the [Provision of Service Regulations for businesses and Competent Authorities](#). We do this by ensuring that the regulation of service activity is proportionate and justified in the public interest. If the SRA Board decide to go ahead with these proposals, then we would be exercising our statutory powers under section 28(3A)(a), (b) and (c)(i) of the Solicitors Act 1974. These provisions allow us to make regulations that provide for us to make enquiries of solicitors as to whether they wish to remain on the roll, to charge a fee for remaining on the roll and to remove solicitors from the roll who fail to reply to such enquiries or fail to pay the fee. This specific power is similar to that where we set fees for alternative business structures (ABS) as contained in the Legal Services Act 2007.

**SRA BOARD**

19 July 2022

**CLASSIFICATION – PUBLIC**

- 18 We want to be certain that the administration charge we levy reflects the costs for carrying out the work. Fees should not be used as an economic deterrent to certain activities or to raise funds. In order to ensure this, we need data on all the costs related to this work. In the case of keeping of the roll we intend to keep the process and cost of running it under review and adjust it over time if we are able to do so. We also plan to recoup the upfront costs within 2-3 years and for this reason the administration charge, at least initially is likely to be higher.

**The draft Equality Impact Assessment**

- 19 Regarding the Equality Impact Assessment (EIA), a range of respondents, including a number of law societies, said the concerns was on affected members finances and ensuring access to apply for and retain roll status and associated benefits. Others like the Liverpool and Birmingham Law Societies agreed with the EIA analysis.
- 20 Those opposed to our proposals in terms of the keeping of the roll and its cost were forceful in their views. Many felt the process was entirely unnecessary or that they were being penalised for wishing to remain on the roll. Others did not accept the requirement on us to maintain accurate data. Many suggested that an annual exercise was too frequent and unnecessary. Alternatives ranged from every two years to five and beyond.
- 21 Some respondents felt there should be exemptions for older or retired solicitors while others wanted the previous Law Society discount reinstated for those who had been on the roll for 50 years or more. Among individuals who answered this question, many agreed with the analysis in the EIA although some commented again on the fees.
- 22 In terms of specific impacts, age was the one that attracted level of comments. The main suggestion was that a reduction in income in their later years would disproportionately affect this group's ability to pay. In addition, a higher incidence of illness and medical conditions, including those affecting mental health and decision-making was mentioned. Respondents felt it would not be acceptable that any person so affected should be put at risk of losing their professional qualification without it being known that they had made an informed choice to be removed from the roll. We will be addressing this by the extent of our communication efforts with this cohort using a range of channels.

**Recommendations: the Board is asked to agree that:**

- (a) we announce that the keeping of the roll exercise will be restored on an annual basis to begin in April 2023.**
- (b) (i) we will seek to recover all costs, including the upfront costs, over a 2-3 year period.**

## SRA BOARD

19 July 2022

CLASSIFICATION – PUBLIC



**(ii) the initial annual fee will be confirmed later this year when the IT development costs are known. It is likely to be between £20 and £40. We will commit to keeping the costs under review as the project moves forward.**

### Next steps

- 23 There has already been some preliminary work carried out to improve data quality for this cohort. This has involved contacting this group, based on our database records, and asking them to check the data we hold for them to ensure it is correct. We plan to run some further exercises on improving the information we hold before beginning the communication exercise later in the year, following the completion of our annual PCRE (Practising Certificate Renewals Exercise) activity.
- 24 Once we have Board agreement, we will submit a request to the Legal Services Board for approval of the change in regulations required. This principally relates to the administration charge.
- 25 The operational teams are currently finalising their plans to carry out this work based on approval, to commence in April 2023. The initial contact and explanatory information phase for keeping of the roll will take place from December 2022 until the exercise is carried out in April 2023.

## SRA BOARD

19 July 2022

CLASSIFICATION – PUBLIC



### Supporting information

#### Links to the Corporate Strategy and/or Business Plan and impact on strategic and mid-tier risks

- 26 Objective One of our current Corporate Strategy states that “we will set and maintain high professional standards for solicitors and law firms as the public would expect and make sure we provide an equally high level of operational service. This includes setting high standards for us and ensuring an excellent customer experience. In order to do this, we must ensure our data is correct and we maintain contact with the solicitor community.

#### How the issues support the regulatory objectives and best regulatory practice

- 27 Making sure our data is maintained and is checked on a regular basis to ensure it is correct and that we still need to retain it supports our regulatory objectives. We also need to ensure our administrative processes are efficient and not burdensome.

#### Public/Consumer impact

- 28 The public need to have confidence in the solicitor records that we hold, even for those without practising certificates. These solicitors gain some degree of credibility by continuing to hold themselves out as solicitors.

#### What engagement approach has been used to inform the work and what further communication and engagement is needed?

- 29 We have identified the groups within this group who are likely to be affected by our proposal. It includes, in addition to retired solicitors, those who work in-house or for a government department. Others on paternity leave or a career break.

#### What equality and diversity considerations relate to this issue?

- 30 We provided a draft equality impact assessment to accompany the consultation document. We identified the groups that were in this cohort and might be affected by the proposed approach.

#### How the work will be evaluated

- 31 We will ensure that the quality of the data for solicitors without practising certificates is maintained by running the exercise on an annual basis. We will also accept notifications of changes of a solicitor’s status throughout the year if made aware of them. We will also regularly monitor the cost of running the annual exercise to ensure it remains proportionate.

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**SRA BOARD**

19 July 2022

**CLASSIFICATION – PUBLIC**



**Date 5 July 2022**

**Annexes**

**Annex 1 Our response to the consultation**

**Annex 2 Report on the consultation responses received**