

Legal Services Act: New forms of practice and regulation

Consultation paper 17

Fees and contributions for registered foreign lawyers

20 March 2009

Introduction

1. We are asking for your views on the SRA Board's proposals in relation to transitional arrangements for charging fees and Compensation Fund contributions to registered foreign lawyers (RFLs) in the light of the amendments made by the Legal Services Act 2007 (the Act).¹
2. The Act enables the SRA to regulate new forms of practice – legal disciplinary practices (LDPs), owned and managed by solicitors and different kinds of lawyer (including RFLs), with up to 25 per cent non-lawyer principals. The SRA has published a series of consultations on its proposals for refashioning the regulatory structure as required by the Act.²
3. Part of this exercise involves looking again at the basis for collecting fees and Compensation Fund contributions. In relation to RFL fees, the Act for the first time gives flexibility to charge different fees to RFLs in different situations. This consultation paper proposes changes in the way RFL fees should be set.

Current position for RFLs

4. Currently, all RFLs pay the same annual fee (£665 in 2008/9), which is set at two-thirds of the annual practising certificate fee. The SRA believes it is inappropriate to continue to charge RFLs who practise mainly outside England and Wales the same fee as those practising in England and Wales. This affects foreign firms that have offices in London and want to take on one or more solicitor partners.

¹ See www.sra.org.uk/lsa.

² See <http://www.sra.org.uk/sra/legal-services-act/lsa-feedback.page>.

5. Differential Compensation Fund contributions are already possible under the current powers. The rate for RFLs who have held client money is the same as the full rate for solicitors, but without any reductions, except that all RFLs pay £25 in their first year, and RFLs based mainly outside England and Wales continue to pay £25. The rate for RFLs who have not held client money is nil.

Why change?

6. We believe that it is appropriate to move to a system of fees and contributions which put solicitors, registered European lawyers (REs) and RFLs on an equal footing, in that RFLs as individuals and through their firms are subject to regulation by the SRA and complaints handling delivered by the Legal Complaints Service, and benefit from the law reform and other public interest activities of the Law Society.
7. We also believe that the time has come to implement the longstanding policy of the Law Society and the SRA to charge a radically lower flat rate fee for RFLs practising mainly outside England and Wales. The SRA does not regulate RFLs in respect of practice outside England and Wales, unlike solicitors who are regulated by the SRA wherever in the world they are practising.
8. We consider that the proposed changes in relation to RFL registration fees would be broadly cost neutral. Most RFLs based in England and Wales would probably pay more. The reduced fees for RFLs based abroad may result in an increase in the number of such RFLs being registered.
9. These proposals would enable the SRA to set up a unified system of individual application fees and contributions from 1 July 2009, and would also pave the way for a new system of fees and contributions from 1 November 2010, which would shift the balance towards charging firms rather than individuals. This will be the subject of a future consultation.

The SRA Board's proposals

10. The SRA Board proposes that, as from 1 July 2009:
 - The registration fees for RFLs should be the **same** as the practising certificate fee for solicitors and the registration fee for REs, the **same** reductions should apply, and the **same** additional fee should be charged for a late accountant's report.
 - However, as an exception to the above, RFLs practising mainly outside England and Wales should be charged a new, radically lower registration fee of £100, with no reductions or additions.
 - The annual Compensation Fund contributions of RFLs should be the **same** as for solicitors and REs, and the **same** reductions should apply, except that those practising mainly outside England and Wales should pay £25.

- The contributions for RFLs who have not held client money should be raised from nil to the **same** rate as for solicitors, except that the rate for those practising mainly outside England and Wales should be £25.
- Solicitors currently pay a nil contribution in their first three years of practice. RFLs in their first year of registration pay £25. It is proposed that RFLs (and RELs) should pay a contribution of £25 in their first three years of registration.

Questions

1. Do you agree that the fees and contributions of RFLs should basically be aligned with those of solicitors and RELs, and subject to the same reductions?
2. Do you agree that RFLs based outside England and Wales should be charged radically lower fees and contributions?
3. Do you agree that an annual fee of £100 and a Compensation Fund contribution of £25 are the right figures for RFLs based outside England and Wales?
4. Do you agree with abolishing the nil rate of Compensation Fund contribution for RFLs who have not been holding client money?
5. Do you agree with a standard Compensation Fund contribution of £25 for RFLs in their first three years of registration?
6. Could these proposals have any implications for equality and diversity?
7. Do you have any other comments or suggestions?

How to respond

For information on how to respond, please visit our website.

- Go to www.sra.org.uk/consultations.
- Select **Fees and contributions for registered foreign lawyers**.
- Click **How to respond**.

Submission deadline

The deadline for submission of responses is **16 April 2009**.