Solicitors Regulation Authority

Client money in legal services – safeguarding consumers and providing redress: Delivering and paying for a sustainable compensation fund

Responses and feedback to our consultation

December 2025

Contents

Background

Our consultation 'Client money in legal services – safeguarding consumers and providing redress: Delivering and paying for a sustainable compensation fund' launched on 14 November 2024 and ran until 21 February 2025.

The consultation invited views from our stakeholders on:

- the apportionment of compensation fund contributions between individuals and firms
- the possibility of setting differential contribution levels for different firms
- moving away from the current arrangements that allow us to impose a cap of £5m for connected claims
- the idea of amending the compensation fund rules to explicitly exclude specific types of claims.

Feedback received during the consultation was used to finalise our approach to the proposed 2025/26 contribution levels. We published a summary of feedback received, and our response, to specific questions within the consultation which addressed proposed 2025/26 contribution levels. This was to coincide with publication of the proposed practising certificate fee and compensation fund contribution levels for 2025/26.

The decision on the apportionment of compensation fund contributions for 2025/26 is reflected in our Business Plan and budget for 2025-2026.

This report summarises the feedback we received on all other sections of the consultation.

Since the consultation, our immediate focus has been on making changes to better protect and safeguard client money under the current system. This is also the focus of the strategic priorities outlined in our proposed 2025/26 Business Plan and Budget and relevant LSB Directions post-Axiom Ince.

We have now issued a progress report and proposals for consultation in several areas regarding protecting the client money that solicitors hold. We plan to return to the longer-term question of how the compensation fund is funded after we have made changes to the current system, when we can give them the robust consideration they need.

This will build on the views and insights we have already gained from stakeholders and will involve working further with those stakeholders.

Who did we hear from

We received a total of 84 responses to part three of the client money consultation, from:

- 17 individual solicitors or other legal professionals
- 37 law firms or other legal services providers
- The Law Society
- Birmingham Law Society (member of Joint V law societies)
- Bristol Law Society (member of Joint V law societies)
- Chester & North Wales Law Society (member of County Societies Group)
- City of London Law Society
- Cardiff & District Law Society
- Devon & Somerset Law Society (member of County Societies Group)
- Dorset Law Society
- Hampshire Law Society
- Leeds Law Society (member of Joint V law societies)
- Liverpool Law Society (member of Joint V law societies)
- Manchester Law Society (member of Joint V law societies)
- Surrey Law Society (member of County Societies Group)
- Two groups of law societies (Joint V Law Societies and Counties Societies Group)
- The Association of Consumer Support Organisations
- The Association of Lifetime Lawyers
- The Association of Personal Injury Lawyers
- Forum of Insurance Lawyers
- International Underwriting Association
- LawNet
- The Sole Practitioners Group
- The Legal Services Consumer Panel
- Four other organisations
- Two other individual respondents
- One unknown respondent.

We also engaged directly and heard from stakeholders through other engagement activities. This included:

- meeting with members of the profession and consumer representative groups
- holding consultation events
- polling members of the public and legal services professionals through our social media channels
- broadcasting an on-demand, interactive webinar.

In this report we summarise some of the main areas of feedback we received through our consultation process.

Summary

Consultation respondents commented on our proposal to set differential contribution levels for different firms. This included four ideas for differential contributions were based on meeting enhanced requirements, risk categorisation, annual turnover or amount of client money held.

Respondents also commented on our proposals to introduce a more flexible approach to compensation regarding connected claims and to change the fund rules to explicitly exclude certain types of claims.

Respondents also highlighted other issues they felt we had not considered in this consultation.

We received 84 responses to the consultation on delivering and paying for a sustainable compensation fund. This included 19 individuals, 15 law societies, and eight representative bodies. We heard from 20 large firms (1,000-101 ranked by turnover), seven very large firms (top 100 turnover), only two small firms (with four or fewer partners and with a turnover of less than £400k) and eight medium firms (firms of all other sizes). In addition to formal responses, we gained insights from engagement events, individual meetings with key stakeholders and social media polling.

Some respondents expressed support for the idea of moving to a model of collecting differential contributions from firms, largely due to the view that this would be fairer and more proportionate. However, we heard concerns about the practicalities and cost of implementing such a model. Some respondents highlighted the complexity of administering a risk-based approach. Some considered that models based on annual turnover or amount of client held could be simpler and fairer for smaller firms while others expressed concerns about the fairness and impact of these potential models.

Respondents were largely in favour of retaining the £5m cap on connected claims. While acknowledging that the cap had not been applied in the case of Axiom, respondents recognised the role of a cap in protecting the viability of the fund. Respondents also felt that exercising our discretion when considering claims already provides sufficient flexibility.

Respondents did not identify any types of claims that we had not previously considered. Some suggesting excluding claims relating to high-risk investments which, as set out above, we already have the discretion to reject which is set out in our guidance. Some felt that the discretionary nature of the fund already provides sufficient flexibility.

In the remainder of this document, we summarise feedback received for each consultation question.

Comments and feedback for question three

Our third question was:

'What are your views on the possibility of setting differential contribution levels for different firms?'

We set out the case of alternative models for determining and possibly differentiating the level of contribution from firms. We recognised there may be valid and persuasive arguments from moving away from a flat contribution for firms. We did not make any proposals to move to a model of differential contributions for firms at this time but explored some initial ideas.

There was some in principle support for moving to a model of setting differential contribution levels for firms. Proportionality and fairness in setting differential contributions came through as important factors for respondents even where they had some questions or reservations about the different options available.

During a consultation event with legal professionals, 13 of 20 poll respondents thought we should set differential contribution levels, six thought we should not and one did not know.

Liverpool Law Society considered that the flat fee approach 'has simplicity and clarity to commend it, but most of our members did not consider that it was fair. There was not the same consensus on what should replace the flat fee.'

Some respondents felt a differential approach had the potential to be fairer to small and medium sized firms. A sole practitioner considered a model of differential contributions would be fairer than the flat-fee approach.

An in-house solicitor expressed support on the basis that it is unfair for those working in-house to contribute to the compensation fund as they do not hold client money. One firm suggested that firms doing legal aid work should make a lower contribution to reflect the value of their work in improving access to justice.

The Legal Services Consumer Panel said:

> 'The Panel supports the idea of differential contribution levels for firms. While a flat-rate system offers simplicity and reduces administrative burdens, it fails to address the varying risk profiles of firms or incentivise risk mitigation. A one-size-fits-all approach is increasingly out of step with modern regulatory practices, which emphasise targeted risk management and accountability. Differential contributions would encourage firms to adopt better risk management practices, ultimately enhancing consumer protection.'

However, we also heard support for retaining the flat fee approach to setting Compensation Fund contributions which some respondents considered had the advantage of transparency and simplicity.

Nearly a third of all those who responded to this question mentioned concerns about implementation and workability of a differential contributions model. We heard that respondents were concerned that any of the options suggested, though potentially attractive, would be complex and bureaucratic to implement and confusing for firms. Increased costs for the SRA to administer the fund and the risk of challenge or appeals to the contribution levels set were also mentioned.

The Law Society's view was that:

> ‘it would be difficult to devise a fair and affordable system by which different firms would make different levels of contribution to the Compensation Fund. When looking to develop proposals, it is important that the SRA can demonstrate the advantages and efficacy of such a scheme relative to the current arrangements using empirical evidence and sound reasoning. In the absence of compelling evidence, the current system of a flat fee for all firms is the simplest, most cost efficient, and fairest option.’

Some other respondents expressed support for this view.

One law firm told us: ‘This would be overly complex and create all kinds of appeals and difficulties in administration.’

Some respondents expressed that we had not made the case for change. This included LawNet and the City of London Law Society.

The City of London Law Society said:

> ‘We can see no compelling reason to depart from the current simple system. A payment based on risk profile will be contentious and complex although, as the Consultation recognises, it is likely to benefit CLLS members. A turnover based calculation also seems to put a greater burden on those firms who are least likely to cause a claim. Whilst we note some large firms (defined by the SRA as the largest 1000 firms) have caused claims they are numerically small and the practical effect is that the burden of the scheme would fall even more on the very large firms such as CLLS members where insurance rather than the Compensation Fund will bear any losses to clients.’

Comments and feedback for question four

Our fourth question was:

'What are your views on the possible alternative methods of setting differential contributions to the Compensation Fund (based on enhanced requirements, risk categorisation, the amount of client money held, or annual turnover)?'

We provided our own initial analysis and inputs from engagements from stakeholders of possible alternative ideas, which we explored in the consultation. We acknowledged that any move from the current flat rate model to a differential approach would inevitably produce 'winner and losers' in comparison with the existing arrangement.

We welcomed views on whether one or more of these initial ideas would represent a more effective and viable mechanism for ensuring contributions to the Fund are appropriate and manageable and that the fund remains sustainable. The ideas were to:

- preserve the flat fee contribution structure but offer a discount to firms on the amount payable to the fund, subject to meeting certain specified criteria or enhanced requirements. For example, a firm employing external auditors or having certain accreditations, such as in cyber security
- vary contributions to the fund based on risk categories assigned to each firm, which would require establishing a commonly agreed and understood assessment of risk factors. For example, regulatory history, practice areas and financial stability
- set differential contributions based on amount of client money held by the firm – with contributions increasing in line with the amount of client money held. For example, based on the maximum amount of client money held or the average amount held
- set differential contributions using the firm's annual turnover as reported to us – the higher the turnover, the bigger the contribution to the fund. We highlighted that most fund claims follow an SRA intervention, and most interventions and claims relate to sole practitioners or small firms. However, where a large firm is intervened into, the impact on the fund is likely to be much greater.

Each of the four suggested models for differentiating contributions for firms received some support from respondents. Approaches linked to annual turnover and amount of client money held received the most support. Reasons for this included view that are models that are objective, simple and transparent and fairer in terms of the ability of larger firms to pay higher contributions.

We also conducted a LinkedIn poll on how we should differentiate contributions to the fund which received 606 votes as follows: Annual turnover (66%); Risk/meeting more requirements (16%); Amount of client money held (7%); Keep firm contributions equal (7%).

Where respondents favoured options, some highlighted groups who may benefit from pursuing particular models – or potentially be disadvantaged.

The Sole Practitioners Group supported moving away from the flat fee and favoured a model based on amount of client money held and annual turnover. It considered this 'would advantage smaller firms and sole practitioners, who currently contribute at the same level as firms with multi-million-pound turnovers.' Other respondents, including some firms and solicitors expressed a similar view based on fairness and ability to pay contributions.

During our consultation events one legal professional expressed support for a model that links contributions to the average balance on the client account over a period, which could encourage people to hold lower balances and avoid targeting firms that do not carry out work involving large balances.

In our consultation responses, one firm argued that a model based on annual turnover:

> ‘appears to be the only way to avoid disproportionately affecting small or struggling firms. The SRA's statistics regarding the percentage value of payouts following interventions into high turnover firms absolutely underlines that contributions based on turnover would be a sensible and reasonable approach.’

Another firm considered that a model based on annual turnover ‘seems a fairer way of setting different contribution, as you have correctly identified that interventions into larger firms are likely to cause a disproportionate increase in payments required from the fund.’

However, we also heard the opposite perspective that a model based on annual turnover ‘places an unnecessary financial burden on larger businesses that are often the least likely to give cause to clients requiring access to the Fund,’ as submitted by a firm.

Liverpool Law Society also submitted views from its members that a turnover-based approach is ‘considered inequitable, as a firm with a large turnover was not necessarily a risky firm/one that was going to create claims against the Fund.’

Its members also had concerns about a model based on amount of client money held as ‘not all client money was transactional or money that ultimately belonged to the client, some would be money held in client account for the payment of costs’. It added that 'firms may be tempted to manipulate the figures to avoid a greater contribution.

One firm cautioned that an approach based on the amount of client money held could disproportionately impact ‘high street and rural firms dealing with matters such as probate, where considerable funds – particularly in rural areas – can be held by practices whilst estates are administered, sometimes taking years to complete’.

The risk-based approaches were supported by respondents who felt that a clear link between risk and contribution levels was fairer, though respondents acknowledged that these would likely be more complex models to develop and implement.

The LSCP’s response acknowledged the advantages and disadvantages of the four options proposed in the consultation but favoured a model based on risk:

> ‘By aligning contributions with the type of legal services provided, this method ensures that firms handling higher-risk activities or larger amounts of client money contribute proportionately more. This not only promotes fairness but also strengthens consumer protection by ensuring that those posing greater risks bear a larger share of the financial responsibility…This approach does however necessitate the SRA having the right skills, capacity, sophisticated data collation method and analysis to do this.’

Several respondents commented in support of the Devon and Somerset Law Society’s response that a risk-based approach ‘has the advantage of applying the polluter pays principle, but it will be complex to manage…The other suggested models have the benefit of simplicity.’

Liverpool Law Society said that:

> ‘The majority of members favoured a polluter pays based criteria, if one could be designed that was simple and cost effective to administer and did not increase unduly

> the regulatory burden on firms. However, there was a recognition that fixing contribution levels based on risk criteria that was anything other than very generic could led to disputes, would be complex, time consuming and costly.'

Other respondents highlighted the potential complexity of a model based on risk and impacts on those working in particular areas of law.

One firm considered that the enhanced requirement option seemed 'overly complex' and could 'discriminate again smaller firms who for example, cannot afford for example cyber security penetration testing/outsourced training.' It added that a risk-based approach could 'disproportionately impact on those firms undertaking conveyancing and PI work.'

Another firm who shared the view that the options based on enhanced requirements and risk would be complicated and difficult to administer considered these approaches 'will be subject to frequent challenge.'

Another firm was concerned that a model based on enhanced requirements 'would turn into a box-ticking exercise which would create further burdens on the SRA to audit/review/verify and could be disproportionately difficult for small firms to adhere to, compared to larger firms'.

It added that:

> 'Risk categorization would disproportionately affect firms in areas such as conveyancing, where profit margins are already extremely narrow and are continuously squeezed with increased competition from non-solicitor conveyancing practices. Risk categorization effectively "tars everyone with the same brush", unjustifiably so.'

While acknowledging that we were presenting high level thinking at this stage, some respondents felt that we had not provided sufficient detail on the possible options.

The Forum of Insurance Lawyers considered we should have consulted on 'clearer and less abstract proposals', such as by highlighting that using a risk-based approach for setting contributions could have an adverse impact on certain types of legal work and consumers.

The Law Society's considered that

> 'none of the possibilities considered in the Consultation offers clear advantages over the current arrangements. Given that even the sort of detailed research that would be necessary to justify a change in the current arrangements would be a costly and time-consuming distraction from the SRA's core responsibilities, we would not support it as a priority in the short term. The focus must be on mitigating future risks and ensuring that significant, unanticipated increases in the Compensation Fund levy do not become a regular event…We would oppose any move to a scheme with differential contributions unless there was significant evidence that its benefits would outweigh any possible detriments that would arise as a result of abandoning the acknowledged advantages of the current arrangements. No such evidence has been produced.'

Comments and feedback for question five

Our fifth question was:

‘Are there other alternative approaches to differential contributions you think we should consider?’

Respondents put forward a range of views and suggestions.

This included to combine some of the options we presented for models of differential contributions, as supported by the Legal Services Consumer Panel:

> ‘…the SRA may wish to explore a hybrid model that combines elements of risk categorisation, and the amount of client money held. This approach would allow for more targeted contributions, ensuring that firms handling both higher-risk activities and larger sums of client money contribute proportionately more. Such a system would also incentivise firms to improve their risk management practices, further enhancing consumer protection.’

The Law Society expressed support for removing the exemption for making contributions to the fund for firms who do not hold client money, and other respondents shared this view:

> ‘…We think it is unfair, and anticompetitive, for these firms to benefit from the Compensation Fund without providing any entity-level contribution. The diversity of the profession should not prevent us from regarding it as a group in whole. Having said that, if the SRA wishes to maintain an incentive for firms to stop holding client money, then perhaps they could revise the current arrangements so that instead of an outright exemption, there is a discounted rate for contributions from firms that do not operate a client account.’

Some responses related to SRA oversight, including a suggestion to set an additional levy for firms and/or individuals where they are sanctioned for regulatory breaches. Another respondent considered the SRA could develop a training and certification scheme that enables firms and individuals to pay less.

Some respondents suggested setting differential contributions by type of firm, considering factors such as the type of company a firm is (eg a limited company), if it is an aggregator firm. Others suggested that practice area is a relevant factor given that these carry different levels of risk – such as conveyancing and probate typically carrying greater risk than personal injury. A couple of respondents considered contributions should relate to a firm’s professional indemnity insurance cost.

We heard suggestions to exempt legal aid firms from making contributions and to reduce the current level of contributions paid by sole practitioners (who make contributions as both a firm and an individual).

One respondent suggested that we should take account of the effect of artificial intelligence on firms’ headcount in future when considering contributions.

Comments and feedback for question six

Our sixth question was:

'To what extent do you agree we should move away from the current arrangements that allow us to impose a cap of £5m for connected claims?'

We set out that we currently have the discretion to utilise a cap of £5m for connected claims, and that our experience in dealing with claims associated with Axiom Ince have demonstrated that a key issue with the cap is its rigidity.

Most respondents disagreed with our proposal to move away from the current approach to the £5m cap on connected claims. Reasons cited were that:

- the cap protects the sustainability of the fund
- the cap can limit the amount of the contributions required by the profession to pay for the fund
- the cap, and payments from the fund itself, are discretionary, so the current approach does not necessarily lead to consumer detriment, and
- £5m is a sufficiently high level for the cap to ensure consumers are protected most of the time.

Manchester Law Society considered that the purpose of the cap is to ensure the sustainability of the fund and ensure firms 'are not hit too heavily by one firm's failure'.

Birmingham Law Society considered that the discretionary cap should be retained 'to give an element of certainty going forward, in circumstances where the SRA is increasingly uncertain', noting that it was not applied for cases relating to Axiom Ince.

Liverpool Law Society stated that while members were in favour of a cap and the proposal to 'recalibrate' it, it expressed concerns from members that there is 'no proper understanding among the profession or consumers as to the circumstances in which the SRA exercises its discretion to many any away or the magnitude of the award'. It explained its members want 'greater oversight of the SRA exercise in discretion in applications' for connected claims.

The Sole Practitioners Group considered that a £5m cap is sensible. An individual respondent queried if the SRA could insure against claims above £5m.

LawNet surveyed its members and found that half of members either strongly disagreed or disagreed with the proposal to move away from the £5m cap, 29% neither agreed or disagreed and 21% either strongly agreed or agreed with the proposal. It highlighted a key concern from members about potentially unlimited calls on the fund, despite the 'inelegance of a cap that the SRA waived when it was necessary to do so'.

Some respondents wanted us to change our approach and reasons for this included:

- the view that the cap does not offer any benefits as it is discretionary so does not have to be used
- concerns that the £5m figure is arbitrary and does not relate to evidence of historic claims

- examples of scenarios where the £5m cap may not provide sufficient protection to consumers (eg in conveyancing and probate cases)
- concerns that we have not used the cap, particularly for connected claims relating to Axiom Ince.

The Legal Services Consumer Panel reiterated its position in response to our 2020 consultation 'Protecting users of legal services – prioritising payments from the SRA Compensation Fund'. It explained that it opposed the £5m cap, which it considered to be 'arbitrary and inadequately justified', and highlighted examples where the cap does not sufficiently protect consumers – such as connected claims relating to conveyancing and probate and in cases relating to systemic fraud or negligence.

In its 2020 position, the Panel accepted a cap may be necessary 'in some circumstances' bit did not agree with the 'arbitrary figure' and noted that we had not provided analysis of the £5m cap in the context of historic claims – such as how many claims would have exceeded this cap.

The Panel suggested that the cap should be removed to better protect consumers and urged us to 'prioritise evidence-based decision-making and ensure that the Compensation Fund is equipped to address the realities of modern legal practice'.

The Law Society reiterated the position it gave in response to our 2020 consultation, in which it recommended a '...more flexible, dynamic limit – that takes into account factors such as the particulars of the multiple application, the culpability of the individual applicants, the burden that the multiple claims would place on the fund, and the wider economic climate – could prove more effective and more equitable.'

In response to the 2020 consultation, the Law Society said that while a £5m cap did not seem 'inherently unreasonable', it expected to see 'a proper analysis of historical claims showing how many times that cap would have been breached and the rationale for why it is considered to be an appropriate limit going forward'. It urged us against 'artificial rules' which it considered 'could inflict real harm and create great uncertainty, without appreciable benefits', and said that 'all future proposals must be evidence based'. It added that discretion should be exercised when enforcing the cap to avoid unfairness.

The Law Society considered that introducing a cap of £5m without reference to historical grants or reasonable projections has created 'easily foreseeable uncertainty'. It was supportive of our decision to waive the cap in relation to Axiom Ince claims but requested an explanation as to why we chose to do so.

The County Societies Group and two law firms agreed with the Law Society's response.

Bristol Law Society expressed concerns from members about the SRA not applying the connected claims cap in relation to Axiom Ince claims which it considered had led firms 'to feel even greater uncertainty than normal over what their ultimate financial commitment is likely to be'.

The Association of Lifetime Lawyers expressed members' anger that the cap was not implemented for connected claims relating to Axiom Ince. It added that members considered it to be unfair to fund a 'seemingly unlimited' compensation fund and highlighted that there is a cap of £85,000 in financial services for compensation claims.

One firm considered that more should be done to protect client money in the first place given the extent of the losses in the Axiom Ince case.

Comments and feedback for question seven

Our seventh question was:

'Would you support any of the other options discussed (a flexible cap for connected claims, removing the cap for connected claims, guaranteeing compensation up to a specified amount)? Please explain why.'

We presented current thinking on alternative options for dealing with connected claims, which were not proposals at this stage. There options were to:

- set a flexible cap for connected claims that would enable us to be responsive to specific circumstances, helping us to maintain reserves in the fund and reduce the likelihood of contribution levels fluctuating
- removing the cap for connected claims
- guaranteeing reimbursement up to a specified amount where there is a high volume of connected claims.

There was no clear consensus from respondents as to which of these options we should pursue.

At a consultation event with legal professionals, eight of twenty-three poll respondents considered we should only guarantee compensation up to a specified amount, five thought we should have a fixed cap, four thought we should have a more flexible cap, four thought we should remove the cap and two didn't know.

As set out above, most respondents supported retaining the cap.

One firm considered that there should be a cap on payments given there is a cap on compensation payments made in financial services.

At a consultation event with legal professionals, several expressed concerns about protections above a capped amount, of say £85k. One legal professional suggested that where more than £85k is being held, it could be split between different back accounts so that the total amount is protected. Another legal professional considered that not having a cap could result in paying out very large sums of money which could have a detrimental impact on well-run firms. They considered that a £85k cap is too low for law firms that have transactional client money.

Some respondents identified possible benefits to having a flexible cap for connected claims which could be responsive to the circumstances of each case while still providing reasonable protections for consumers. However, some considered a flexible cap could be less transparent for consumers if it was not clear in what circumstances it would be used, and some were concerned it could be difficult and possibly costly to apply.

Some also identified benefits of guaranteeing compensation up to a specified amount, if this were to give greater clarity and certainty to consumers and help to protect the sustainability of the fund. However, some respondents noted this could cause delays in receiving compensation and that the specified amount of maximum compensation offered could reduce the level of protection that consumers are afforded.

The Law Society said it would be open to considering policy proposals under any of the options in question seven. It considered that, if there is a need to limit the extent of connected claims, then 'a flexible cap would offer the best pragmatic balance for protecting

the interests of consumers, maintaining the viability of the Compensation Fund, and ensuring that the levels of contributions are manageable for our members'. It considered that any changes should be 'adequately justified, based on evidence and reasonable protections of future claims'.

LawNet told us that over half of its members who engaged with this question supported a flexible cap for connected claims, and over half supported guaranteeing compensation up to a specified amount. Over a third supported removing the cap on connected claims in the context of these options.

The Law Society considered that if the SRA did not have better, well-evidence alterative option to the current cap for connected claims, it should return to the pre-2020 arrangements.

As above, the County Societies Group and a few law firms agreed with the Law Society's response.

Support was also expressed to remove or increase the cap.

A law firm highlighted that it could be beneficial to remove or increase the cap if it limits protection in relation to significant firm-wide failures or widespread issues. However, it also considered that the cap can provide predictability regarding firms' contributions to the fund, and that higher contributions could put pressure on smaller firms.

One firm considered that £5m is not a significant enough sum in 2025 as residential conveyancing transactions can exceed this value. Another individual considered the cap is too high and suggested reducing the cap to £1m.

At a consultation event, one legal professional was open to the idea of no cap if it meant that firms retained the ability to hold client money.

The Legal Services Consumer Panel expressed strong support for removing the cap on connected claims. It considered that the options of a flexible cap or guaranteeing compensation up to a specified amount would 'only add further complexity and opacity to an already discretionary and opaque process', highlighting that the compensation fund is discretionary.

The Panel considered that is a 'worrying lack of transparency' about how the fund is dispensed, noting that in 2020 we closed more than 50 per cent of claims without making a payment without providing analysis of the rationale for declined claims. It said it could not support proposals that would further restrict access to the fund, and that the lack of transparency means consumers are unlikely to be aware of the criteria used when assessing claims. It added that the voices of those who have sought to claim from the fund, successfully or unsuccessfully, should be central to any reforms to understand the fund's impact and delivery against its intended purpose.

Comments and feedback for question eight

Our eighth question was:

‘Are there other important considerations you think we have not considered here? If so, please explain what they are.’

Some respondents highlighted the importance of transparency about the way we administer the fund in their answer. They also offered views on what the fund should be used for.

Leeds Law Society expressed concern about the level of scrutiny from and understanding of the profession about how the compensation fund operates and its sustainability. It said that it is not widely known by solicitors that the fund, in addition to payments to clients who have lost money, covers the costs of interventions ‘including archive and storage expenses’. It suggested the SRA provides clearer information about the fund and engages more effectively with stakeholders.

The Legal Services Consumer Panel said we should reconsider use of the fund to finance interventions, such as winding down mismanaged firms. It considered that the fund ‘is intended to compensate victims of wrongdoing, not to fund core regulatory activities’, and that the increasing cost of interventions drains the fund and diverts resources away from its primary purpose. It suggested we explore alternative funding mechanisms for interventions and provide greater transparency on their costs.

A firm gave its view that the Compensation Fund should not be used when firms become insolvent, which it considered will be the cases for cases relating to Axiom Ince and SSB Law. It added that it is a fund of last resort covering negligence cases when Professional Indemnity Insurance does not.

Some respondents reflected on claims relating to Axiom Ince and a recent increase in interventions.

LawNet noted that our decision not to apply the connected claims cap in relation to Axiom Ince claims has set a precedent for payments to exceed £5m when needed at our discretion. It said it therefore right to reconsider whether a cap on connected claims is ‘necessary or practical’ given the fund is discretionary.

At a consultation event, one legal professional questioned the relevance of the cap given it was not applied in the case of Axiom Ince. Another legal professional expressed concern about the ability of the SRA to exercise discretion as to whether or not to apply the cap without any say by those who will be impacted by that decision.

The Law Society said it expected us to prevent a reoccurrence of a rise in costs in contributions to the fund caused by an increase in interventions. It suggested we consider strategies to better manage costs in future given interventions can be unexpected after periods of fewer interventions.

As above, the County Societies Group and one law firm agreed with the Law Society’s response.

Comments and feedback for question nine

Our ninth question was:

'What are your views on the idea of amending our Compensation Fund Rules to explicitly exclude specific types of claims? If you think specific types of claim should be excluded, which ones are these?'

We discussed possibly amending fund rules to exclude certain types of claims. We set out that we already use our discretion to refuse or limit payments of claims in certain circumstances, or in relation to particular types of applicants or loss. For example, we have used this discretion in the past to exclude or reduce claims associated with high-value investments schemes in circumstances where the work did not fall within the usual business of a solicitor, or the applicant had contributed to the loss.

We received low levels of support for this proposal. Some respondents highlighted that as the fund is already discretionary, specific exclusions are not necessary and would not provide greater transparency as to how we administer the fund. There were also concerns about impacts on the level of consumer protection afforded by adding explicit exclusions.

We have not received any support for excluding specific types of claims on the Compensation Fund from our consultation events. One legal professional highlighted the challenge of event attendees offering views on this given they would only know their own area of law. Another legal professional cautioned against suggesting that some claims are worthier than others as all clients deserve protection, and it is a key distinction between regulated solicitors and unregulated providers.

One consumer group suggested having restrictions on the types of consumers who can access the fund rather than excluding types of claims. Another consumer group highlighted that our consumer research suggested that consumers think everyone should be able to access to fund and not excluded based on certain characteristics.

One consumer group highlighted the importance of ensuring compensation gets to the people who need it most based on live issues.

In its consultation response, The Law Society did not identify a need to exclude specific types of claims given we can exercise discretion and refuse payments. It considered that the 'failure' of the cap on connected claims 'shows the dangers of introducing fixed rules into a discretionary system where they are not required'. Dorset Law Society also made this submission.

The Law Society cautioned that, 'The blanket exclusion of particular kinds of claim, which fails to take into consideration the particular circumstances surrounding a case, could lead to unjust outcomes'. Innocent consumers may be unable to recover their losses, which could undermine public confidence in the solicitors' profession and the market for legal services more broadly.

It considered that excluding specific types of claims is not the best response to consumers' need for transparency about how the fund operates. It added that if there is a concerns about specific types of claims, such as those relating to high risk investment schemes, then we could enhance transparency by warning that we may: require a higher standard of evidence for claims; take into account the actions or knowledge of claimants; or reduce or reject related claims.

As above, the County Societies Group and one law firm agreed with the Law Society's response.

Birmingham Law Society considered there is already sufficient discretion to protect the fund from certain types of claims – such as Rule 11 of our fund rules which allow us to reject claims where the conduct of the applicant contributed to the loss. It added that 'any list of excluded claims would be difficult to formulate and subject to challenge'.

The Legal Services Consumer Panel opposed excluding specific times of claims from the fund given the fund is already focused on 'compensating consumers for the misappropriation or mismanagement of their money'. It considered the proposals to exclude claims related to speculative investments would 'unfairly restrict access to compensation for victims of misconduct', and that excluding these claims would not provide transparency or clarity. The Panel suggested that, rather than limiting the fund's scope, we should improve our supervision and enforcement activities to tackle investment scams misconduct in the first place. It added that 'Excluding claims would penalise consumers for regulatory failures, which is both unjust and counterproductive'.

The Panel reiterated its view made in response to our 2020 consultation on the compensation fund that:

'Tackling activities that are against the Code of Conduct or patently dishonest is a core function of regulation. It is an abdication of this responsibility to attempt to reduce compensation payment to consumers who have suffered financial loss as a result of misconduct or dishonesty. And it would be a double injustice to be penalised by the very regulator who failed to prevent the wrongdoing'.

The Association of Consumer Support Organisations did not consider that excluding specific types of claims would benefit consumers.

LawNet said that 80% of its members who responded to this question rejected the idea of explicitly excluding types of claims, and that the fund 'must be universal in the protections it affords'.

LawNet considered that it is odd that we would introduce fixed rules and limitations to the administration of a discretionary fund that already allows us to decline certain claims, and where we have received strong support for the compensation fund. It highlighted that the supporting evidence we included in the consultation demonstrated little support for reducing the eligibility and scope of claims. Lawnet expressed concern about excluding claims relating to investment schemes 'where vulnerable clients could be unduly influenced by a solicitor'. It added that the fund gives the public confidence and differentiates solicitors from unregulated legal services providers, and the further limiting eligibility of claims would contradict Regulatory Objectives 1, 2 and 4.

Several respondents were concerned that our proposals did not specify the types of claims we would seek to exclude, and that further detail would be needed to understand the implications of excluding claims relating to investment schemes. This included Birmingham Law Society, the Sole Practitioners Group, a law firm and individual solicitors.

Those who did support excluding specific types of claims suggested that claims relating to high-risk investments and speculative property development are excluded.

It was Manchester Law Society's view that we should consider excluding specific types of claims, such as claims relating to speculative investment schemes.

Comments and feedback for question ten

Our tenth question was:

‘Are there any other considerations we should take into account in relation to payments from the Compensation Fund? If so please explain what they are.’

We heard concerns from several respondents about the fund being used to pay for our regulatory activities, such as interventions, administering the fund and handling/storing information, and not being solely used to protect consumers.

The Legal Services Consumer Panel reiterated its concerns about the use of the fund to finance interventions, which ‘shifts the financial burden of regulatory failures onto consumers’. It considered that increased transparency about how we administer the fund is essential to ensure fairness and public trust, and that we should provide a detailed breakdown on the costs of interventions and explore alternative mechanisms to fund interventions. It added that we must prioritise evidence-based decisions and ensure the fund ‘truly protections consumers and upholds the integrity of the legal profession’.

Birmingham Law Society noted that from 2009-2013 we used funds collected from Practicing Certificate fees to cover the costs of interventions. It considered that administrative and intervention costs are now ‘an enormous proportion’ of compensation fund expenditure – amounting to £20.4m in 2023 – and are not subject to any checks or balances. It highlighted that this is at odds with the profession’s impression that the fund is there to reimburse clients who have lost money from solicitors’ client accounts.

Given the fund is discretionary, the Law Society identified no reason ‘to further limit the grounds on which grants might be made or the classes of eligible claimants’. It reiterated that the fund provides vital assurance to consumers, offers an important point of distinction between solicitors and other legal service providers, and underpins public faith in the profession’.

As above, the County Societies Group and one law firm agreed with the Law Society’s response.

Manchester Law Society reiterated views it had made in previous consultation responses on this topic that there could be a conflict of interest (potential or perceived) in our role to take action against solicitors and also to administer payments arising from misconduct. It said we should consider if we have sufficient safeguards in place to ‘ensure that the prosecutor does not have at the back of its mind the prospect of a significant pay out from the Compensation Fund it manages’ and explain how we avoid a conflict of interest.

The Sole Practitioners Group considered that our regulatory activities should be funded by Practising Certificate fees and that the compensation fund should be used solely to protect clients or former clients of regulated firms.

Comments and feedback for question eleven

Our eleventh question was:

‘In the context of this consultation, do you agree with our assessment of equality, diversity and inclusion considerations in our impact assessment? If not, what else do you think we should consider?’

This question related to the draft initial equality impact assessment (EIA) we produced for the wider ‘Client money in legal services: safeguarding consumers and providing redress’ consultation.

In this we highlighted two approaches to collecting differential contributions from firms that have the greatest potential impact on smaller firms: based on meeting certain enhanced requirements and risk categories. This is because smaller firms may not have the resources or financial resilience to successfully adapt to a risk-based model.

We also set out potential impacts to vulnerable consumers that could exacerbate access to justice issues. We explained that under risk-based models, there is a potential that if firms offering certain legal services were categorised as higher risk, then these services may become less attractive for firms. We added that there is also a risk that firms would be more likely to pass on rising regulatory costs to consumers by increasing their prices.

In terms of the alternative options we proposed to the connected claims cap, we highlighted that a flexible cap for claims or guaranteeing claims up to a certain amount would potentially limit the compensation consumers receive below the amount lost. We explained that this could adversely affect financially vulnerable consumers.

Overall, there was little engagement with this question. Most of the responses we did receive either agreed with our analysis in the draft initial equality impact assessment that we published alongside out consultation or offered no comment.

TLS agreed with the impacts we had identified in our draft equality impact assessment.

Two respondents emphasised the need to consider equality regarding any impacts on sole practitioners:

> ‘Agree that specific considerations is (sic) needed across the SRA regulatory model for sole practitioners, given the impact on Black and minority ethnic lawyers.’ (solicitor)

Some respondents highlighted potential impacts on consumers.

> ‘The impact assessment conducted by the SRA has found that the change would affect small and medium firms, high-street practices, and legal services that focus on consumers. These services frequently cater to diverse and vulnerable client groups. By shifting financial burdens onto individual solicitors, the bill makes it more difficult for them to continue operating. This could, in turn, reduce access to justice for those reliant on their firms and create barriers for firms with a special duty of care to disadvantaged and under-represented groups.’ (law firm)

One respondent considered we should conduct a more detail assessment of the potential impact on firms and the communities they assist before making any changes:

> ‘The SRA should conduct a more detailed assessment of the potential impacts on both the firms and the communities they assist before any changes are made. A more thorough analysis by the SRA would be of value to the firms and their clients.

Understanding how proposed changes could pose challenges for smaller firms is crucial. It is important that the SRA considers these effects meticulously.' (law firm)