Solicitors Regulation Authority

Protecting consumers when solicitors and law firms use and/or arrange third-party litigation funding for consumer claims: Consultation

July 2026

Contents

About this consultation

- The consultation period ends at 9.00 on Thursday 17 September 2026.
- You can download the consultation paper or read it below.
- Read about our wider approach to the high-volume consumer claims sector.

We are consulting on proposals to strengthen the regulatory obligations that apply when solicitors and law firms use and/or arrange third-party litigation funding for consumer claims.

When we refer to ‘law firms’ and ‘firms’ in this document we are referring to an ‘authorised body’ as defined in the Glossary to our Standards and Regulations.

This consultation is running from 9 July until 17 September 2026.

After this consultation closes, we will analyse the responses and decide how to proceed. We will publish our decision. Should we decide to change our current Standards and Regulations, we will seek approval from the Legal Services Board.

Background to consultation

This consultation forms part of our wider work programme to address concerns about how solicitors and law firms are handling high-volume consumer claims (HVCC). Through our work, we see the impact of the harms that consumers can experience. This includes investigations, thematic review, consumer research and stakeholder engagement.

When they work well, HVCC can provide an effective route for consumers to enforce their rights – increasing access to justice and enabling consumers to pursue claims that might otherwise be out of reach. But when professional standards are not followed, we see widespread risks caused by poor practice and firm failure. These risks, including direct consumer harm and undermined trust in legal services, are amplified by the pace and scale of the HVCC sector.

We are working to help firms comply with their obligations and minimise risks to consumers in the HVCC sector through investigations, supervision, guidance and advice. The SRA has closed seven firms working in the HVCC sector that were posing an unacceptable risk to consumers. We also have 94 live investigations relating to misconduct concerns about 68 firms managing HVCCs. In addition, we have established a supervision pilot to proactively identify and address risk through enhanced engagement with some HVCC firms.

With this consultation we are focusing on one of the areas of greatest harm and risk: third-party litigation funding. We are consulting on new requirements for our solicitors and law firms using and/or arranging third-party funding for consumer claims.

The UK has one of the largest third-party litigation funding markets, covering both commercial and consumer claims, with an estimated value of £2.2 billion in 2021. Expansion into the provision of funding for claims brought on behalf of high volumes of consumers has been notable in recent years. Third-party litigation funding is not subject to mandatory regulation in England and Wales. There is some self-regulation: some funders choose to be funder-members of the Association of Litigation Funders and agree to adhere to its Code of Conduct.

Although we recognise the important role litigation funding can play in increasing access to justice, it can also expose consumers and the wider market to certain risks. While only a small proportion (likely less than one percent) of the law firms we regulate use and/or arrange third-party litigation funding for HVCC, these firms often represent very large numbers of clients (approximately 10.8 million across firms participating in our declaration exercise). This means the impact of any failure to maintain high professional standards can be significant both for individual clients, and for public trust and confidence in the sector.

Our proposals will give us earlier visibility of emerging risks and strengthen our approach to ensure that when firms use this type of funding, they do so responsibly and in line with their professional obligations. Through this work, we are supporting a level playing field, seeking to ensure that all firms are meeting their regulatory obligations. The SRA is also consulting separately on a rule for notification of prescribed events to help identify risks in other areas relating to consumer protection. We will consider the outcome of that consultation to help inform the proposal for notification requirements relating to third-party litigation funding as set out below.

Our approach

We have used the following approaches to develop a detailed understanding of how the HVCC sector, including third-party litigation funding, operates for consumers:

- high-volume consumer claims thematic review
- responses to our discussion paper: How can the high-volume consumer claims market work better for consumers?
- high-volume consumer claims declaration
- consumer research.

We are very grateful to the clients, solicitors, litigation funders, defendants, and other stakeholders who have taken the time to share their perspectives on the HVCC sector with us. Our work has benefited greatly from this engagement.

We have an ongoing programme of work targeted at addressing risk to consumers in the HVCC sector. This wider work includes engagement with other stakeholders, including the Financial Conduct Authority, to ensure that regulation is joined up where possible and the HVCC sector operates effectively for consumers.

Our regulatory investigations, and wider work to build our understanding of the HVCC sector, have illustrated a set of key harms and risks associated with some solicitors and law firms. These are failing to maintain high professional standards when using and arranging third-party litigation funding for HVCC and so addressing these is a priority.

Harms and risks

In summary, the key harms and risks we have identified are:

- **managing risk:** some solicitors and law firms are not doing enough to identify, monitor and manage the legal and financial risks of third-party funded consumer claims, or to actively monitor business viability. This is contributing to some law firms using third-party litigation funding to support financially unstable business models. This can affect the quality of service clients receive and heighten the risk of a disorderly law firm closure, with associated negative impacts for consumers

- **maintaining independence and acting in clients' best interests:** some solicitors and law firms may have failed to properly safeguard their independence from third-party funders and may have failed to identify 'own interest' conflicts, when arranging litigation funding for clients. We are concerned that this may have resulted in some solicitors and law firms arranging direct client-funder agreements for funding consumer claims that may not be in the best interests of their clients

- **client information:** some solicitors and law firms are not providing the information clients need to make informed decisions about proposed third-party litigation funding arrangements or are presenting the information in a way that means it cannot be readily understood by clients. As our consumer research has shown, clients can be left unsure what they have agreed to and what the financial implications are for them and their claim

- **due diligence and financial crime risk:** some solicitors and law firms are not alert to the risk that receiving funds from a litigation funder may risk receiving criminal property, or funds transmitted in breach of the UK sanctions regime. Some solicitors and law firms are not carrying out due diligence that would protect against this risk.

Responses to our 2025 discussion paper highlighted risks to consumers associated with third-party litigation funding and also indicated strong support for us to take a more assertive position on funding relationships.

To address these harms, we have published new guidance for solicitors and law firms confirming how their existing regulatory requirements apply when they use and/or arrange third-party litigation funding. This will help support solicitors and law firms in maintaining high professional standards in this area of practice.

Our Standards and Regulations specifically address the relationships between solicitors, and other third-parties such as referrers and insurers. But they do not address solicitors' relationships with third-party funders, although the level of risk is comparable. Our Standards and Regulations do not sufficiently cover the risks associated with using and arranging third-party litigation funding to the extent we are now seeing in the consumer claims sector.

The nature of the risks and harms we have identified, the potential impact for individual clients, and for trust and confidence in the sector, have persuaded us that, while guidance is an important step, we also need to go further to secure the improvement in professional standards we want to see in this area of practice.

Given this, we are proposing to introduce new regulatory requirements that specifically address professional conduct when solicitors and law firms use and/or arrange third-party litigation funding for consumer claims.

Summary of proposed changes

We are consulting on the following proposals to increase our oversight where solicitors and law firms use and/or arrange third-party litigation funding. We propose adding five new requirements to our Standards and Regulations:

1. To introduce requirements that specifically address professional conduct when solicitors and law firms use and/or arrange third-party litigation funding for any type of claim. Including specifying:

    - requirements to maintain independence from a funder
    - act in clients' best interests
    - only disclose confidential information with informed client consent
    - a requirement that clients and funders are informed of these obligations, and clients are informed that funders are not regulated by us, in writing.

    Because these professional obligations are so fundamental to protecting clients' interests, we propose they will apply for all solicitors and law firms using and/or arranging third-party litigation funding, rather than being limited to the consumer claims sector.

2. Solicitors and law firms using and arranging third-party litigation funding for consumer claims should provide relevant clients with a prominent funding information document. This is intended to ensure each client has the information they need to make an informed decision, before signing a third-party litigation funding agreement in relation to a consumer claim.

3. Solicitors and law firms to notify us promptly when they use and/ or arrange third-party litigation funding for consumer claims.

4. That law firms using and arranging third-party litigation funding for consumer claims document, and make available to us on request, their 'third-party litigation funding risk assessment'. Law firms will complete the risk assessment on entering into a relevant arrangement with a third-party litigation funder for funding consumer claims. With a requirement that the risk assessment is updated every six months and approved by the firm's Chief Executive/Managing Partner (or equivalent) and compliance officers.

5. That law firms using and arranging third-party litigation funding for consumer claims, and meeting specific conditions, document, and make available to us on request, a plan setting out how the law firm would achieve and

resource an orderly closure of its business, if that were necessary. With a requirement that the plan is updated every six months and approved by the firm's Chief Executive/Managing Partner (or equivalent) and compliance officers.

Civil Justice Council's report on third-party litigation funding

As well as concerns about the conduct of some solicitors and law firms, we also have concerns about the actions of some litigation funders, including concerns that some funders:

- may lack the appropriate expertise to assess the legal and financial risks of financing consumer claims work
- appear to have made funding commitments without having the necessary capital / liquidity to meet them
- may be at risk of being used by criminals to disguise proceeds of crime or avoid the UK sanctions regime.

In 2025, the Civil Justice Council's (CJC) report on third-party litigation funding made a number of recommendations about the future regulation of third-party funders and funding agreements. We would welcome compulsory regulation of third-party litigation funding. Without decisive action in this area, some of the fundamental risks driving adverse incentives in this market will remain unaddressed. We will continue to engage with stakeholders involved in considering the CJCs recommendations, to share our perspective.

Regardless of whether wider changes are implemented, solicitors and law firms will need to remain aware of, and address, risks associated with third-party litigation funding. Having identified harms and risks, it is important that we take action to address those issues that are within our regulatory remit.

How to respond

Online questionnaire

Our online consultation questionnaire is a convenient, flexible way to respond. You can save a partial response online and complete it later. You can download a copy of your response before you submit it.

Start your online response now

Reasonable adjustment requests and questions

We offer reasonable adjustments. Read our policy to find out more.

Contact us if you need to respond to this consultation using a different format or if you have any questions about the consultation.

Our proposals

Applicable types of consumer claim and third-party litigation funding

Our proposed new regulatory requirements would apply only where law firms use and/or arrange third-party litigation funding for consumer claims except for 'Requirements when acting in third-party funded matters' (see below) which we propose will apply for all claim types.

'Use and/or arrange'

We use the phrase 'use and/or arrange third-party litigation funding' in this consultation to refer to situations where solicitors and law firms are using working capital provided by a third-party litigation funder, as well as where solicitors and law firms arrange and/or enter into third-party litigation funding agreements for their clients' matter(s).

Third-party litigation funding

Because of the diverse and rapidly evolving nature of third-party funding models in the HVCC sector, we propose to use the following definition of third-party litigation funding. This mirrors the definition used in our recently published guidance.

Third-party litigation funding is funding provided by an individual or business who is not a party to the funded dispute and is independent of both the client(s) and the solicitors representing the client in the relevant dispute. These funding arrangements may be made between funder, law firm and client; or directly between funder and client; or between the funder and law firm.

We see solicitors and law firms use three broad third-party funding types in relation to consumer claims:

- 'non-recourse agreements' between funder, firm and client: the funder provides funding for the claim and receives a return only if the client(s) claim is successful. The return may be a fixed sum, calculated by reference to the funded sum, the costs or other factors. If the claim is unsuccessful the funder loses the funded sum and receives nothing

- 'direct client-funder agreements': the funder enters into an agreement with an individual named client. Funding is typically provided for disbursements (expenditure by a law firm in relation to a client's claim eg Court fees, expert fees). These agreements are typically a form of non-recourse agreement

where the funder only receives a return if the client's claim is successful. The client has an individual contractual obligation to the funder

- 'working capital funding' (also referred to as 'portfolio funding'): the funder provides funds to a law firm, which typically has significant discretion in how to use the funds (eg to pay marketing costs and referral fees). The provision and amount of funding is determined by reference to the firm's current or projected consumer claims work. Factors such as expected claims volumes, prospects of success, claims duration and profitability are used by the funder to decide on whether to fund, and the amount of funding to be provided. Often the draw-down of funds is dependent on the volume of new claims the law firm accepts. Typically, this is 'recourse funding', so the law firm is obliged to repay the funding, usually with interest, regardless of the outcome of client claims. The funder may take a charge over the firm by way of security or take other forms of security.

We propose to exclude the following broad funding types from our definition of third-party litigation funding to which we propose new regulatory requirements will apply:

- loans which are regulated consumer credit agreements. Typically used by clients to fund legal costs associated with matrimonial proceedings or to assist with paying an Inheritance Tax liability pending distribution of an estate. Lenders providing regulated consumer credit agreements are required to be regulated by the Financial Conduct Authority, and solicitors' and law firms' conduct in relation to credit brokering (including introducing a lender or arranging a loan for a client) is addressed by the SRA Financial Services Rules

- business loans or other forms of commercial credit provided to a law firm by a bank or other financial institution

- funding provided by the owner of the relevant law firm where that owner is authorised by the SRA. This is a funding arrangement that can be used within an alternative business structure where an owner (required to be authorised by SRA) provides a credit facility, or other funding, to the law firm which is used to fund consumer claims.

Consumer claims

We use the term 'consumer claims', in this consultation to describe when consumers bring claims against the same organisation, or in relation to the same issue. This includes claims regarding financial services, non-financial services and products. Examples include claims for mis-sold car finance, unaffordable lending, data breach, diesel emissions, flight delays and housing disrepair.

For the purposes of this consultation:

‘consumer’ is defined as “an individual acting for purposes that are wholly or mainly outside that individual's trade, business, craft or profession.” [Part 1, Chapter 1, Section 2(3) Consumer Rights Act 2025]

we define ‘claim(s)’ as including a legal claim (including work carried out before the Court issues any relevant claim(s)) and a claim under any method of alternative dispute resolution, such as submitting a complaint to an industry complaints scheme or to an Ombudsman scheme

we specifically exclude the following claim types from our definition of ‘consumer claims’ at this time

- personal injury and clinical negligence claims. We are excluding these claim types because there is a mature legal and civil procedure framework for these claims, including in relation to funding and costs. And also, because we have not identified the same patterns of harm and risk in these sectors as we have in relation to the third-party litigation funding of HVCC
- collective actions brought in the Competition Appeals Tribunal. We are excluding these claim types because of the Tribunal’s substantial supervisory powers, including in relation to third-party funding. We have not identified the same patterns of harm and risk in this sector as we have in relation to the third-party litigation funding of other HVCC
- legal work for the purpose of defending (rather than bringing) a consumer claim. (We are excluding this claim type as we have not identified the same patterns of harm and risk in defence work as we have in relation to the third-party litigation funding of HVCC. In addition, clients instructing solicitors to defend consumer claims are unlikely to meet the definition of ‘consumer’ above).

For clarity, all the proposed new regulatory requirements outlined in this consultation, except ‘requirements when acting in third-party funded matters’, will only apply where third-party litigation funding is used and/or arranged for consumer claims. This is subject to the claim types specifically excluded above. This is because we have not seen the same indicators of risk in other sectors, as compared to the consumer claims sector. Nor did responses to our discussion paper indicate that there were other sectors where respondents believed we should focus our attention. We also note the CJC’s view that differential regulation should apply where third-party litigation funding is provided to consumers as compared to commercial parties.

Q1. Do you have comments on our proposals about what should be included and excluded in defining third-party litigation funding, and consumer claims?

Requirements when acting in third-party funded matters

Proposal

We are proposing a new requirement which specifically addresses solicitors' and law firms' professional conduct when representing clients in matters that are funded by a third-party who is independent of the client, the solicitor and law firm, and the claim. The requirement would apply to all third-party funded matters and would not be restricted to consumer claims matters.

Our proposal is to introduce requirements that specifically address professional conduct when solicitors and law firms use and/or arrange third-party litigation funding for any type of claim. These would include specifying requirements:

- to maintain independence from a funder
- to act in clients' best interest
- to only disclose confidential information to a funder with the client's informed consent
- to provide written confirmation to clients and funders of the above obligations, and written confirmation to clients only that the funder is not regulated by the SRA.

Because these professional obligations are so fundamental to protecting clients' interests, we propose they will apply for all solicitors and law firms using and/or arranging third-party litigation funding, rather than being limited to the consumer claims sector.

Why we are proposing this change

Representing clients whose claims are funded by a third party, or where the firm is receiving third-party litigation funding, can be an ethically complex area of practice. To ensure that clients' interests are appropriately protected, solicitors and law firms must maintain their independence from the funder, must take appropriate steps to identify and manage conflict risks, including 'own interest' conflicts, and manage the third-party funder relationship effectively to ensure a funder does not exercise excessive control or influence over the funded matter(s).

The SRA Principles and Codes of Conduct address these elements of professional conduct separately. For example, the SRA Principles set out the requirements to act with independence (Principle 3) and in the best interests of each

client (Principle 7). And the SRA Codes of Conduct provide that solicitors cannot act where there is an ‘own interest’ conflict or a significant risk of such a conflict.

However, at present the Standards and Regulations do not sufficiently address the risks that can arise when solicitors and law firms use and/or arrange third-party litigation funding.

The SRA Code of Conduct for solicitors, paragraphs 5.1-5.3 (and equivalent provisions in the Code of Conduct for Firms) specifically addresses conduct relating to third party relationships, to include introducers and referrers, and the SRA (Scope and Conduct of Business) Financial Services Rules specifically addresses professional conduct in relation to working with insurers, and other financial service providers, to arrange insurance or other financial services for clients.

It is our view that the risks that can arise when using and arranging third-party litigation funding, are at least equivalent to the risks that can arise when accepting and making referrals, or when arranging insurance cover for clients. Therefore, as third-party litigation funding becomes an increasingly embedded feature of the legal services market, it is our view that it is both helpful and necessary for us to confirm our expectations of solicitors and law firms when using and arranging this funding.

We propose this new requirement will apply when solicitors and law firms use / and or arrange third-party litigation funding for any type of claim and will not be limited to consumer claims. This is because this proposal reflects core professional obligations for this area of practice which we wish to see all solicitors and law firms adhere to when using and/or arranging third-party litigation funding.

Q2. Do you agree it is helpful to specify professional conduct requirements when solicitors use and arrange third party litigation funding for client matters?

Q3. Do you agree with the areas of professional conduct we have suggested? Are there any further areas of professional conduct that should be included, or areas of risk it would be appropriate to address?

Q4. Do you agree that these provisions should apply to all solicitors and law firms using and/or arranging third party litigation funding? If you would suggest restricting the scope, please explain why.

Law firms to provide an information document before clients sign a third-party funding agreement for a consumer claim

Proposal

We are proposing a new requirement that law firms provide clients with a prominent prescribed funding information document, before the client signs a third-party litigation funding agreement in relation to their consumer claim.

Prescribed claim types and funding information document

Separate guidance to this new provision would confirm the prescribed claim types, the format of the information document, including guidance on the requirement for the document to be prominent.

At this stage our intention is that prescribed claim types will be limited to consumer claims as defined in the earlier section of this consultation. We acknowledge that this would allow for expansion of the requirements to other claim types in future if, with regard to our regulatory objectives, we were to identify risk that meant it was proportionate to do so.

We propose that the prescribed information document would include the following information, to be presented in clear and plain language:

- the availability of free to use alternatives to pursue the claim. Including the option to pursue a claim via an Ombudsman or other redress scheme without legal representation
- whether there may be other potential sources of funding for the claim, such as a legal expenses insurance policy, that the client should check for before entering into the proposed litigation funding agreement
- the availability of legal representation without using third-party litigation funding. (For example, in areas like housing disrepair, where conditional fee agreement funding is widely available without associated third-party litigation funding arrangements, this should be explained)
- the importance of the client not appointing more than one representative for the same claim, and that doing so could lead to the client being charged by both representatives. That if the client is at all uncertain as to whether they have already appointed a representative for the claim, they should discuss that with the law firm before signing any documentation

- how the law firm's charges will be calculated, together with an estimate of those charges including likely disbursements
- where the firm's charges include a success fee element, an explanation of why the firm has set the success fee at the level it has
- how the funder's return will be calculated in the event of a successful claim, and any other charges that relate to the third-party litigation funding agreement
- an illustrated example showing an estimate of the client's likely damages in the event of success, all likely deductions and what the client would receive after all relevant deductions. To include the funder's return, the firm's charges (including any success fee), disbursements and any other likely deductions
- for litigated matters, an explanation of the risk of adverse costs and how these will be addressed
- where After-the-Event (ATE) Insurance is arranged, there would be no requirement that the information document duplicates information law firms are already required to provide to clients in accordance with the SRA Financial Services (Scope) Rules and SRA Financial Services (Conduct of Business) Rules
- confirmation of any circumstances, other than a successful claim, in which the client could have a financial liability to the funder and/or the firm and how that financial liability would be calculated. For example, if the client were to breach the terms of the funding agreement, wished to transfer their matter to another firm or no longer wished to pursue a claim
- the circumstances in which the third-party litigation funding agreement can be terminated by the funder, and what the implications would be for the client
- confirmation that the funder is independent of the firm and that while the firm is regulated by the SRA, the funder is not
- the client's obligations to the funder if the firm ceases to trade before conclusion of the claim and the likely implications for the client if they wished to continue or discontinue their claim at that point
- confirmation of any relevant cooling-off period.

We envisage that the prominence requirement would mean that the funding information document must be highly visible for clients and seen before, or at the same time, as any request to sign the relevant litigation funding agreement. (However, it is presented to clients eg as a web page, an online form, an email or email attachment). Placing a funding information document within other information

without highlighting it or providing it via a link that clients are not required to click, would not meet the prominence requirement.

Why we are proposing this change

We have evidence from our work to date that solicitors and law firms are not always providing clients with information that is required in our existing codes of conduct. These are covered under paragraphs 8.6 and 8.7, SRA Code of Conduct for solicitors, RELs, RFLs, and RSLs, and the equivalent provisions in the SRA Code of Conduct for Firms.

Respondents to our 2025 discussion paper reported that consumers do not understand fees, risks, deduction levels or termination costs and were not being made aware of free to use alternatives. They also told us that some consumers do not realise that they have signed legal documents (during online sign-up processes for example). Respondents indicated significant support for the provision of mandatory, standardised plain-English documents for clients such as information documents, checklists, model Conditional Fee Agreements and Damages Based Agreements, and risk statements.

Our recently published consumer research, which included survey responses from 561 individuals who had appointed solicitors to represent them in a consumer claim, echoed responses to our discussion paper. Only a minority of law firm clients reported being given key information at the outset of their claim, including:

- whether there was a cooling off period (17 per cent)
- how much it would cost to pursue a claim (27 per cent).

More broadly, law firm clients reported that information about processes, costs and likely outcomes was often limited or unclear. Some reported being unclear when they had formally signed up with a law firm or what they had agreed to. Responses also indicated that clients in vulnerable circumstances were more likely to report a lack of clarity in the information they received and a lack of support from their solicitor.

Our investigations and thematic review have also illustrated that some solicitors and law firms are not doing enough to comply with professional obligations regarding client information. Information about funding arrangements provided to clients by some law firms is unclear, written in complex language and contained in very lengthy documents without key terms being highlighted, or made prominent.

Alongside this consultation, we are aiming to address this information gap through a pilot project to improve the information clients receive from solicitors and law firms before and during onboarding. In this work we are developing and testing a range of onboarding materials, for the HVCC sector, with consumers and solicitors. Our aim is

that these materials will improve how clients and prospective clients receive and engage with key onboarding information, supporting clearer understanding of costs, risks and available options so that clients can make informed choices. We are also issuing new guidance to law firms and solicitors on the use of third-party litigation funding.

Our objective with this new regulatory proposal is to address the specific risks associated with the use of third-party litigation funding agreements in consumer claims. These agreements, where the client has a liability to the funder in the event of a successful claim, are typically used alongside a Conditional Fee Agreement and, where relevant, an ATE insurance policy. These are complex legal contracts, with significant financial consequences, which most clients will not be familiar with.

As well as the financial return to the funder in the event of a successful claim, there can be significant financial implications if a client wishes to discontinue their claim, transfer their instructions to another solicitor, or breaches the terms of the litigation funding agreement. Clients rightly rely on their solicitor/law firm to explain and advise on proposed funding arrangements, and solicitors/law firms have an obligation to ensure they provide information in a way that enables each client to make an informed decision about whether and how to proceed.

Given this complexity, and that our evidence indicates that clients are not always receiving the information they need to make informed decisions, we are persuaded that mandating information provision in this area will help to ensure more clients, and prospective clients, receive the details they need to be able to make a properly informed choice about entering into a third-party litigation funding agreement.

We are proposing to prescribe the minimum level of information that must be presented in a prominent funding information document. Mandating key information would also align client-information requirements for third-party funding more closely with the approach taken in the SRA Financial Services (Scope) and (conduct of business) rules, where the level of risk for the client is comparable. For example, where solicitors / law firms arrange ATE insurance, they are required to provide the client with a demands and needs statement before concluding the contract of insurance (Rule 12, SRA Financial Services (Conduct of Business) Rules).

Q5. Do you agree with the proposal to mandate the provision of key information in relation to third-party litigation funding agreements? Are there alternatives you would recommend we consider?

Q6. Is there any other information it would be helpful for law firms to provide where a client's claim is funded by a third-party?

Law firms to notify SRA when using or arranging third-party funding for consumer claims

Proposal

We are proposing a new requirement that law firms promptly notify the SRA when they use and arrange third-party litigation funding for consumer claims.

Our intention is that prescribed claim types will be limited to consumer claims as defined in the earlier section of this consultation.

We have considered whether to set minimum criteria below which we would not require firms to notify us that they were using or arranging third-party litigation funding for consumer claims. We have decided not to do so.

It is useful to our identification of risk to understand the use of third-party litigation funding for consumer claims across all the law firms we regulate. For example, while a single firm's financial exposure to a litigation funder may be limited, there may be a marked level of financial exposure to a single funder across all firms in the HVCC sector. Visibility of this type of information supports our work to identify and act on risk. Notification would allow us to conduct further enquiries where we have concerns about particular arrangements.

Why we are proposing this change

Responses to our 2025 Discussion Paper indicated considerable support for us taking a more assertive approach to regulatory oversight of law firms' use of litigation funding in the HVCC sector. Respondents also supported increased data collection and more active ongoing oversight of firms using funding.

Our 2025 declaration exercise enabled us to build on our understanding of how individual firms are using and arranging third-party litigation funding for HVCC, as well as how funders are operating in this sector. We have used this information to proactively engage with law firms and to assist in the prioritisation of our Investigations work. The information has also assisted us in proactively addressing potential risks. For example, risks that may be associated with the same funder working with several different law firms.

Our declaration exercise has established the value of understanding which firms are using and arranging third-party litigation funding for HVCC, to our work identifying and acting on risk. We now want to make this regulatory visibility more permanent to further support our ability to engage with relevant firms and, where appropriate, address risk at an earlier stage so as to avoid consumer harm.

Q7. Do you agree with the proposal to require law firms to notify the SRA when using or arranging third-party funding for consumer claims?

Q8. What positive impacts would you anticipate from this change if implemented, and would you foresee any challenges for law firms in complying with this requirement?

Law firms to produce and retain a third-party litigation funding risk assessment

Proposal

We are proposing a new requirement that law firms using and/or arranging third-party litigation funding for consumer claims document a 'third-party litigation funding risk assessment'. Under this requirement, law firms will complete a prescribed risk assessment on entering into a relevant arrangement with a third-party litigation funder for funding consumer claims.

We are proposing that the prescribed risk assessment is completed before:

- the firm receives any funds under the funding arrangement and,
- any client enters into a funding agreement that gives rise to a liability to the funder, or
- the firm offers to act for funded client(s) where there is a pre-existing litigation funding arrangement in place.

Under this proposal, we would expect the plan to be approved by the firm's Chief Executive/Managing Partner (or equivalent) and compliance officers, made available to us on request, and updated every six months.

Prescribed claim types and risk assessment

We would envisage publishing additional guidance for solicitors and law firms to support meeting the regulatory requirements and in which we will confirm the prescribed claim types, and the risk assessment format.

At this stage our intention is that the ‘prescribed’ claim types will be limited to consumer claims as defined in the earlier section of this consultation. We acknowledge that this format would allow for expansion of the requirements to other claim types in the future if, with regard to our regulatory objectives, we were to identify risk that meant it was proportionate to do so.

We propose that the prescribed risk assessment would include assessment of the following factors:

- identity of the funder business or individual, and how the funder sources their funding capital

- funder's financial position, including capital adequacy and liquidity in relation to the firm's forecast of the cost and duration of the relevant claim(s), and the funder's wider financial exposure
- funder's prior experience of the relevant third-party litigation funding sector.
- whether the firm has conducted any due diligence in relation to the funder. This can help reduce the risk of a firm receiving funds that are proceeds of crime or frozen under the UK's sanctions regime
- firm's financial position in relation to the proposed funding and the forecasted cost, duration and outcome of the relevant claim(s). To include a scenario analysis that considers best and worst financial case for the firm, as well as the forecasted base case
- firm's legal assessment of the claim/claims portfolio. Including prospects of success (including quantum, and enforcement)
- assessment of the anticipated defence and defendant strategy
- costs forecast
- exposure to adverse costs and how these will be addressed, including the level and key terms of any proposed ATE insurance cover
- key terms of the proposed funding arrangement
- the firm's assessment of any potential conflicts of interest.

We are not proposing that risk assessments should be automatically submitted to us when a law firm enters into an arrangement with a third-party litigation funder. We believe that having a notification requirement for firms using third-party litigation funding (see above), combined with an obligation to maintain a risk assessment which we can request where necessary is a sufficient and proportionate level of oversight. Our proposal provides for appropriate documentation of necessary due diligence in these circumstances.

We have considered whether to set a minimum funding level (eg based on funding value, or value relative to the firm's revenue) below which the requirement to produce a written risk assessment would not apply. We have decided not to do so.

Why we are proposing this change

Law firms have existing professional obligations to identify, monitor and manage all material risks to their business (SRA Code of Conduct for Firms, paragraph 2.5), to monitor their financial stability (paragraph 2.4, SRA Code of Conduct for Firms), and to avoid conflicts of interests (paragraph 6, SRA Codes of Conduct). As well as

obligations to act with independence in the best interest of their clients (SRA Principles 3, 7). solicitors and law firms should also understand that funds could be the proceeds of crime, or transferred in breach of the UK sanctions regime, and manage the risk accordingly.

Our thematic review highlighted that some firms invest significant time and resource in assessing the legal and financial risk of third-party funded claims, and in undertaking due diligence regarding proposed funding arrangements. This included firms completing detailed legal and financial scenario planning. As well as carrying out checks on funders, source of funds and funder's capital adequacy/liquidity. This is good practice.

However, our work shows that some solicitors and law firms are not effectively identifying, monitoring and managing the legal and financial risks that can arise when representing large volumes of clients bringing third-party funded consumer claims. This is resulting in harm, and risk of harm, to clients and risks undermining confidence in the HVCC sector.

The risk of harm to clients could be reduced or avoided, if all firms were carrying out thorough risk assessment and due diligence before entering into third-party funding arrangements for consumer claims. We are seeking to drive improvement in this area of professional conduct by introducing a more prescriptive requirement about the level of risk assessment and due diligence law firms must complete. We are proposing law firms complete a review every six months to ensure relevant changes are risk assessed (for example, changes to the prospects of success of a claim type, or the likely duration of claims) without placing an unnecessary burden on firms.

The requirement to complete a third-party litigation funding risk assessment would not replace the existing obligations for all firms to have systems and processes in place to monitor and manage material risks and financial stability more generally (paragraphs 2.4 and 2.5 SRA Code of Conduct for Firms).

We have set out below key harms and risks to clients, as well as risks to trust and confidence in the HVCC and to the wider public interest, identified from our work. We provide this detail to help illustrate why we are of the view that new professional obligations, including a requirement to document and retain a third-party litigation funding risk assessment, are necessary.

Data from our declaration exercise, together with our investigations, has shown some law firms have taken on very high levels of working capital funding from third-party funders, as compared to the firm's turnover and financial reserves. For example, 18 firms reported debt to a third-party litigation funder that exceeded the value of the firm's last reported annual turnover.

This type of debt-financed business model can create significant financial instability. If claims take longer to conclude or are less profitable than law firms anticipate, law

firms may experience difficulty meeting the funder's repayment terms. This is a particular risk for law firms without other significant revenue streams.

Financially unstable firms may be at greater risk of not having the resources needed to provide a competent and timely service to high volumes of clients. This can risk issues such as delay and poor communication, which were concerns reported by a significant proportion of participants in our consumer research. We have concerns that where draw-down of funding is linked to the volume of claims a law firm opens, some firms may have been incentivised to take on high volumes of clients without the appropriate resource in place to provide a competent and timely service.

To protect clients' interests, it is important that law firms entering into third-party litigation funding arrangements carry out adequate checks to assure themselves that the funder has adequate capital and liquidity to meet the proposed funding commitment. We are aware of examples of funders informing law firms at very short notice that they are unable to meet a funding commitment made, and of funders entering administration with active funding commitments in place. This poses clear risks to clients' funded claims, and potentially to a law firm's financial stability. Solicitors and law firms should be alert to these risks and should protect their clients' best interests by managing risks effectively from the outset of any proposed funding arrangement.

Third-party litigation funding is not subject to mandatory regulation. And litigation as legal practice does not itself fall within the scope of the Money Laundering, Terrorist Financing and Transfer of Funds (Information on the Payer) Regulations 2017. So the mandatory due diligence requirements do not apply. This may increase the risk that individuals or organisations will use third-party funding as part of efforts to disguise criminal proceeds or funds belonging to a sanctioned organisation or individual. In turn this carries risk for solicitors and law firms receiving funds, which they can protect against by carrying out appropriate due diligence.

Our thematic review indicated that some solicitors and law firms are carrying out very limited due diligence before using and arranging third-party litigation funding. For example, of 18 firms using third-party litigation funding, only six firms had carried out checks on the capital adequacy of the funder, two firms researched the funders funding history, five firms carried out AML/proceeds of crime checks on the funder and four carried out sanctions checks.

Carrying out due diligence before using or arranging third-party litigation funding helps to ensure that solicitors and law firms are protecting their client's best interests and reduces the risk of breaching the UK sanctions regime or the Proceeds of Crime Act 2002.

Q9. Do you agree with the proposal to require firms to produce and retain a risk assessment when using third-party litigation funding for consumer claims?

Q10. Do you agree with the factors we have identified to be included within a third-party litigation funding risk assessment and if not, please explain your reasons? Are there any additional factors we should also include?

Law firms to produce and retain an orderly closure plan

Proposal

We are proposing a new requirement that, in some circumstances, law firms using and/or arranging third-party litigation funding for consumer claims must document a plan setting out how the firm would achieve and resource an orderly closure of its business, if that were necessary.

Under this proposal, we would expect the plan to be approved by the firm's Chief Executive, Managing Partner or equivalent and the firm's Compliance Officers, made available to us on request, and updated every six months. We would prescribe the content of the orderly closure plan in guidance

Prescribed claim types and orderly closure plan

As explained above, we envisage publishing additional guidance for solicitors and law firms to support compliance with regulatory requirements and in which we will confirm the prescribed claim types, and the orderly closure plan format.

At this stage our intention is that the 'prescribed' claim types will be limited to consumer claims as defined in the earlier section of this consultation. We acknowledge that this format would allow for expansion of the requirements to other claim types in future if, with regard to our regulatory objectives, we were to identify risk that meant it was proportionate to do so.

We propose that the prescribed orderly closure plan would include assessment of the following factors:

- scenario planning: a review of the circumstances that could mean the firm would need to cease to operate
- risk monitoring: confirmation of the processes the firm has in place to identify, monitor and manage material risks; and to monitor business viability
- details of how the firm would affect an orderly closure if required, including:
    - details of the financial, staffing and other resources needed to affect an orderly closure
    - communication with clients
    - communication with other parties

- safeguarding client money
- orderly transfer of live client files
- storage requirements and related cost for closed files
- payment of any professional indemnity insurance premium for run-off cover
- details of other financial liabilities and how these would be discharged
- where a gap is identified in a firm's resources for orderly closure, whether financial or otherwise, the plan should address how the firm intends to address those gaps and the timescale for doing so.

We propose that the requirement to produce and maintain an orderly closure plan will only apply where the law firm:

- is using or arranging non-recourse third-party litigation funding for consumer claims and is instructed by, or anticipates being instructed by, 500 or more individual claimants in relation to the claim(s); or
- is using recourse funding and the total funding provided (but not necessarily drawn down) is equivalent to, or greater than, 30 per cent of the firm's latest reported annual turnover figure; or
- as provided security in relation to the relevant funding, or where any owner, manager or employee has provided such security.

We are proposing these requirements based on our experience of the closure of law firms in the HVCC sector, which were using or arranging third-party litigation funding. Where a firm has at least 500 third-party funded client matters there is more likely to be a significant impact for those clients if a firm is unable to affect an orderly closure. Lower volumes are more manageable on closure, particularly in relation to supporting clients to secure alternative legal representation.

Our investigations work, and declaration data, indicate that financial instability and disorderly closure may be more likely where a funder has security (and so can apply to have a firm wound up at short notice) and where the liability to a funder is significant as compared to the law firm's last reported turnover.

We are not proposing that orderly closure plans should be automatically submitted to us. Having a notification requirement for firms using third-party litigation funding (see above), combined with firms' obligation to maintain an orderly closure plan, which we can request where necessary, is a sufficient and proportionate level of oversight.

We are proposing that the orderly closure plan is completed before:

- the firm receives any funds under the funding arrangement and,
- any client enters into a funding agreement that gives rise to a liability to the funder, or
- the firm offers to act for funded client(s) where there is a pre-existing litigation funding arrangement in place.

Why we are proposing this change

Law firms have existing professional obligations to:

- identify, monitor and manage all material risks to their business (paragraph 2.5, SRA Code of Conduct for Firms)
- actively monitor financial stability and business viability. Once aware a firm will cease to operate, effect the orderly wind-down of activities (paragraph 2.4, SRA Code of Conduct for Firms)
- notify us promptly of any indicators of serious financial difficulty, of any relevant insolvency event, and if a law firm will cease to operate (paragraph 3.6, SRA Code of Conduct for Firms).

We have explained above the risks that may arise when law firms use third-party litigation funding to operate financially unstable business models. These business models may also pose a heightened risk of disorderly closure, which can have significant negative impacts for affected clients (see below).

While the number of firms using and arranging third-party litigation funding for consumer claims is limited, the impact of financially unstable business models and the heightened risk of disorderly closure, can be substantial because of the volume of clients some firms are representing.

We want to drive improved professional standards in this area of practice, to reduce the risk of clients being negatively impacted by financially unstable business models, and disorderly closures. Requiring that relevant firms produce an orderly closure plan will, we anticipate, help to ensure that law firms consider and address financial risk at a much earlier stage and well before any period of significant financial difficulty. This will help to ensure that law firms identify and address challenges to their ability to affect an orderly closure in a timely way.

This requirement will also, together with the proposal that law firms notify us that they are using or arranging third party litigation funding for consumer claims, support our effective regulatory engagement with relevant firms, providing greater

visibility of how firms are managing risks to their business viability so as to protect their clients' best interests.

Our investigations work has illustrated that some law firms are operating financially unstable business models, and facing significant financial pressure, but appear to be carrying out limited planning for a scenario where they would need to wind up their activities**.** We want to drive improvement in this area of conduct to reduce the risk that clients will be affected by a disorderly law firm closure.

A number of law firms have entered administration following a winding-up petition, or other action, brought by a third-party litigation funder creditor. Some firms had not put in place measures to ensure an orderly wind-down ahead of entering administration. This can have negative impacts for clients who may receive little warning of the firm's closure and are left uncertain of the impact for them, their claim and any funding arrangement. A disorderly closure may make it more difficult for clients to secure alternative representation promptly.

In some instances, we have needed to intervene into firms in administration to protect the interests of clients. Of the seven firms we have intervened into in the HVCC sector since 2024, six firms had an agreement with one or more third-party funders, often the agreements were for the provision of a working capital credit facility, and some firms owed significant sums.

Q11. Do you agree with the proposal to require firms to produce and retain an orderly closure plan when using third-party litigation funding for consumer claims?

Q12. Do you agree that the factors we have proposed are the most relevant to firms effecting an orderly closure?

Q13. Are there additional factors it would be useful for an orderly closure plan to include?

Q14. Are there additional factors it would be helpful for us to consider in relation to the threshold at which the requirement to document an orderly closure plan will apply?

Next steps

We will review responses to this consultation before deciding whether to implement the changes proposed. We will publish our decision.

Assessing regulatory and equality impacts of the proposals

We have provided an initial Regulatory and Equalities Impact Assessment of these proposals alongside this document.

Q15. Do you agree with the assumptions about and assessment of potential regulatory impacts?

Q16. Do you agree with the assumptions about and assessment of potential equality, diversity and inclusion considerations in our initial impact assessment?

Q17. Are there any other factors or impacts on particular groups that we should consider or any other evidence sources that we should be considering?

Our consultation questions in full

Q1. Do you have comments on our proposals about what should be included and excluded in defining third-party litigation funding, and consumer claims?

Q2. Do you agree it is helpful to specify professional conduct requirements when solicitors use and arrange third party litigation funding for client matters?

Q3. Do you agree with the areas of professional conduct we have suggested? Are there any further areas of professional conduct that should be included, or areas of risk it would be appropriate to address?

Q4. Do you agree that these provisions should apply to all solicitors and law firms using and/or arranging third party litigation funding? If you would suggest restricting the scope, please explain why.

Q5. Do you agree with the proposal to mandate the provision of key information in relation to third-party litigation funding agreements? Are there alternatives you would recommend we consider?

Q6. Is there any other information it would be helpful for law firms to provide where a client's claim is funded by a third-party?

Q7. Do you agree with the proposal to require law firms to notify the SRA when using or arranging third-party funding for consumer claims?

Q8. What positive impacts would you anticipate from this change if implemented, and would you foresee any challenges for law firms in complying with this requirement?

Q9. Do you agree with the proposal to require firms to produce and retain a risk assessment when using third-party litigation funding for consumer claims?

Q10. Do you agree with the factors we have identified to be included within a third-party litigation funding risk assessment and if not, please explain your reasons? Are there any additional factors we should also include?

Q11. Do you agree with the proposal to require firms to produce and retain an orderly closure plan when using third-party litigation funding for consumer claims?

Q12. Do you agree that the factors we have proposed are the most relevant to firms effecting an orderly closure?

Q13. Are there additional factors it would be useful for an orderly closure plan to include?

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