

News

Q&A for firm survey on claims about financial products or services

19 September 2019

The Government's Financial Guidance and Claims Act 2018 ("the Act") means that we have to make rules which will restrict the fees firms charge for managing claims relating to financial products and services. These rules will replace the interim cap on fees in payment protection insurance (PPI) claims.

We are asking law firms to complete a survey

[<https://www.surveygizmo.eu/s3/90168924/Fee-cap-survey>] to help inform potential options for how we restrict fees in this area.

Q1. What is the purpose of this survey?

We want to make sure that any proposals that we develop for restricting fees allow efficient firms to make a reasonable profit and enable the public to get appropriate legal help in this area.

The responses we receive will inform options for consultation. We hope that the survey will give us information about:

- the volume of claims management activities law firms conduct, and what of that relates to financial products or services (relevant work)
- the type and number of firms carrying on relevant work
- the volume, type and complexities of work conducted and how it is recorded
- the amounts of compensation/damages recovered for clients
- charges and firm costs for relevant work, and
- profits made from relevant work.

Q2. Where can I find more information about the Financial Guidance and Claims Act

On 10 May 2018, the Financial Guidance and Claims Act 2018 received Royal Assent. The Act introduced:

- i. a requirement on us

[<http://www.legislation.gov.uk/ukpga/2018/10/contents/enacted/data.htm>] to make rules imposing fee restrictions on all claims management agreements and claims management activities relating to 'financial products or services, and

- ii. a power for us to make rules in relation to fees charged for other claims management agreements and activities.

Detailed provisions are set out in section 33 of the Act

[<http://www.legislation.gov.uk/ukpga/2018/10/section/33/enacted>] :

An interim fee cap is already in place which applies only to claims relating to payment protection insurance (PPI). We updated our warning notice and published some specific questions and answers

[<https://www.sra.org.uk/solicitors/guidance/payment-protection-insurance-ppi-claims/>] :

Q3. Why are we being asked to provide our SRA number, and will our response be made public?

No information will be made public - or shared with a third party - without your consent.

The information will help the modelling of different options and help us better understand the profile of firms involved/likely to be involved in this work. Specific information about your firm will not be made public or shared with any other third party.

If we do need to share any specific information, then we will explain why and seek your consent.

Q4. What are the claims management activities relating to financial products or services?

The Financial Conduct Authority (FCA) define this as "the advising a claimant or potential claimant, investigating a claim and representing a claimant, in relation to a financial services or financial product claim"

Q5. What are financial products or services?

The Act does not define 'financial products or services' because it is such an evolving area that new products or services are always being developed.

Not all financial products or services are regulated but could give rise to a claim.

The FCA have provided a non-exhaustive list of activities

[<http://www.fca.org.uk/firms/authorisation/how-to-apply/activities>] that they regulate which could give rise to a claim if the products or services arising out of the activities have been mis-sold or there has been poor advice.

Q6. Why does the survey ask for information which relates to both reserved and unreserved legal activities?

The Act sets out that any rules we make will not apply to charges for reserved legal activities mentioned in section 12 of the Legal Services Act 2007.

We recognise that you may not record information in this way. However, we need to understand for example, the cost element of work that is split between reserved and unreserved legal services.

Q7. How do we determine if legal proceedings have been issued?

"Regulated claims management services" do not include any reserved legal activities mentioned in section 12 of the Legal Services Act 2007 for example, exercising a right of audience or conducting litigation).

All work carried out in taking formal steps in proceedings which have been issued is likely to involve a relevant reserved legal activity.

The 'Conduct of litigation' however, does not include any steps taken prior to the commencement of litigation; i.e. work done before proceedings are issued or work carried out after the issue of proceedings which are not formal steps in the litigation process.

Rules that we make will, therefore, apply to charges for work done prior to the commencement of proceedings and to work done after (other than charges for steps taken in the actual proceedings, such as filing court documents).

Q8. What information should we supply if the work was referred to us or managed primarily by a Claims Management Company (CMC)?

You should provide all information that relates to work carried out by your firm for and on behalf of the client.