

News release

Compensation Fund changes aim to strike the right balance

28 July 2020

- Greater clarity on when payments can be made
- Also protect the long-term sustainability of the fund
- Proposals build on stakeholder feedback from consultations

We have announced changes to how the SRA Compensation Fund will operate in the future, so that the fund can continue to protect the public while remaining affordable for the profession and their clients.

The changes, agreed by the SRA Board following feedback received during two public consultations in 2018 and 2020, aim to make sure the fund supports those who need it most and make it clearer when it is likely to pay out. At the same time, they also seek to ensure that the cost of maintaining the fund, which is paid for through annual contributions by all solicitors and firms, is sustainable.

One of the key changes is the removal of any financial or hardship tests for eligible applicants. Those seeking grants will no longer need to prove that they have suffered due to their loss. The current test was found to result in some inconsistencies that could have prevented clients being compensated.

The maximum payment for a single grant is to be reduced from £2 million to £500,000. Only 0.2% of all payments over the last 15 years have been for more than this amount. We have included provision to pay out more than the new maximum in exceptional circumstances.

We will manage the potential liability presented by high-value, connected applications by introducing a capping mechanism for multiple connected claims. This measure would still allow all eligible applicants to receive a reasonable level of redress that compares favourably to other schemes with capping mechanisms.

Based on the feedback received, we have decided not to limit grants to those who were clients or beneficiaries of the legal services provided. We will therefore continue to allow applications from parties on the other side of a legal matter where it can be shown that the solicitor had failed to use funds for the purpose intended to complete a transaction for their benefit.

Other changes include:

- Excluding large charities and trusts from eligibility in line with the SRA's approach to large businesses
- No longer paying for costs associated with making an application or litigation costs (other than litigation costs in exceptional circumstances)
- No longer covering unpaid fees of barristers and other professional experts
- Limiting the circumstances where a payment can be made where insurance is not in place

Paul Philip, SRA Chief Executive, said: “The Compensation Fund provides an important layer of protection for those who need it, helping to maintain trust in the profession when things go wrong and there is no other means of claiming for loss. However, funding the scheme comes at a cost, which is borne by the wider profession and ultimately their clients.

“The tension between these two issues was a major theme of the feedback we received during both consultations. That is why we deliberated and consulted twice on these proposals, to make sure we strike the right balance. Our changes will support public confidence, give claimants clarity about what the fund can and cannot cover and make sure this valuable additional protection is available in the long term.”

There were 15 formal responses to the 2020 consultation, including from bodies such as the Law Society and Legal Services Consumer Panel. We also held focus groups with members of the public to understand their views on the future operation of the fund.

The changes will be submitted to the Legal Services Board for final approval.

We are currently consulting on the principles we will use when setting SRA Compensation Fund contribution levels in future years. That consultation, part of our consultation on our Business Plan

[<https://www.sra.org.uk/sra/consultations/consultation-listing/business-plan-2020-21/?s=o>] , runs until 26 August.

The levels of contributions for 2020/2021 have been set by the SRA Board at £50 for individuals and £950 for firms holding client money.

Read the full detail of the SRA Compensation Fund consultation

[<https://www.sra.org.uk/sra/consultations/consultation-listing/comp-fund-reform-2020/?s=c>] .