

The Solicitors Regulation Authority
Regulation and Education
The Cube
199 Wharfside Street
Birmingham
B1 1RN

The logo for the Legal Services Consumer Panel is located in the top right corner. It consists of a large blue circle on the left and a blue rectangular area on the right. Inside the blue area, the words "LEGAL SERVICES CONSUMER PANEL" are written in white, uppercase, sans-serif font, stacked vertically.

LEGAL
SERVICES
CONSUMER
PANEL

13 July 2016

Dear Sir/Madam

Removing Barriers to switching regulators

The Legal Services Consumer Panel (the Panel) welcomes the opportunity to respond to the Solicitors Regulation Authority's consultation on removing barriers to switching regulators by amending its Professional Indemnity Insurance requirements.

In May 2016, the Panel responded to a relevant and related consultation by the Council for Licensed Conveyancers. In that response we reiterated the risks that PII requirements strives to address; that appropriate insurance and compensation arrangements exists to protect consumers from identifiable financial loss due to dishonesty, fraud, negligence or failure to account. This need for consumer protection, including the minimisation of confusion, must remain a priority as Approved Regulators change their PII obligations, or make it easier for providers to move between Approved Regulators.

In 2013, the Panel highlighted gaps and inconsistencies in financial arrangements across the regulatory landscape. This led to a recommendation which asked the Legal Services Board (LSB) and others to work towards centralised protection arrangements for all regulated legal advice providers. The Panel is not against the changes proposed by the SRA. However, we are concerned that these changes will exacerbate an already fragmented landscape and worsen the patchy and inconsistent financial protection currently available to consumers. Discrete changes by different Approved Regulators, compounded by the increased ease in which providers may begin to switch between Approved Regulators will exacerbate the situation we highlighted three years ago.

The SRA has identified risks around reduced and variable consumer protection which must be addressed. We agree that it is beyond the SRA's role to assess the PII arrangements of another Approved Regulator. However, it is the responsibility of all Approved Regulators to ensure that consumer protection does not fall between the gaps of regulatory boundaries. The risk of financial loss to consumers is simply too high not to safeguard against it collectively. There is also a risk to the profession as a whole because the manifestation of this risk is likely to weaken consumer trust, and have harmful impacts on the credibility of the legal profession as a whole. The lead should come from the LSB as the oversight

regulator with full support from all Approved Regulators. We note that the LSB's 2016/17 business plan outlined a piece of work to examine the benefits and risks associated with the changing shape of legal services regulation, including the ability to choose amongst regulators. We urge the LSB to ensure that this work is sufficiently consumer focused. The LSB should respond to market developments by understanding the drivers for switching and mitigate against any risk that is likely to arise, including the risk of further fragmentation.

Finally, we believe the time is right for the sector to revisit our call for a single scheme for improved consumer protection and outcomes. We accept that this may take some time, in the interim we suggest that the LSB should establish or broker a set of principles that bind the regulators together with a duty to avoid consumer confusion and minimise fragmentation and gaps in protection.

Reflecting on the consultation questions

The Panel agrees with the proposal as outlined by the SRA. We agree that the current requirement is unduly restrictive and costly for those who wish to switch between Approved Regulators. At present a firm who wishes to switch from the SRA to another Approved Regulator is treated as if it is ceasing to exist. This automatically triggers six years of costly run-off cover, even if the firm takes out replacement PII for its future business. We consider this to be an unjustifiable cost, which we know will be passed back to consumers.

The SRA's assessment reinforces the Panel's call for a holistic approach to financial protection for consumers.

Yours sincerely



Elisabeth Davies
Chair