

Solicitors Regulation Authority
Policy and Strategy Unit
Compensation Arrangements Review
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 the text 'LEGAL SERVICES CONSUMER PANEL' in white, stacked vertically on the right. 'LEGAL' and 'SERVICES' are in a smaller font, while 'CONSUMER' and 'PANEL' are in a larger, bold font.

LEGAL
SERVICES
CONSUMER
PANEL

18 September 2014

Dear Sir/Madam,

SRA call for evidence on client protection

The Panel would like to make a brief response to this call for evidence by highlighting some of our relevant past work on this important subject. These documents will be especially relevant to the following areas of your call for evidence: ‘the extent to which the loss arising from claims should be apportioned between insurers, the Compensation Fund, firms and claimants’ and ‘the extent to which client protection arrangements are understood by consumers and are a driver of consumer behaviour’.

As you will be aware, in 2012-13 the Consumer Panel carried out a review of the approved regulators’ financial protection arrangements. The result of this work was a package of three documents including:

- A policy report, *Financial Protection Arrangements*, on the strengths and weaknesses of the regimes. Overall we found that on most occasions the financial protection arrangements will deliver redress against the key risks consumers face. However, our study uncovered a lack of accessible data which made assessment difficult, as well as a number of issues, concerns and areas for improvement. These include scenarios where consumers may lose out unfairly due to gaps in coverage, disputed territory between regulators and insurers, and issues related to the discretionary nature of schemes. In addition, the current protections can be difficult to access, fragmented and lacking in transparency. We said a single scheme joining up professional indemnity insurance and compensation funds across the whole legal services market should be actively explored and encouraged regulators to continue to explore options to slim down the need for lawyers to hold client money – such as escrow schemes – which could make things less risky for consumers. We rejected any suggestion that consumers should be invited to purchase insurance themselves, instead of requiring lawyers to source cover as now. The report concluded this would unfairly transfer risk to consumers and could prove

counterproductive – clients would reject firms who didn't self-insure, while some consumers may risk not taking out insurance.

- An independent consumer research report produced by Vanilla Research based on focus groups to find out consumers' views on how risk and responsibility should be divided up between consumers and businesses in the legal services market. We aimed to find out the level of risk consumers considered would be acceptable to take on.
- A Consumer Challenge paper on *Risk and Responsibility* looked at how risk should be shared out and the implications this has for the regulation of legal services. We concluded that on many levels consumers can be encouraged to take greater personal responsibility for their decisions. However, fairness demands that consumers should only be expected to take on risks which they know about and can safely manage. Legal services can involve very high stakes for individuals and consumers feel vulnerable when dealing with lawyers. Any transfer of risk should be a gradual process and should only follow once consumers are empowered enough to navigate the legal services market safely. Even then the nature of the market is likely to justify a strong consumer protection framework.

I hope these documents are helpful. As always, we would be pleased to meet with SRA colleagues to discuss these issues further. Please contact Harriet Gamper, Consumer Panel Associate, with any enquiries.

Yours sincerely



Elisabeth Davies
Chair

- Enc. *Financial Protection Arrangements*, Legal Services Consumer Panel, June 2013.
Risk and the Role of Regulation, Legal Services Consumer Panel, February 2013.
Risk and Responsibility, Legal Services Consumer Panel, June 2013.