

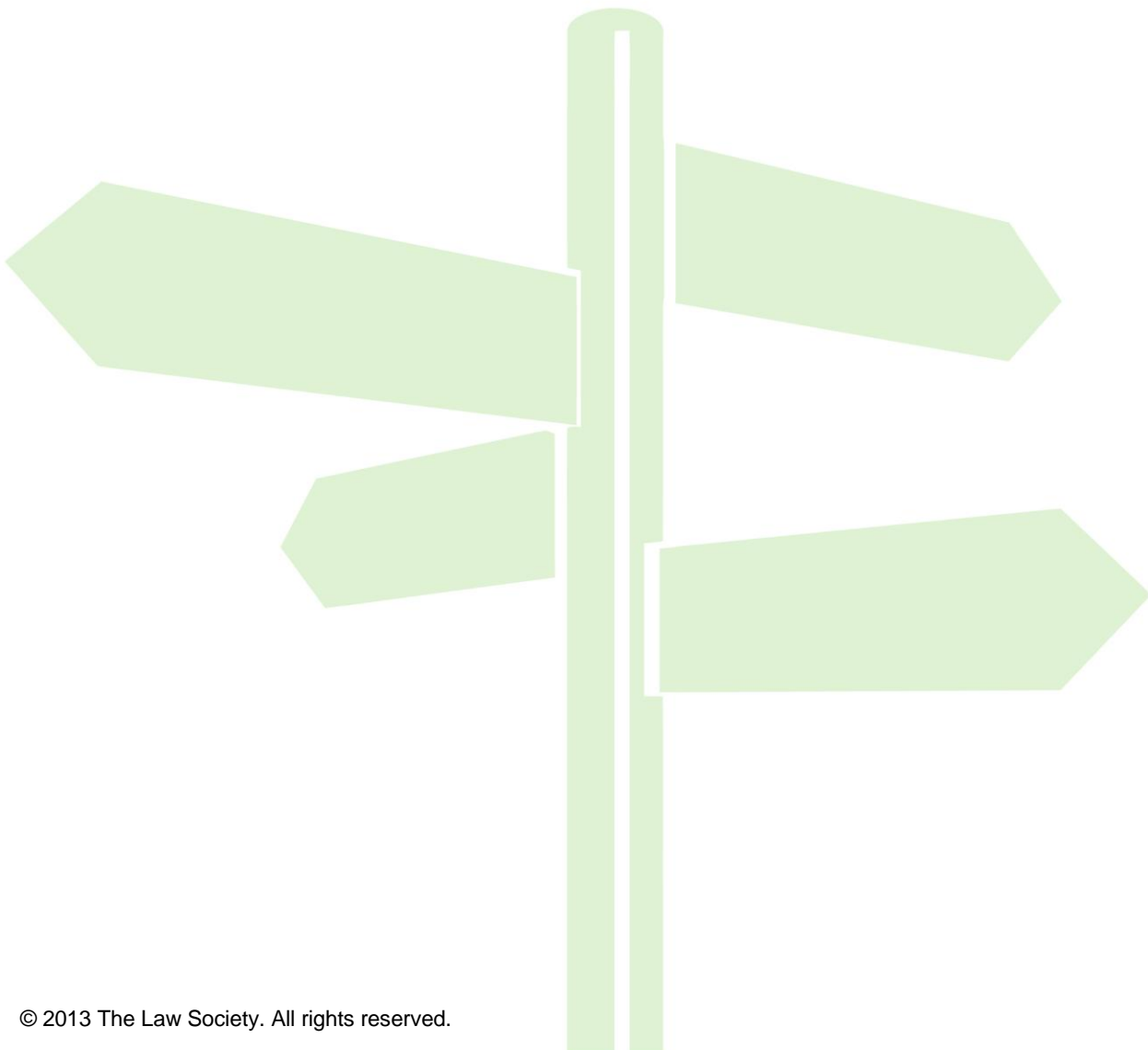


The Law Society

# **SRA consultation: Compensation Arrangements Review - the introduction of an eligibility criteria**

Junior Lawyers Division response

June 2014



# **SRA Consultation on "Compensation Arrangements Review: the introduction of an eligibility criteria"**

## **Junior Lawyers Division response**

The Junior Lawyers Division of the Law Society of England and Wales (the "JLD") represents a body of students, trainees and solicitors (up to 5 years' PQE) across England and Wales.

The JLD, in principle, supports initiatives which are designed to reduce unnecessary regulatory burdens, and reduce costs for firms and clients alike. However, the JLD has a vested interest in preserving client confidence in the integrity of the legal profession and, as such, any deregulation should be proportionate to ensure adequate protection is provided to consumers where necessary.

### **1. Do you agree with the proposal to introduce an eligibility criteria for applicants making a claim on the SRA's Compensation Fund?**

The JLD do not agree with the proposal to introduce eligibility criteria (the "Proposal").

The Compensation Fund was created to maintain the reputation of the legal profession by ensuring that no client would be out of pocket as a result of the actions or dishonesty of a solicitor or their employee.

The Compensation Fund is a fund of last resort and only used when companies have exhausted all other avenues, including insurance. However, insurance policies sometimes do not cover claims, potentially due to the dishonesty of the partners of a firm or due to the maximum sum of the policy already being reached.

The removal of access to the Compensation Fund to a large number of businesses will reduce consumer confidence on the legal profession as a whole and will impact in particular on smaller firms as businesses move to companies with better insurance cover, and this will often mean larger companies. There will be a particular impact on small firms that deal with conveyancing and probate, which may lead to closures.

There will be an impact on junior lawyers as there will be reduced opportunities to work in these areas of law, and any remaining opportunities will be at larger firms based in larger cities.

### **2. Do you agree that only individuals, small enterprises, charities and trusts should be able to claim from the SRA's Compensation Fund?**

The JLD do not agree that only those identified in the criteria should be able to claim. As discussed above, the criteria will reduce public confidence in the legal profession and will impact on the future prospects of junior lawyers.

However, if the SRA consider that criteria must be introduced, the JLD consider the turnover limit of £2 million is inappropriate. Turnover is not a

measure of profitability and many businesses with a turnover of £2 million could ill afford to lose money. Businesses could move their work to larger companies that can better afford more comprehensive insurance terms that would guarantee any claims would be paid out.

**3. If you do not agree with the proposal, please offer any alternative suggestions for reducing the burden on the SRA's Compensation Fund.**

We do not consider that the SRA should be looking to reduce the burden on the Compensation Fund. The Compensation Fund is vital for underpinning the reputation of the legal profession.

The JLD is keen to see that the reputation of the legal profession continues to be upheld. The JLD would be concerned to see an important mechanism of consumer protection removed from a large number of charities and companies.

**Conclusion**

The JLD notes that this consultation aims to identify potentially innovative ways of delivering the optimum level of client protection, whether or not that includes compensation arrangements in the form that they currently exist. In this consultation, the SRA proposes changes to the SRA Compensation Fund Rules 2011 to set out who is eligible to claim on the Compensation Fund. However, the JLD has a vested interest in preserving the integrity of the legal profession and ensuring that England and Wales continues to be a jurisdiction of choice for both lawyers and their clients. It is for this reason the JLD objects to the proposals in the current form.

**General**

The JLD is concerned regarding the timing of the consultation, the short period permitted for responses to be submitted, and the proposed timetable for implementation of the proposals.

The consultation clearly seeks further information, analysis and data from practitioners in order to assess the SRA's proposals. The short time period provided for responses to this consultation may restrict the amount of interested and representative bodies that are able to respond.

The JLD thinks it is important that sufficient time is permitted to ensure that a full consultation is carried out, that the consequences of the proposals are fully explored and that any final proposals include sufficient safeguards to ensure protection for solicitors and clients.