

**Scope:** This impact assessment considers the impact of the proposed changes to our Compensation Fund Rules.

**Purpose of the Compensation Fund Rules:** To help consumers who have lost money due to certain failures of CLC-regulated Practices in regulated conveyancing transactions for the acquisition of residential property for the occupation of the applicant and/or the applicant's family; and/or probate transactions. The Compensation Fund is intended to support the individual clients of a CLC Practice, who have suffered the loss personally.

**Summary of changes:**

- A) Provide clear information for consumers about our current approach.
- B) Remove 'recovery of funds' provision.
- C) Introduce a new provision for the CLC to adopt a means-tested approach (in rare circumstances) when determining grants arising from certain applications.
- D) Introduce a new provision to ring-fence funds available for a 'Special Category' grouping from which any Grants offered will be drawn, detailing how this will be decided and new timescales to be eligible.

**Provide clear information for consumers about our current approach.**

- 1. Our existing Rules outline the principles of the Compensation Fund, but do not explain our established approach in detail. We believe our current approach should be better explained in our Rules, in line with the principles of Better Regulation. This includes providing more information about our Compensation Fund, its core purpose, eligibility criteria, how we process applications (including our established 'special grouping' approach) and how we make decisions. We believe this will bring several positive benefits for consumers who will better understand our existing eligibility thresholds and how we will handle any applications.
- 2. Positive: The clarification is intended to be more consumer-friendly. We have simplified the language used, provided an introduction section. We have also updated the associated forms/guidance to help consumers to understand the purpose of the Code, their eligibility and what is required from them.
- 3. Negative: None identified.

**Remove 'recovery of funds' provision.**

- 4. We have taken this opportunity to remove this provision which is obsolete in practice.
- 5. Positive: The clarification is intended to remove unnecessary clauses.
- 6. Negative: None identified.

**Introduce a new provision for the CLC to adopt a means-tested approach (in rare circumstances) when determining grants arising from certain applications.**

- 7. As we do not limit applicant eligibility based on their net-worth/assets, we can accept applications from large companies or charities, for example. We prefer to consider each

grant determination on a case-by-case basis rather than exclude upfront. This provision is not intended to be used for the vast majority of applications, but in order to uphold the core purpose of the fund there may be circumstances in which it would be important to consider the net assets/worth of an applicant for grant determination.

8. Although it is an absolute discretionary fund, and we can apply this approach without inclusion in the Rules, we believe it is appropriate to explicitly include this mechanism, allowing us to consider means-testing when determining a Grant to ensure that our Grant determinations align with the Core Purpose of the Fund, in the interests of transparency.
9. Positive: This new provision improves understanding of the CLC’s likely approach to their application for a very small number of potential applicants with personal or corporate high net worth. It makes explicit that the Compensation Fund will be protected to ensure that it can continue to meet its core purpose of protecting individual citizens undertaking conveyancing transactions for their own residential needs and those involved in probate matters.
10. Negative: There is no negative impact from the inclusion of this new provision as it simply sets out explicitly an option that was already available to the Fund.

**Introduce a new provision to ring-fence funds available for a ‘Special Category’ grouping from which any Grants offered will be drawn, detailing how this will be decided and new timescales to be eligible**

11. Currently, we already can process multiple applications together which is a pragmatic solution to considering systemic failure which enables us to be consistent with our approach, but we do not explicitly ring-fence funds available, nor do we limit the application timeframe. This change has been introduced particularly to ensure financial viability of the Fund and ensure consistency and parity within our processes. This provision has been informed by looking at other regulators’ approaches
12. Positive: This new provision makes explicit and provides definition around how the Fund may go about processing multiple applications together. The Fund already has the ability to take such an approach. This provision makes clear to potential applicants how that would work in practice.
13. Negative: Ring-fencing funds for a category of claims could lead to an award of less than the full amount applied for. This is not a new possibility, however, so the introduction of this explicit provision does not have a negative impact on individual applications. Introducing a time limit for applications that fall within a Special Category could mean that potential applicants miss the deadline. That will be mitigated by publicity around the management of such applications and by the Fund’s exercise of its discretion in relation to the deadline in light of individual circumstances and considerations of hardship of applicants.

**Equality Impact Assessment, and Impact on Regulated Persons, Consumers and the Public Interest:**

The following considers our Compensation Fund more generally (including the changes).

Protected Characteristic	Impact
Age	Some – re digital exclusion; financial
Sexual Orientation	None identified
Race	None identified
Disability	Some – re digital exclusion; financial
Gender Identity / Gender reassignment	None identified
Gender	None identified
Pregnancy and Maternity	None identified
Marriage / Civil Partnership	None identified
Religion or belief	None identified

For consumers who are digitally excluded, vulnerable, or suffering financial hardship, understanding and using the compensation fund may be more difficult.

We already support consumers to access the fund in the following ways:

- We provide one to one advice about our process, including eligibility.
- If they let us know they need reasonable adjustments we will look to make them. This includes the fact that we can call for the files ourself and determine eligibility that way.
- We already use the fund to reimburse some legal costs (normally related to the initial form) and, as the fund is entirely discretionary, we can consider offering more if we deem it suitable to enable applicants to use the process.

**Impact on Regulated Persons, Consumers and the Public Interest:**

Regulated Persons	<p>The changes have no material impact on Regulated CLC Lawyers nor CLC Practices.</p> <p>By including consideration about the financial viability of the Fund, it means that we are able to remain <i>proportionate</i> in our handling of Grants, and keep the compensation fund fees proportionate by retaining our control of the Fund available.</p>
Consumers	<p><b>Positive impact from the changes:</b></p> <p>These changes make it simpler to understand the purpose of the Compensation Fund, eligibility and how we make decisions.</p> <p>By including ‘special grouping’ facility, it means that we are more likely to make consistent and fair Grants, tailored to the circumstances and financial viability.</p> <p><b>Negative impact from the changes:</b></p> <p>For large companies or charities, the formal introduction of a means test may mean that the CLC decides to not offer a grant. This could mean that they have to absorb the losses they have</p>

	<p>suffered. Balanced against the core purpose of the fund and viability, we believe this is an acceptable position. We do not wish to exclude large companies and charities at the start as we believe that these are better considered on a case by case example. Considering our historical data, we believe the negative impact of introducing means testing on rare occasions will be minor.</p>
<p>Vulnerable consumers</p>	<p><b>Positive impact from the changes:</b></p> <p>Vulnerable consumers may need additional legal support when going through these processes, to provide the required information or to be supported if they have suffered financial or emotional hardship. Our policy is clearer about the losses that are covered and excluded, which should give a positive impact on vulnerable consumers as it reduces the uncertainty and unnecessary applications where there is no prospect of being offered a Grant.</p> <p>We do have the provision to cover the legal costs to prepare and submit the application form. Also, we retain ultimate discretion and could potentially make possible exceptions on a case by case basis, in order to support the most vulnerable.</p> <p>The means testing may be positive for vulnerable consumers by ensuring that the Fund remains able to compensate them fairly for the harm/hardship caused.</p> <p><b>Neutral impact from the changes:</b></p> <p>Digital exclusion may still negatively affect some consumers. Our proposals make no changes regarding how to submit a claim form. There is the facility for Grants to consider the legal costs of completing the form, but these are not guaranteed.</p> <p><b>Negative impact:</b></p> <p>We do not perceive there to be any negative impact from the proposed changes for vulnerable consumers.</p>
<p>Public Interest</p>	<p><b>Positive impact:</b></p> <p>The purpose of the Fund is within the public interest and the changes we have made to be clearer brings about positive impact.</p> <p><b>Negative impact:</b></p> <p>None identified.</p>

## Contribution to achieving the Regulatory Objectives

<p><b>RO1 - protect and promote the public interest</b> Maintaining confidence in legal services provision through effective consumer protection.</p>
<p><b>RO2 - support the constitutional principle of the rule of law</b> Allows clients to exercise their legal rights.</p>
<p><b>RO3 - improve access to justice</b> Sets out clearly the process and eligibility criteria for applicants.</p>
<p><b>RO4 - protect and promote the interests of consumers</b> Secures the sustainable future of a fund of last resort for clients of CLC-regulated lawyers who have suffered a loss.</p>
<p><b>RO5 - promote competition in the provision of legal services</b> Secures the future of specialist providers of conveyancing and probate services under the managed compliance approach that delivers high standards of consumer protection. Ensures consumers have a choice of diverse suppliers of legal services that can be used with confidence.</p>
<p><b>RO6 - encourage an independent, strong, diverse and effective legal profession</b> Ensures that consumers and other stakeholders can have confidence in CLC-regulated practices based on high standards of consumer protection. Specialist conveyancing and probate practices offer a choice different from traditional law firms, especially for the high-volume and high value matters of conveyancing and probate.</p>
<p><b>RO7 - increase public understanding of the citizen's legal rights and duties</b> The new rules make it easier for applicants to understand how the Compensation Fund operates and what they can expect from it.</p>
<p><b>RO8 - promote and maintain adherence to the professional principles</b> Contributing to the Compensation Fund is how practices can make provision for compensation for clients who have suffered a loss that comes to light after the practice ceases to exist and in the event that run-off insurance cover has expired or will not meet the loss.</p>
<p><b>RO9 - promote the prevention and detection of economic crime</b> The processes for consideration of applications to the Compensation Fund will uncover fraudulent applications.</p>

### **The Better Regulation Principles**

Transparency – The draft new rules provide greater clarity for applicants about the process and likely outcome.

Consistency – The Fund is a discretionary one. These new rules set out more detail about the factors that inform the exercise of that discretion.

Proportionality – The introduction of limited means testing and the grouping of special categories both help the Fund to maintain a proportionate approach that ensures protection of those consumers most in need of help.

Targeting – The requirement that applicants should have exhausted all alternative routes to compensation ensures that the Fund is targeting those who have no other recourse.

Accountability – The consultation process is itself a contribution to accountability, alongside the development of the new, clearer Rules .