



Ministry of
JUSTICE

Claims Management Regulation

Regulation fees paid by claims management companies

Proposed regulation fee levels for 2013–14

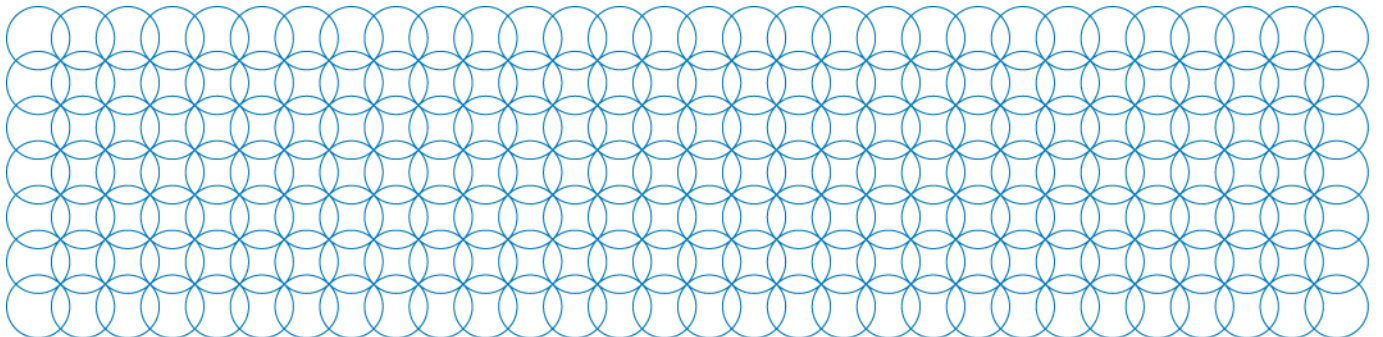
and

**Preliminary consultation on fee framework for
complaints handling by the Legal Ombudsman**

Consultation Paper CP22/2012

This consultation begins on 6 November 2012

This consultation ends on 18 December 2012





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Preliminary consultation on fee framework for complaints
handling by the Legal Ombudsman

**A consultation produced by the Ministry of Justice. It is also available on the
Ministry of Justice website at www.justice.gov.uk**

About this consultation

- To:** All those required to be authorised under the Compensation Act 2006
- Duration:** From 06/11/2012 to 18/12/2012
- Enquiries (including requests for the paper in an alternative format) to:** Anthony O'Brien (Claims Management Unit)
Ministry of Justice
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London SW1H 9AJ
- Tel: 020 3334 6396
Email: claimsmanagementregulation@justice.gsi.gov.uk
- How to respond:** Please send your response by 18/12/2012 to:
Anthony O'Brien (Claims Management Unit)
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102 Petty France
London SW1H 9AJ
- Tel: 020 3334 6396
Email: claimsmanagementregulation@justice.gsi.gov.uk
- Response paper:** A response to this consultation exercise is due to be published in January 2013 at: <http://www.justice.gov.uk>

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Summary

Regulation

1. The claims management regulation system was established in 2007 under Part 2 of the Compensation Act 2006. It is a self-financing system, with applicant and authorised claims management companies meeting the costs of regulation through the payment of authorisation fees. The level of these fees is set in advance of the year to which they apply. They are calculated based on the number of new claims management companies predicted to apply for authorisation, the turnover of current authorised claims management companies together with the proportion of claims management companies expected to maintain their authorisations both in year and into the following year. This consultation sets out the proposed fees for the regulation year April 2013 to March 2014.
2. A number of significant changes, which have the potential to greatly impact on the claims market, will take place in 2013 - 2014. These include the ban on referral fees in personal injury claims, a ban on offering inducements to make a claim, the growth of Alternative Business Structures, and the Government's reforms to the costs of civil litigation. Each of these factors could lead to significant changes to the structure of the claims market and have been taken into account when considering future fees income.
3. The Government will implement a ban on the payment and receipt of referral fees for personal injury claims in April 2013. Those claims management companies currently receiving referral fees for providing access to claimants in personal injury cases will no longer be able to operate in their current form. This could lead to a reduction in their income levels depending on their reliance on referral fees and whether they are in a position to restructure their business model. The ban could also mean fewer claims management companies applying for authorisation to provide regulated services in the personal injury sector, existing claims management companies leaving the market and an increase in unauthorised trading.
4. A significant amount of fee revenue comes from the personal injury sector and any reduction of the sector will therefore, have an impact on total fee income. The costs of the primary compliance and enforcement functions of the Claims Management Regulator (the Regulator) will be ongoing. Continuing resource will be needed to further consumer protection and to meet the challenges posed by the financial products and services sector – in particular the payment protection insurance claims market, and to ensure compliance with the bans on referral fees and inducements and the policing of a potential increase in unauthorised trading. Therefore, we need to mitigate now against any contraction of the personal injury sector whilst ensuring that full regulatory costs are recovered and regulation remains adequately resourced.

5. For the next regulation year 2013–2014 we, therefore, propose to take the following steps:
 - To increase the application fee from £950 to £1,400,
 - To amend the annual regulation fee by;
 - Removing the current caps of £17,500 where there is no contractual relationship with clients and £30,000 where there is a contractual relationship with clients.
 - Introducing a fee uplift for those claims management companies operating in the financial products and services sector
6. These changes are designed to ensure an ongoing robust and stable self financing position and to allow a more proportionate payment of fees across the whole range of regulated claims management companies. The specific fee proposals are set out at pages 11–13 and **Annex A**.
7. Given the uncertainty of the size of the claims market in 2013–2014, we propose to retain the option of making an in year adjustment at this time next year to the 2013–2014 fees. Further details are set out below in paragraph 43.

Complaint Handling by the Legal Ombudsman

8. In August 2012 the Government announced its intention for the Legal Ombudsman to take on complaints about poor service received at the hands of claims management companies. The Legal Ombudsman will provide a new avenue of redress for clients of claims management companies and will assist the Regulator in driving out some of the poor standards and practices currently seen in the market.
9. The independent complaint resolution service provided by the Legal Ombudsman is free to consumers, with the costs incurred met by the lawyers, and also in future authorised claims management companies. Set out below at page 15 is the estimated costs that the Legal Ombudsman believes it will incur in providing this function for claims management companies. This consultation sets out preliminary proposals for how the costs of complaint handling might be recovered from authorised claims management companies. Further details can be found in Part 2 from page 14.

Introduction

10. This paper sets out 1) the levels at which regulation fees will be set and proposals for the methods of calculation by which they will be collected from authorised claims management companies and 2) preliminary proposals for how the estimated costs of complaint handling by the Legal Ombudsman may be recovered from authorised claims management companies.
11. The consultation is primarily aimed at persons authorised to provide claims management services in England and Wales under the Compensation Act 2006 and those claims management companies and individuals contemplating making an application for authorisation. The register of Authorised Persons is available at: <https://www.claimsregulation.gov.uk/search.aspx>
12. This paper sets out the following:
 - Part 1: The fees collectable for costs incurred through direct regulation of authorised claims management companies.
 - Part 2: Initial proposals for a fee structure to recover the costs of complaint handling by the Legal Ombudsman from authorised claims management companies.
13. The consultation will run for a period of 6 weeks. Copies of the consultation paper are being sent to:
 - All authorised claims management companies and organisations, and
 - The Claims Management Regulatory Consultative Group – see **Annex B** for a list of members.

However, this list is not meant to be exhaustive or exclusive and responses are welcomed from anyone with an interest in or views on the subject covered by this paper.

Background

Regulation Fee Requirements

14. Each year the levels of fees paid by authorised claims management companies are reviewed to ensure that they remain proportionate whilst achieving the principle that regulation should be self financing. As part of the review authorised claims management companies and other interested parties are consulted in accordance with regulation 15 of the Compensation (Claims Management Services) Regulations 2006 (the Regulations).
15. The claims management regulatory regime is intended to be self funding, and therefore all operational costs must be recovered through the regulation fees paid solely by claims management companies and at no cost to the tax payer. In order to meet these costs all applicants must pay an application fee and, if authorised, an annual regulation fee. For all currently authorised claims management companies an annual regulation fee is charged in advance of the regulation year to which it relates. This fee is calculated using information – including turnover submitted by claims management companies as part of the annual renewal process in February of each year.
16. The yearly fee levels determined by the Regulator are based on estimates of income receipts from new applications and authorised claims management companies and the costs of operating the regulatory regime.

Application Fee

17. Persons that wish to provide regulated claims management services must be authorised to do so, unless they benefit from an exemption. To become authorised a person is required to pay an application fee and must go through a detailed application process in accordance with Regulations 8 and 9. If the Regulator is satisfied that the applicant meets the criteria provided for by the Regulations, they will be granted authorisation to provide regulated claims management activities.
18. An application fee is paid by every valid applicant, successful or not, and contributes to meeting the costs of the Regulator carrying out detailed checks in processing the applications, which include verifying the information provided, establishing directors' identities, seeking further information where necessary and reviewing proposed contracts and marketing material. Some claims management companies require more scrutiny due to their complex structures and additional compliance checks carried out on those applicants that have been allocated a higher risk rating.

Annual Regulation Fee

19. Those businesses that are approved for authorisation are required to pay the annual regulation fee before authorisation is granted. This fee is then paid annually whilst they remain authorised. The annual regulation fee contributes to meeting the costs of monitoring, compliance and enforcement functions including handling consumer contacts, investigating breaches of the Conduct of Authorised Persons Rules 2007, regulatory visits, audits and any necessary enforcement action against unauthorised claims management companies.
20. In order to deal with key areas of non-compliance, monitoring and compliance work is targeted appropriately. The annual regulation fee covers the provision of this risk-based monitoring and compliance work with the aim of improving standards across the industry and more effective consumer safeguards.

Complaints handling by the Legal Ombudsman

21. The Legal Ombudsman is a complaints handling body set up under the Legal Services Act 2007 as an independent ombudsman scheme to resolve complaints about lawyers in an impartial, fair and effective way. It currently has the power to consider service complaints about lawyers. Where the Legal Ombudsman finds that the service provided by a lawyer is unsatisfactory, they have the power to ask that it be put right and where appropriate they can award redress, payable by the lawyer, up to a current maximum of £30,000. It is a free service to consumers, with its costs being met by regulated businesses that fall within its jurisdiction.
22. In August this year the Government announced its intention to enable consumers that had received a poor service from their authorised claims management company, to have their complaint considered by the Legal Ombudsman. This will be done by expanding the ombudsman's jurisdiction by commencing the powers provided for by section 161 of the Legal Services Act 2007. Once a commencement date is confirmed all authorised claims management companies will be required to contribute to the costs incurred by the Legal Ombudsman in considering complaints about claims management companies, via their annual regulation fee. In order to do this it will be necessary to amend the fees determination.

Part 1: Paying for Regulation

The Claims Market

23. The claims management market is a fluid market, has the potential to be volatile and is sensitive to changes in economic conditions. These factors make any prediction as to the number of claims management companies that will require authorisation and their volumes difficult. This volatility can also impact on fee income received and the cost of regulating the conduct of authorised claims management companies.
24. Between 1 October 2011 and 30 September 2012, a total of 477 claims management companies surrendered their authorisation. During the same period 283 claims management companies had their authorisation cancelled. However, these market exits were countered with 568 new market entrants.
25. The personal injury sector remains the largest regulated claims sector. It is currently made up of 2,331 claims management companies, and generated a turnover of £455m in 2011-2012, which accounted for 59% of the total £774m turnover declared for the regulated claims sectors. Any reduction in the size of the personal injury claims market will, therefore, have an impact on total fee income. This is a realistic outcome that may result from the imminent bans on referral fees and inducements.

Regulation Costs and Fee Income

Costs

26. A variety of factors make up the cost of regulation, some of which are relatively fixed and easily predicted and others are less certain and incurred through our need to be responsive to shifting demand. The costs resulting from dealing with non compliant claims management companies continues on an upward trend. Increased resources are needed to undertake sector specific compliance projects, further audits and to manage a general increase in consumer, business and stakeholder contacts.
27. As most of these costs are incurred through targeted casework – particularly with claims management companies in the financial products and services sector - they are unlikely to be affected by a reduction in the total number of claims management companies, especially were this reduction to occur in a different sector (e.g. the personal injury sector). Other variable costs are legal and other costs incurred in defending appeals against the Regulator's decisions to refuse, cancel, suspend or vary a claims management company's authorisation.

28. There continues to be concern about the level of malpractice seen in the financial products and services sector – reflected in the fact that the proportion of consumer complaints received about this sector remains significantly high at upwards of 90% of all consumer complaints received. The Regulator is committed to tackling bad practices within this sector and will continue to undertake specifically focused compliance projects. With more regulatory resource applied to the financial products and services sector, consideration needs to be given to whether those claims management companies operating within this sector should bear a larger proportion of the costs of regulation.
29. The regulation costs predicted for 2013-2014 include:
- Maintaining and expanding monitoring, compliance and enforcement activities generally and more specifically in relation to claims management companies providing payment protection insurance claims services,
 - Measures to tackle organised fraud in the personal injury sector,
 - Measures to tackle non-complaint marketing practices,
 - Measures to enforce the bans on referral fees and inducements,
 - Further work on unsolicited SMS text marketing.
30. The costs of regulation for 2012-2013 are expected to be approximately £3.3 made up of monitoring and compliance costs and central costs. This is an increase of £0.25m on the costs incurred in 2011-2012, which predominantly stem from the increased sector specific work with financial products and services claims management companies. It is our intention to continue with this sector specific work in 2013-2014 and to allocate additional resource to the monitoring and compliance of the bans on referral fees and the offer of inducements. Therefore, we have set a working budget of £3.5m.

Fees Income

31. As noted above fee income and therefore the amount of fees paid by individual claims management companies is affected by a number of different factors, for example not all claims management companies continue to require their authorisation into the next regulatory year; a number will fail to comply with regulation and will be cancelled in accordance with our enforcement policy and some claims management companies voluntarily surrender their authorisation as they no longer wish to trade or are unable to satisfactorily meet their conditions of authorisation.
32. The table below sets out the estimated income from authorisation and annual fees for 2012-2013 and estimated income for 2013-2014, this assumes there are no changes to fees and that recent business trends continue. It is clear from the table there is a need to amend the annual regulation fees to ensure we are able to continue to tackle malpractice in the industry through sector specific compliance projects and properly resource the heightened monitoring and compliance work required after the implementation of the bans on referral fees and inducements.

33. A large proportion of the Regulator’s resources are currently focused on handling consumer contacts. Following the Legal Ombudsman taking on complaint handling, there may be a reduction in consumer contacts but this will not result in a reduction to regulatory costs as current resources will be refocused. Any reduction in consumer contacts will allow us to focus more resource in other priority areas of regulation, and the overall cost of regulation would therefore remain unchanged.

Table 1 – Claims Management Regulation – Estimated Income		
	2012-2013	2013-2014
	(£m)	(£m)
Application fee	0.48	0.87
Annual fee	2.82	2.45
Total	3.30	3.32

In Year Fee Adjustment

34. The figures above show we are on target to achieve full costs recovery for 2012-2013. We have only once previously predicted a shortfall of fee income over costs and needed to take the contingency action of an in year fee adjustment. However, the impending bans on referral fees within the personal injury sector and inducements to make a claim provide added uncertainty about achieving full costs recovery in 2013-2014. Should a shortfall materialise in 2013-2014 we may need the flexibility to meet any shortfall with a fee adjustment as part of the 2014-15 fees determination.

Proposals

Annual Regulation Fee Scales for 2013-2014

Application Fee

35. We are proposing to increase the application fee from £950 to £1,400. This increase is necessary to counter the potential decrease in applications and to recover the costs of heightened scrutiny in dealing with and considering applications from businesses wishing to operate in the personal injury and financial products and services sectors. This is a reasonable sum that can be factored into start up costs and recouped without difficulty by most claims management companies once they gain authorisation and begin to trade.

Annual Regulation Fee

36. We propose to retain the annual regulation fee pay scale for 2013-2014. Currently, there are two caps that apply to the annual regulation fee; a) £30,000 where there is a contractual relationship with a client, or b) £17,500 where there is no contractual relationship with clients. As part of last year's consultation process these cap levels were increased and we advised that we may revisit the issue again.
37. In view of the potential instability of the regulated claims market for 2013-2014 consideration has to be given to how this can be mitigated against. For the year 2011-2012 the personal injury and financial products and services sectors recorded an increase in turnover of 33% and 66% respectively, while other sectors saw their turnovers decrease. The turnovers seen in the personal injury and financial products and services sectors are expected to continue in 2012-2013. The caps have not progressed with the growth across the industry and therefore we are proposing that they be removed. To do this will leave over 99% of currently authorised claims management companies fees unaffected. Those affected operate in the either the personal injury or financial products and services sectors and currently pay significantly less as a proportion of their turnover, than those claims management companies in the lower bands. Table 2 sets out the proposed annual regulation fee scales for 2013-2014.

Table 2 – Annual Regulation Fee Scales 2013 - 2014

Turnover under £5,000	Fee = £200
Turnover £5,000 - £14,999	Fee = £300
Turnover £15,000 - £24,999	Fee = £400
Turnover £25,000 - £74,999	Fee = £500
Turnover £75,000 - £132,653	Fee = £650
Turnover more than £132,653	<p>Fee =0.49% of annual turnover up to £1 million</p> <p>Fee =0.332% of annual turnover between £1 million and £5 million</p> <p>Fee =0.24% of annual turnover above £5 million</p>

Financial Products and Services Uplift

38. Over recent years much attention has been focused on malpractice within the financial products and services sector. This together with the magnitude of contacts being received about this claims sector, currently upward of 90% of all consumer complaints, and further complaints received from third parties such as solicitors, banks and other financial service providers, has meant that the regulatory focus has been committed to tackling bad practice in this sector. This increased sector specific work incurs additional regulatory cost which, although necessary to tackle bad practices, raises the question of whether it is fair to recover such increased costs from the whole regulated industry and in particular from claims management companies operating in other sectors.
39. We are, therefore, proposing to charge claims management companies operating in the financial products and services sector an uplift on the amount they pay towards annual regulation. We are mindful that some claims management companies operate in multiple sectors and we want to ensure that any sector specific fee uplift is limited to the regulated activities carried out within that sector. We are, therefore, proposing to charge authorised claims management companies a fee calculated at 0.125% of their annual turnover resulting from regulated activities undertaken in the financial products and services sector. A cap of £25,000 will apply to the uplift only.

40. This fee will be applicable to both new and existing claims management companies, with the uplift to new claims management companies based on their estimated turnover for the financial products and services sector. This will correlate with the current charging mechanism in place for annual regulation fees paid by new claims management companies entering the market.
41. A working example of what the fee proposals will mean for different claims management companies can be found at **Annex C**.
42. Any rebate of annual regulation fees will be payable in accordance with regulation 19 of the Compensation (Claims Management Services) Regulations 2006 (the Regulations).

In Year Fee Adjustment

43. As an additional measure to mitigate the uncertainties of the claims market we need the flexibility to meet any shortfall in fee income with a fee adjustment in the third quarter of the 2013-2014 fees period.

Part 2: Paying for Complaints Handling by the Legal Ombudsman

The Legal Ombudsman

44. Earlier this year the Government announced its intention to widen the Legal Ombudsman's jurisdiction to include complaints about authorised claims management companies, thereby providing consumers with an independent complaints resolution service. The Legal Ombudsman has wider powers to award redress than those available to the Regulator. This will provide added benefits to consumers and should contribute towards reducing malpractice within the regulated claims industry.
45. At this stage the Government is unable to confirm a commencement date for the Legal Ombudsman taking on complaints about claims management companies. There are a number of parliamentary processes that need to be completed prior to any timetable being set, but it will be post April 2013.
46. Once the Legal Ombudsman's jurisdiction is extended, all authorised claims management companies will automatically be covered by the scheme and will have certain obligations towards it. This is inline with other industries currently covered by the Legal Ombudsman, such as solicitors.
47. It is intended that the cost of the service provided by the Legal Ombudsman will be met by the Regulator, and will form part of the Regulator's costs of regulation and recoverable from all authorised claims management companies as an element of the annual regulation fee. We are provisionally consulting on how this cost might be recovered from authorised claims management companies once a commencement date for the Legal Ombudsman taking on complaint handling is known.
48. As the service to be provided by the Legal Ombudsman is new to the claims industry, the costs of providing that service are still to be finalised. However, the Legal Ombudsman has estimated that should they take on consumer complaint handling from April 2013, the costs incurred would be in the region of £3m, including set up costs, which will consist of recruitment, training, marketing, IT and other costs. The set up costs will likely be charged back to the Claims Management Regulator over the course of three years. These set up costs will rise by a flat 10% should the start date occur post April 2013. Set out below are the estimated costs for differing start dates.

Table 3 – Legal Ombudsman – Costs by Estimated Start Date				
	April 2013 (£m)	July 2013 (£m)	October 2013 (£m)	January 2014 (£m)
Complaint Handling	2.87	2.15	1.44	0.72
Set up costs	0.13	0.14	0.14	0.14
Total	3	2.29	1.58	0.86

49. The costs quoted above are the Legal Ombudsman's estimates of the total cost of complaint handling and set up of the scheme in respect of authorised claims management companies. These costs do not take into consideration the value of case fees paid by those claims management companies who have complaints considered. The Legal Ombudsman can currently charge a case fee of £400 for the third and all subsequent case it considers against a respondent. Once the Legal Ombudsman takes on complaints handling, when charged, this fee will be directly payable by the authorised claims management company against whom the case is considered, as is the current situation with lawyers. The total amount of the case fees collected in any one year (1 April – 31 March) would be deducted from the overall cost met by the Regulator. The Legal Ombudsman estimates that it may receive case fee income in the range of £500,000 to £700,000.

Proposals

Annual Fee Scales – in respect of complaint handling

50. Once a commencement date for the Legal Ombudsman taking on complaint handling is confirmed, it is intended that an additional element to the annual regulation fee will be payable by all authorised claims management companies. This additional amount will be calculated separately from the amount paid towards regulation, and will cover the cost of the Legal Ombudsman considering service complaints about claims management companies.
51. We wanted to take this opportunity to make initial proposals for the method of calculation by which the costs of complaint handling may be recovered. Considering the scale of the amount to be recovered, we propose that the most fair and proportionate method of calculation would be based on turnover.
52. Complaint handling will not be a regulatory function and therefore application fee income will not be allocated towards the costs incurred by the Legal Ombudsman. This together with the potential reduction of authorised claims management companies due to the forthcoming bans on referral fees and inducements would prevent full cost recovery if the current annual regulation fee scales were replicated. In order to achieve full cost recovery it would be necessary to revise the fee scales upwards. An initial proposal for the annual regulation fees scales in relation to complaint handling are set out below in Table 4. Under this proposal new entrants to the market would pay a fee based on their estimated turnover.

Table 4 – Preliminary Proposal Annual Fee – Complaint Handling

Turnover under £5,000	Fee = £300
Turnover £5,000 - £14,999	Fee = £450
Turnover £15,000 - £24,999	Fee = £600
Turnover £25,000 - £74,999	Fee = £850
Turnover £75,000 - £224,490	Fee = £1,100
Turnover more than £224,490	Fee = 0.49% of annual turnover up to £1 million Fee = 0.332% of annual turnover between £1 million and £5 million Fee = 0.24% of annual turnover above £5 million

53. These fees will be subject to a single cap of £40,000. The current distinction between claims management companies that hold contractual relationships with clients and those that do not is no longer relevant to the industry and the need for two caps is unnecessary.
54. Having taken into account potential market exits and a reduction in entrants following the bans on referral fees and inducements to make a claim, the initial proposal noted above would recover the full estimated costs of complaint handling for the year April 2013 – March 2014. Therefore, should the Legal Ombudsman commence complaint handling later than April 2013 the costs to be recovered would be reduced through a lower volume of complaints considered in a part year compared to a full year. Please refer to table 3 for an illustration. As such the amounts recovered from authorised claims management companies would be calculated on a pro-rata basis.

Questionnaire

We would welcome responses to the following proposals set out in this consultation paper.

Part 1: Paying for Regulation

- i) **Do you have any comments on the fee scales as set out above in part 1 and the proposed draft fee Fees Determination for 2013 – 2014 at annex A?**
- ii) **Do you have any comments in relation to the proposal to remove the caps on the annual regulation fee?**
- iii) **Do you have any comments in relation to the proposal to charge an uplift on the annual regulation fee for those claims management companies operating in the financial products and services sector, or more specifically in relation to the method of calculation proposed?**

Part 2: Paying for Complaints Handling by the Legal Ombudsman

- iv) **Do you have any comments in relation to the fees framework proposed to meet the costs of complaint handling by the Legal Ombudsman?**

Thank you for participating in this consultation exercise.

About You

Please use this section to tell us about yourself

Full name	
Job title or capacity in which you are responding to this consultation exercise (e.g. member of the public etc.)	
Date	
Company name/organisation (if applicable):	
Address	
Postcode	
If you would like us to acknowledge receipt of your response, please tick this box	<input type="checkbox"/> (please tick box)
Address to which the acknowledgement should be sent, if different from above	

If you are a representative of a group, please tell us the name of the group and give a summary of the people or organisations that you represent.

Contact details/How to respond

Please send your response by 18 December 2012 to:

Ministry of Justice
Anthony O'Brien (Claims Management Regulation Unit)
102 Petty France
London SW1H 9AJ
Tel: 020 3334 6396
Email: claimsmanagementregulation@justice.gsi.gov.uk

Extra copies

Further paper copies of this consultation can be obtained from this address and it is also available on-line at <http://www.justice.gov.uk/index.htm>.

Publication of response

A paper summarising the responses to this consultation will be published in [insert publication date, which as far as possible should be within three months of the closing date of the consultation] months time. The response paper will be available on-line at www.claimsregulation.gov.uk

Representative groups

Representative groups are asked to give a summary of the people and organisations they represent when they respond.

Confidentiality

Information provided in response to this consultation, including personal information, may be published or disclosed in accordance with the access to information regimes (these are primarily the Freedom of Information Act 2000 (FOIA), the Data Protection Act 1998 (DPA) and the Environmental Information Regulations 2004).

If you want the information that you provide to be treated as confidential, please be aware that, under the FOIA, there is a statutory Code of Practice with which public authorities must comply and which deals, amongst other things, with obligations of confidence. In view of this it would be helpful if you could explain to us why you regard the information you have provided as confidential. If we receive a request for disclosure of the information we will take full account of your explanation, but we cannot give an assurance that confidentiality can be maintained in all circumstances. An automatic confidentiality disclaimer generated by your IT system will not, of itself, be regarded as binding on the Ministry.

The Ministry will process your personal data in accordance with the DPA and in the majority of circumstances; this will mean that your personal data will not be disclosed to third parties.

Consultation Co-ordinator contact details

Responses to the consultation must go to the named contact under the How to Respond section.

However, if you have any complaints or comments about the consultation **process** you should contact Sheila Morson on 020 3334 4498, or email her at consultation@justice.gsi.gov.uk.

Alternatively, you may wish to write to the address below:

**Ministry of Justice
Consultation Co-ordinator
Better Regulation Unit
Analytical Services
7th Floor, 7:02
102 Petty France
London SW1H 9AJ**

Annexes

Annex A – Fees Determination 2013

This Determination is made under Regulation 15 of the Compensation (Claims Management Services) Regulations 2006 and sets out the application and annual fees applicable from 1 April 2013.

Definitions

1. In this determination:

'the Act' means the Compensation Act 2006;

'Regulator' has the same meaning as in Section 14 of the Act;

'Applicant' means a person who has applied for authorisation under the Act;

'Authorisation' means an authorisation to provide regulated claims management services under the Act;

'Authorised Business' means a person who is currently authorised under the Act;

'Client' means a person for whom an authorised business is providing a regulated claims management service;

'Regulated claims management service' means the prescribed services set out in Article 4 of the Compensation (Regulated Claims Management Services) Order 2006;

'Turnover' means the sum of the amounts paid to, or received by, an authorised business in respect of regulated claims management services, including:

- a) charges, commission, the share of any compensation, fees and subscriptions, and
- b) the monetary value of any services received by the authorised business where it makes no payment for those services or where the payment received is worth less than the monetary value of the services, and
- c) the monetary value of any advertising in respect of the authorised business that it has not paid for out of funds referred to in sub-paragraphs (a) and (b);

'Annual turnover' means

- a) The authorised business's or applicant's turnover for the 12 months to 30 November 2012.
- b) If the business or applicant did not trade for the full 12 months to 30 November 2012, the estimated turnover for the 12 months to 30 November 2013.
- c) Where the application for authorisation is made on or after 30 November 2012, the estimated turnover for the 12 months to 30 November 2013.

Application of this determination

2. This fees determination applies to fees for all applications for authorisation made on or after 1 April 2013 and sets the annual fees for all businesses authorised at and after that date to the end of March 2014.

Application fee

3. An applicant seeking authorisation to provide regulated claims management services must submit an application fee of £1,400.00 with the application form.

Annual Fee

4. Authorised businesses will pay an annual fee. This fee will be equal to the sum of the amounts payable in relation to regulation and the financial products and services uplift, as set out by this determination.

Amount payable in relation to regulation

5. (1) Subject to sub-paragraph (2), authorised businesses shall pay an amount equal to 0.49% of annual turnover up to £1 million, plus 0.332% of annual turnover between £1 million and £5 million, plus 0.24% of annual turnover above £5 million.
- (2) Where the annual turnover of a business is £132,653 or less, then the amount payable will be a fixed fee of –

Annual Turnover of Authorised Business	Annual Fee Payable
Under £5,000	£200
£5,000 - £14,999	£300
£15,000 - £24,999	£400
£25,000 - £74,999	£500
£75,000 - £132,653	£650

Pro rata calculation of amount payable in relation to regulation

6. Where an authorisation is given which has effect from a date on or after 1 April 2013, the fee shall be one twelfth of the sum calculated in accordance with paragraph 5 for each month or part of a month for which the Regulator has indicated that he is minded to authorise the business under the Act. This paragraph does not apply to any person who the Regulator is satisfied has been providing regulated claims management services prior to being authorised.
7. Where the Regulator is satisfied that the business or those who control the business have previously had control of another authorised business then the Regulator may require the business to pay an annual fee calculated by reference to the annual turnover of all of those authorised businesses.

Adjustments

8. Where an applicant has reported an annual turnover figure based on estimated turnover to 30 November 2013 and the actual annual turnover is more than the estimated turnover, an additional charge shall be levied based on actual annual turnover to 30 November 2013.

Financial products and services uplift

9. (1) Subject to sub-paragraph (2), authorised businesses shall pay an amount equal to 0.125% of annual turnover they received from regulated claims management services in relation to financial products or services.
(2) The fee under sub-paragraph (1) shall be no more than £25,000.

Pro rata calculation of financial products and services uplift

10. Where an authorisation is given which has effect from a date on or after 1 April 2013, the fee shall be one twelfth of the sum calculated in accordance with paragraph 9 for each month or part of a month for which the Regulator has indicated that he is minded to authorise the business under the Act. This paragraph does not apply to any person who the Regulator is satisfied has been providing regulated claims management services prior to being authorised.
11. Where the Regulator is satisfied that the business or those who control the business have previously had control of another authorised business then the Regulator may require the business to pay an annual fee calculated by reference to the annual turnover in relation to financial products or services of all of those authorised businesses.

Adjustments

12. Where an applicant has reported an annual turnover figure in relation to financial products or services based on estimated turnover to 30 November 2013 and the actual annual turnover in relation to financial products or services is more than the estimated turnover, an additional charge shall be levied based on actual annual turnover to 30 November 2013.

Compliance

13. Where the authorised business does not provide the annual turnover figures requested, the Regulator may use the previous year's actual or estimated annual turnover figure in relation to financial products or services to calculate and issue an invoice pending the information required being supplied.

Kevin Rousell

(Head of Claims Management Regulation)

Annex B – Claims Management Regulatory Consultative Group

Advisory, Conciliation and Arbitration Service (ACAS)

www.acas.org.uk

Advertising Standards Authority (ASA)

www.asa.org.uk

Association of Regulated Claims Management Companies (ARC)

www.arcmc.org.uk/

Association of British Insurers (ABI)

www.abi.org.uk

Association of Independent Financial Advisors (AIFA)

www.aifa.net

Association of Mortgage Intermediaries (AIM)

www.a-m-i.org.uk

Association of Personal Injury Lawyers (APIL)

www.apil.org.uk

British Bankers Association (BBA)

www.bba.org.uk

British Insurers Brokers Association (BIBA)

www.biba.org.uk

Building Societies Association (BSA)

www.bsa.org.uk

Citizens Advice Bureau (CAB)

www.citizensadvice.org.uk

Claims Standards Council (CSC)

www.claimscouncil.org

Council of Mortgage Lenders (CML)

www.cml.org.uk

Employment Appeal Tribunal Service

www.employmentappeals.gov.uk

Financial and Leasing Association (FLA)

www.fla.org.uk

Financial Ombudsman Service (FOS)

www.financial-ombudsman.org.uk

Financial Services Authority (FSA)

www.fsa.gov.uk

Financial Services Compensation Scheme (FSCS)

www.fscs.org.uk

Law Society

www.lawsociety.org.uk

Legal Ombudsman

www.legalombudsman.org.uk

Motoring Accident Solicitors (MASS)

www.mass.org.uk

National Debtline

www.nationaldebtline.co.uk

Office of Fair Trading (OFT)

www.oft.gov.uk

Solicitors Regulation Authority (SRA)

www.sra.org.uk

Direct Marketing Association Ltd (DMA)

www.dma.org.uk

UK Cards Association

www.theukcardsassociation.org.uk

Unison/TUC

www.unison.org.uk

Which?

www.which.co.uk

Annex C – The Proposals – A Working Example

Total Annual Turnover £	Total Annual FPS Turnover £	Contract with Clients	2012 - 2013 Fee £	2013 - 2014 Annual Regulation Fee				
				Regulation £	FPS Uplift £	Total Regulation Fee £	Complaint Handling £	Total Regulation Fee plus complaint handling £
40,000,000	-	No	17,500	102,180	-	102,180	40,000	142,180
25,000,000	25,000,000	Yes	30,000	66,180	25,000	91,180	40,000	131,180
10,000,000	-	No	17,500	30,180	-	30,180	30,180	60,360
10,000,000	10,000,000	Yes	30,000	30,180	12,500	42,680	30,180	72,860
1,000,000	-	n/a	4,900	4,900	-	4,900	4,900	9,800
1,000,000	1,000,000	n/a	4,900	4,900	1,250	6,150	4,900	11,050
500,000	-	n/a	2,450	2,450	-	2,450	2,450	4,900
500,000	500,000	n/a	2,450	2,450	625	3,075	2,450	5,525
100,000	-	n/a	650	650	-	650	1,100	1,750
100,000	100,000	n/a	650	650	125	775	1,100	1,875
50,000	-	n/a	500	500	-	500	850	1,350
50,000	50,000	n/a	500	500	63	563	850	1,413
20,000	-	n/a	400	400	-	400	600	100
20,000	20,000	n/a	400	400	25	425	600	1,025
10,000	-	n/a	300	300	-	300	450	750
10,000	10,000	n/a	300	300	13	313	450	763
5,000	-	n/a	200	200	-	200	300	500
5,000	5,000	n/a	200	200	3	203	300	503

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