

## Equality Impact Assessment Initial Screening - Relevance to Equality Duties

***Before you complete an Equality Impact Assessment you must read the guidance notes and unless you have a comprehensive knowledge of the equality legislation and duties, it is strongly recommended that you attend an EIA training course.***

The EIA should be used to identify likely impacts on:

- disability
- race
- sex
- gender reassignment
- age
- religion or belief
- sexual orientation
- pregnancy and maternity
- caring responsibilities (usually only for HR policies and change management processes such as back offices)

1. Name of the proposed new or changed legislation, policy, strategy, project or service being assessed.

Claims Management Regulation – Clarificatory amendments to the Conduct of Authorised Persons Rules (Amendments to Client Specific Rules 6 (d), 11 & 18) to assist and protect both claims management companies (CMCs) and consumers.

2. Individual Officer(s) & unit responsible for completing the Equality Impact Assessment.

Ashley Palmer – Claims Management Regulation

3. What is the main aim or purpose of the proposed new or changed legislation, policy, strategy, project or service and what are the intended outcomes?

Aims/objectives	Outcomes
<p>To reduce risk of detriment to consumers, and increase protection of CMCs and consumers by:</p> <ul style="list-style-type: none"> <li>- Amending <b>CSR 6 (d) &amp; CSR 11 (I)</b> to require CMCs, to refer to being regulated by the 'Claims Management Regulator' rather than the 'Ministry of Justice'.</li> <li>- Amending <b>CSR 11</b> to state that a contract can only be agreed in writing between a CMC and a consumer and that a contract must be signed by the consumer before</li> </ul>	<p>An overall improvement in consumer protection and clearer requirements for CMCs</p> <ul style="list-style-type: none"> <li>- Less scope for consumers to misinterpret regulation as a form of endorsement or recommendation by government.</li> <li>- CMC clients to agree contracts in writing thus reducing the risk of unauthorised fee taking by CMCs and a reduction in the</li> </ul>

<ul style="list-style-type: none"> <li>- Amending <b>CSR 18</b> to require CMCs to inform their clients if their authorisation status is varied or suspended.</li> </ul>	<ul style="list-style-type: none"> <li>- Clients of CMCs able to pursue alternative avenues of redress in a timelier manner where a variation or suspension of a CMC's authorisation affects the its ability to pursue a case.</li> </ul>
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4. What existing sources of information will you use to help you identify the likely equality impacts on different groups of people?

*(For example statistics, survey results, complaints analysis, consultation documents, customer feedback, existing briefings, submissions or business reports, comparative policies from external sources and other Government Departments).*

Claims management regulation covers CMCs providing claims management services across six sectors: personal injury, financial services, criminal injuries compensation, industrial industries disablement benefit, employment and housing disrepair services. A CMC can operate within any of those sectors and some operate across all sectors.

An informal consultation exercise was conducted with members of the Regulatory Consultative Group (RCG) between 20 July 2011 and 31 August 2011. The RCG is made up of claims management industry stakeholders and responses were received from: The Association of British Insurers (ABI), The Association of Personal Injury Lawyers (APIL), British Bankers' Association (BBA), Building Societies Association (BSA), Citizens Advice Bureau (CAB), Finance & Leasing Association (FLA), Financial Ombudsman Service (FOS), UK Cards Association (UKCA), Trades Union Congress (TUC) and Which? The informal consultation sought views on any current regulatory concerns that may exist and also set out the initial proposals for specific changes to CSRs 6 (d), 11 & 18 as outlined in section 3 of this equality impact assessment. This exercise, in addition to the Regulator's own internal assessments, was used as a mechanism to formulate the final proposals for the amendments to the conduct rule framework that are being presented. A formal, public consultation on the proposed changes is also planned in order to fully explore the issues identified and the proposals for change. There was no feedback or evidence from the informal consultation that suggested additional work could be done to promote equality of opportunity in relation to these proposals, nor were any equalities issues raised by respondees.

The Claims Management Regulation Annual Report 2010/11 provides information and other statistical data in relation to the regulatory regime. Information collected from CMCs at authorisation and renewal on the ethnicity and diversity of those running CMCs (i.e. Directors) indicates that 51% are White British (compared to 83% of the national UK population<sup>1</sup>), 28% are Pakistani (compared to 1.8% of the national UK population<sup>2</sup>) and the remaining fifth are made up of a variety of ethnic backgrounds including 6% Indian (2.6% of national population<sup>3</sup>) 5% Other White, 4% Other Ethnic Group, 3% Bangladeshi (0.7% of national population) & 3% Other Asian. Certain ethnicities are therefore over-represented compared to the population as a whole, most notably the Pakistani, Bangladeshi and Indian run CMCs. The annual report also shows that almost a quarter of all authorised CMCs are based in the North West region. The next four largest area bases are London, the West Midlands, Yorkshire & Humberside and the South East which accounts for more than half of all authorised CMCs.

The annual report also includes information on which sectors CMCs operate in. The largest sector is personal injury, with 65% of CMC business (based on turnover). Individuals pursuing a personal injury claim might be more likely to have a disability compared to the population as a whole (for example, as a result of an accident that is the subject of their claim). It is therefore likely that

<sup>1</sup> Table EE4: Population Estimates by Ethnic Group Rel 8.0, Office for National Statistics, 2011  
<sup>2</sup> Table EE4: Population Estimates by Ethnic Group Rel 8.0, Office for National Statistics, 2011  
<sup>3</sup> Table EE4: Population Estimates by Ethnic Group Rel 8.0, Office for National Statistics, 2011

disabled people will be differentially affected by changes to the CMC conduct rules.

5. Are there gaps in information that make it difficult or impossible to form an opinion on how your proposals might affect different groups of people? If so what are the gaps in the information and how and when do you plan to collect additional information?

*Note this information will help you to identify potential equality stakeholders and specific issues that affect them - essential information if you are planning to consult as you can raise specific issues with particular groups as part of the consultation process. EIAs often pause at this stage while additional information is obtained.*

The Regulator holds no data in relation to the status of clients using CMCs, such as age, gender, ethnicity or other protected characteristics; the Regulator neither directly collects such information from consumers nor requests it from regulated CMCs. Proceedings between a CMC and its clients are a private and confidential matter in which the MoJ would not typically intervene. Because of this, the Regulator would therefore not endeavour to obtain this information as CMCs are private businesses offering claims management services to private individuals.

While the Regulator does collect data on where CMCs are based, CMCs provide their services throughout England and Wales and a client would not necessarily use the services of a CMC that is local to them. This is especially the case in instances where communication between a CMC and a consumer is undertaken via telephone, post or email. A client in Newcastle for example, could undertake the services of a CMC in London and experience the same level of service as a client based near to the CMC in London. It is for this reason that it is difficult to determine whether consumers in a particular geographical location will be affected more than people in other areas of England and Wales. There is no data held as to the number of clients from the various areas of England and Wales who use claims management services.

It is possible that some of the rule changes could lead to fewer cases being brought through CMCs and this could impact on defendants. The Regulator does not hold any data on the characteristics of defendants in cases brought through CMCs, although defendants are more likely to be businesses (including insurance companies) and government organisations (such as the NHS) than individuals.

Furthermore, the Regulator does not hold precise data on which CMC owners are likely to be most affected by the rule changes. The impact of the rule changes is likely to vary between CMCs. For example, some CMC practices will already be consistent with the proposed rule changes, while others will not. However as indicated in para 3 of box 4 above, we do know that Pakistani, Bangladeshi and Indian run CMCs are over-represented in the market, and will therefore be differentially impacted.

6. Having analysed the initial and additional sources of information including feedback from consultation, is there any evidence that the proposed changes will have a **positive impact** on any of these different groups of people and/or promote equality of opportunity?

Please provide details of which benefits from the positive impacts and the evidence and analysis used to identify them.

Claimants will benefit from a reduced risk of detriment and increased consumer protection. The lack of data on the characteristics of CMC claimants means it is difficult to identify differential impacts. However, it is possible that there could be a positive differential impact in relation to disability as the majority of CMC business is in the personal injury sector and disabled people may be over-represented amongst CMC claimants compared to the general population.

Some CMCs may benefit from the proposed changes; for example, from greater clarity around the conduct rules and reduced consumer complaints. Any benefits to CMCs may have a differential impact on some groups; minority ethnic groups running CMCs are over-represented compared to the general population and there is therefore the potential for a differential impact in relation to ethnicity, especially

for Pakistani, Bangladeshi and Indian run CMCs.

Overall, there may be a reduction in the number of cases brought via CMCs, which could reduce defendants' costs. Defendants may include individuals and businesses, but, due to the lack of data, it is not possible to identify whether there would be any differential impact on individual defendants.

7. Is there any feedback or evidence that additional work could be done to promote equality of opportunity?

If the answer is yes, please provide details of whether or not you plan to undertake this work. If not, please say why.

There was no feedback or evidence from the informal consultation that suggested additional work could be done to promote equality of opportunity in relation to these proposals. Moreover, the informal consultation exercise did not raise any equality issues and the Regulator has been unable to identify any evidence that would suggest that further work in this area is necessary. Further feedback and evidence will be sought via the intended public consultation to be launched in the next few months.

8. Is there any evidence that proposed changes will have **an adverse equality impact** on any of these different groups of people?

Please provide details of who the proposals affect, what the adverse impacts are and the evidence and analysis used to identify them.

Some CMCs may face some small additional costs in order to comply with the amended rules. Any costs to CMCs may have a differential impact on some groups; minority ethnic groups running CMCs are over-represented compared to the general population and there is therefore the potential for a differential impact in relation to ethnicity, particularly for Pakistani, Bangladeshi and Indian run CMCs.

9. Is there any evidence that the proposed changes have **no equality impacts**?

Please provide details of the evidence and analysis used to reach the conclusion that the proposed changes have no impact on any of these different groups of people.

The Regulator, on the basis of the evidence collected, considers that the proposals are likely to differentially impact on Pakistani, Bangladeshi and Indian run CMCs. With regard to claimants using CMCs and defendants however, due to a lack of available equalities data, we are unable to rule out the potential for any differential impact.

10. Is a full Equality Impact Assessment Required? Yes  No

If you answered 'No', please explain below why not?

NOTE - You will need to complete a full EIA if:

- the proposals are likely to have equality impacts and you will need to provide details about how the impacts will be mitigated or justified
- there are likely to be equality impacts plus negative public opinion or media coverage about the proposed changes
- you have missed an opportunity to promote equality of opportunity and need to provide further details of action that can be taken to remedy this

**If your proposed new or changed legislation, policy, strategy, project or service involves an Information and Communication Technology (ICT) system and you have identified equality impacts of that system, a focused full EIA for ICT specific impacts should be completed. The ICT Specific Impacts template is available from MoJ ICT or can be downloaded from the Intranet at: <http://intranet.justice.gsi.gov.uk/justice/equdiv/equal-impact.htm>, and should be referenced here.**

The proposed changes are not legislative changes but rather a change to the Regulator's conduct rules. All CMCs must, as a condition of their authorisation, comply with the conduct rules and it is these

rules that are subject to amendment. The proposals are likely to have a differential impact on CMCs in relation to ethnicity and are also likely to have a differential impact on disabled clients. Neither is considered to be particularly adverse, however, and is considered justified as a proportionate means of achieving a legitimate aim – i.e. that clarifying the guidance and rules is considered appropriate and necessary in all circumstances and will help to assist and protect both claims management companies (CMCs) and consumers.

11. Even if a full EIA is not required, you are legally required to monitor and review the proposed changes after implementation to check they work as planned and to screen for unexpected equality impacts. Please provide details of how you will monitor evaluate or review your proposals and when the review will take place.

The Claims Management Regulation monitoring process is continuous and in line with the current regulatory procedure and systems. If the Regulator is aware that a CMC has breached its rules, sanctions can be put in place under the current legislative framework (The Compensation (Claims Management Services) Regulations 2006). The Compliance Office in Burton-on-Trent deals with the day-to-day operational aspects of the regime and will be able to provide any relevant data to the HQ team in order to take enforcement action as necessary. The monitoring and compliance process is continuous and so any unexpected equality impacts that may occur as a result of the changes would be reassessed as part of the unit's ongoing responsibility to regulate the industry adequately and effectively.

12. Name of Senior Manager and date approved

This EIA relates to amendments to the Conduct of Authorised Persons Rules 2007 (Client Specific Rules 6 (d), 11 & 18).

Name (must be grade 5 or above): Teresa Williams - Deputy Director & Chief Social Researcher MoJ Analytical Services

The relevant senior analyst has advised that the analysis of equality impacts provided is fair and reasonable given the data available.

Department: Ministry of Justice

Date:

Note: The EIA should be sent by email to [analyticalservices@justice.gsi.gov.uk](mailto:analyticalservices@justice.gsi.gov.uk) of the Equality Analytical Programme for publication.