

# Client money consumer protection arrangements

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Published as part of our [Consumer Protection Review Consultation](https://beta.sra.org.uk/home/hot-topics/consumer-protection-review/#consultation)  
[<https://beta.sra.org.uk/home/hot-topics/consumer-protection-review/#consultation>]

In 2023 the Solicitors Regulation Authority (SRA) carried out twice as many interventions (closing down a firm to protect clients' interests) as in 2022, including high profile closures. There are signals that the nature of risk in the sector is changing, and so the SRA is considering its response to risk.

The SRA is undertaking a review of client money consumer protections focusing on those that protect consumers from losing money. Over the long term, the review aims to make sure that:

- Consumers are appropriately protected from losing money when using a regulated law firm;
- Confidence and trust in legal services is maintained;
- There is a competitive, dynamic legal market that supports access to justice through enabling consumer choice while keeping the costs of legal services down.

To support this review, the SRA was seeking to understand what consumers value in terms of protections against losing their money (client money), and the possible trade-offs they believe are acceptable in the provision of these. This research focused on client accounts and the Compensation Fund. This will ensure any changes considered to these protection arrangements during the SRA's review take into account consumers' preferences.

Alongside this consumer focussed work, the SRA engaged with other stakeholders, including within the profession.

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## Regulatory context

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## **Research objectives**

The key objectives of this deliberative project were to:

- Understand wider consumer expectations, existing beliefs and ideals for consumer client money protection in this area.
- Understand the informed consumer preference for client money consumer protection- arrangements in the future, including their stance on tradeoffs in terms of costs vs benefits of different protections.

Given the complexity, we proposed to do this by informing consumers of some of the existing client money consumer protection arrangements and how they might change in the future. This was done in a clear, consumer-centred way which enabled informed deliberation.

The research aimed to test features of protection. A combination of real-life client money consumer protection arrangements and hypothetical changes were tested. The SRA recognise that some of these options may not be feasible to implement, however they were included to help identify features that consumers prioritise and value. This is a typical feature of the deliberation process.

Six elements of client money consumer protection arrangements were explored. Four were taken from current arrangements:

- Client accounts
  - Some law firms hold client money. They must hold the money in special accounts, separate to the running of the firm. Firms that use client accounts pay into the Compensation Fund.
- Third Party Managed Accounts (TPMAs)
  - Rather than holding their clients' money themselves, some firms employ a financial specialist company to hold this money for them (TPMAs).
- Interest on client accounts
  - When money is held in a client account, it can accrue interest. The SRA require a 'fair sum' of this interest to be passed onto the client.
- Caps on payments from the Compensation Fund
  - The SRA collects payments (a levy) into the Compensation Fund from solicitors and law firms. The SRA has the option to increase the levy solicitors and firms pay to cover all claims. Currently, there is a £2m 'cap' on individual claims, and a £5m 'cap' for linked claims that can be applied. However, these could be changed.

In addition, two hypothetical scenarios were introduced to participants. While the SRA are not considering introducing these, they were useful scenarios to help identify features of client money protection that consumers prioritise and value:

- Legal cover insurance
  - We presented a scenario where consumers could choose to take out insurance when they hire a solicitor, akin to holiday insurance. This could insure against dishonesty, loss of money or firm collapse. In the presented

scenario, insurance could even replace the current Compensation Fund and offer compensation for stress and inconvenience.

- Tiered payments from the Compensation Fund
  - We presented a scenario where the SRA could operate a tiered approach to payments. All money would be reimbursed up to a certain threshold, with incremental percentages above that threshold.

This research focussed on the Compensation Fund and client accounts. Other elements of consumer protection for client money are being addressed in other work. The protection arrangement phrasing used throughout is shorthand. For example, client accounts (as a protection) refers to the controls/rules around handling client money in a client account.

## Methodology

### Overview

Given the complex nature of the research topic, a deliberative approach was chosen, in collaboration with the SRA. Deliberative research is a qualitative research method that enables the public to make informed decisions about complex or contested topics and debate their preferences from an informed position.

The research was conducted between 11th July and 8th August 2024. We structured the research in the following way:

- An initial 3-hour face-to-face workshop, run concurrently in three locations (Sheffield, London/Southeast and Cardiff). These workshops introduced participants to the research topic and established starting expectations for consumer protections, before the SRA's current approach and ideas for change were introduced.
- A week-long online community (totalling approximately 90 minutes' interaction with each participant), to aid participant knowledge and understanding of consumer protections and their associated trade-offs.
- A 90-minute online workshop, which built on information shared in the online community to build confidence ahead of the final workshop.
- A final 3-hour face-to-face workshop, run concurrently in the same locations, which aimed to build consensus around principles for the future of consumer protection in legal services.

The figure below sets out the topics covered at each stage of the research and the stimulus used to support discussions.

Table 1: Topics covered in each workshop with supporting stimulus

Stage	Workshop 1 - in person	Online Community	Workshop 2 - online	Workshop 3 - in person
Purpose	To introduce protections in legal services and understand expectations for consumer protection generally, and in legal contexts specifically.	To explore current legal workings, client money protections and potential alternatives and priorities. Protections included: <ul style="list-style-type: none"> <li>• Client accounts</li> <li>• Interest on client money</li> </ul>	To reflect on the information shared in the Online Community and to explore trade-offs in client money protections	To summarise what has been heard so far and to cocreate principles for client money consumer protections in legal services.

		<ul style="list-style-type: none"> <li>• TPMAs</li> <li>• Changes to the Compensation Fund cap</li> <li>• Possible ideas of legal cover insurance and tiered refunds</li> </ul>	using scenarios.	
Stimulus	<p>Scenarios to bring to life the situations when client money consumer protections may be needed in legal services;</p> <p>Video introductions to the protections, regulations and future ideas, building understanding of the landscape and future options</p>	Presenting trade-offs for each protection to help participants explore the cost and benefits of each and begin thinking about what to prioritise.	Introducing different perspectives and information from solicitors and the SRA (including a Compensation Fund claims manager) to help participants take a balanced view and deliberate on their priorities. Polling to understand preferences.	

To mitigate participants forgetting information, we took the following steps:

- At the start of each session, participants were reminded of what they discussed in the previous session and asked to reflect on this.
- Each workshop built on the preceding sessions, but there were common threads and themes across all sessions.

We incorporated a face-to-face deliberative approach into the research because:

- The extended (3-hour) sessions enabled coverage of all the dimensions of the research questions, including principles of client money consumer protections and the different potential future options. This ensured we had confidence in understanding public preferences and that they had been given time to develop their understanding of the issues and a sound rationale for their preferences.
- Face-to-face sessions also helped maintain engagement over a longer workshop
- It allowed for a greater number of people to engage in a group which exposed participants to different views and perspectives.
- It gave opportunity for a greater range of tools and techniques to guide conversations and maintain engagement. For example, immersive scenarios and polling.

## Design and stimulus

To inform the Review, we wanted to hear which protections consumers expect and value the most when using regulated legal services, especially when things go wrong. We also wanted to understand the trade-offs that they view as acceptable between the features of these protections. However, before asking people for their views on Clients Accounts, Third Party Managed Accounts (TPMAs) and the Compensation Fund, they need to be given sufficient information about these concepts. This allowed participants to give informed views on which options or features they preferred.

We provided an explanation for each of the six elements for this deliberative research to participating consumers. Each is shown at the start of each related findings section in this document.

To aid the deliberation process, we designed and developed research materials in collaboration with the SRA and other stakeholders, where appropriate. This included stimulus material, workshop discussion guides and an online community agenda.

### **Stimulus: immersive scenarios**

For the online community and online workshop, we developed hypothetical scenarios to illustrate each of the client money protections tested. The scenarios included a variety of personal characteristics of the client and the circumstances that led them to require consumer protection.

### **Stimulus: trade-offs**

For the online workshop, trade-offs for each protection were developed. These illustrated the potential benefits and drawbacks of each.

### **Stimulus: presenting different perspectives**

Throughout the research, we ensured that information on current and potential future client money protections was presented in an impartial way. Participants were shown multiple perspectives on the protections, highlighting views of people within the sector who were positive about the current protections available, and those who felt the protections needed revising. This was important to make sure discussions were balanced and incorporated perspectives beyond the consumer point of view.

Participants saw materials from a range of different channels, including videos, online information, social media posts, written materials, short presentations and Q&A sessions.

They heard different opinions and ideas from the SRA as well as solicitors with different viewpoints on consumer protection, and from a claims manager with experience of dealing with consumer claims. The consumers also heard the voices from fellow participants, some of whom had used legal services.

### **Discussion guides**

All discussion guides were developed in collaboration with the SRA.

### **Sample**

Across the three locations, we recruited a total of 42 participants. We recruited a sample broadly reflective of the general population of England and Wales to include an even gender split, a spread of different ages, socio-economic group and ethnicities. Retention was high across the research stages - 39 participants took part in every stage.

To maximise diversity, we set quotas across the sample to ensure we heard from a mix of consumers, including:

- A mix of those who had engaged legal services in the past two years (some of whom required solicitors to hold their money) and those who had not engaged legal services.



- A mix of attitudes towards risk in financial matters. This was included as research suggests people's attitude to financial risk impacts their preferences for financial protection and therefore could impact views on consumer protections.
- Representation of those with long-term health conditions.

The participants were recruited from three broad locations across England and Wales: London & the Southeast, Sheffield and Cardiff. Fourteen participants were recruited per location. A full breakdown of the sample can be found in the Appendix.

To identify and recruit participants for the research, we used our network of freelance qualitative recruiters based in the chosen locations. All profiles were reviewed by a Thinks team member before participants were confirmed.

Please note – opinions and preferences expressed throughout are those of participants involved in the research and not those of the SRA (except where views are specifically labelled as the perspectives of solicitors or the SRA).

## Key findings

Figure 1: Diagram of key findings

<b>WHERE to focus Protections</b>	Risk prevention and/or reduction				
<b>WHAT to deliver</b>	Equal treatment	Timeliness	Simplicity	Transparency	Protecting the fund
<b>HOW to deliver</b>	Empathetic				

- **WHERE to focus protections:** Participants felt strongly that the SRA should focus first and foremost on reducing risk and preventing the misappropriation of client money, before focusing on what happens after something has gone wrong. Participants expected that effective legal service protections would minimise the likelihood of risks to client money materialising. This would mean consumers were less likely to be left in a position of having to seek out reimbursement of funds. If client money consumer protections could prevent bad actors or mistakes at source, participants believed that this would reduce the need for reimbursement.
- **WHAT to deliver:** Participants arrived at a clear set of principles (equal treatment, timeliness, simplicity, transparency and protecting the fund) which they believed client money consumer protections should deliver against, to ensure that they are consumer-centric and fit for purpose. Equal treatment was the most crucial.
- The client money protection arrangements which participants most supported performed well against these principles – particularly equal treatment of all claimants. These principles were based on their positive and negative experiences of using consumer protections across a diverse range of sectors, then refined in the context of legal services.
- **HOW to deliver:** Participants emphasised that consumer protections should be delivered in a way which demonstrates empathy for the consumer, particularly in a context such as legal services where there might be considerable stress and large sums of money involved.
- This was linked to the fact that most have high expectations of the legal profession, and given the knowledge imbalance between the solicitor and client, felt that they were in a position of needing to trust solicitors. They expected to be treated in a way which recognises their position as a client, with respect and humanity.



- Most participants were willing to pay marginally more for their legal services if it meant that they would receive stronger client money consumer protections and have a greater chance of full reimbursement, especially if it reduced the risk of them losing money – that is, if the protections provided are to reduce the risk of money being misappropriated. When polled in the final workshop, almost all participants opted to pay more for stronger protections.
- They acknowledged that while the client money protections which meet their preferences would come at an increased cost, there was some unease amongst participants that this would likely be passed onto consumers. However, the level of protection was seen as a more important consideration than a marginal increase in cost (although cost certainly remained an important consideration).
- Throughout the process, core to participants' expectations was the importance of consumers not losing their money.
- Should consumers lose out financially, whether that be through stolen or lost money or unsatisfactory services, participants consistently felt that consumers should be able to get all of their money back. They felt it should not matter whether claims were related to the same incident, and do not see a lack of funding as a reasonable excuse. This linked back to participants' preference for tackling issues at the core and taking a preventative approach to protecting consumers. They were also willing to pay a small amount more if it would ensure this would be the case.
- Participants felt strongly that if it is not possible for there to be a full refund (for example, if a linked claim exceeds cap and fund cannot fully refund everyone), any loss of funds should not be shouldered by one – or one type of – consumer but shared out equally, in proportion to what has been lost<sup>1</sup>[\[#n1\]](#). For example, if due to the cap being applied, only a certain percentage of the money lost could be refunded, participants preferred the idea of everyone receiving that percentage of what they lost, rather than some receiving all their money back and others not. However, they believed that any loss of funds, no matter the individual's financial situation or amount of money lost, is unacceptable. Although participants acknowledged the importance of protecting vulnerable people, they wanted equal treatment in the process, meaning that if it is not possible for all consumers to receive full refunds, any losses to funds should be shared out equally between those involved.
  - When polled in the final workshop, the majority chose to treat all claims the same rather than prioritising claims based on personal characteristics, such as income or amount of money lost.
- Client money protections that reduced the risk of money being lost were prioritised over redress. This was reflective of how highly they prioritised a focus on risk prevention, rather than on redress. In polling, the vast majority of participants chose prioritising protections to reduce risk to client money and a very similar proportion voted for a preference of having their money held by a TPMA versus a solicitor. Even though it did not achieve the highest ratings against the principles for delivery, ultimately it addressed the issues which consumers were most concerned with.
- Conversely, the concept of tiered payments from the Compensation Fund was disliked because participants felt that it was unfair to penalise a consumer for having more funds to lose, even with the understanding that the majority of claims on the fund would be well below the first tier. In polling, the majority of participants voted for there to be no tiers on payments.
- The regulation that specifies that clients must receive a "fair sum" of the interest earned on their money in a solicitors' client account was seen as too vague, not ensuring equal treatment or transparency.

So, what would an ideal world look like? In an ideal world, there would be far less need for consumer protections to manage refunds when something goes wrong,

because the way solicitors engage with client money is very carefully managed (to an even greater degree than it is currently) to reduce the likelihood of misappropriation. Consumers viewed TPMAs as an important part of this. Consumers felt that placing their money with an impartial third party would, in their view, provide security, while also not delaying transactions. However, consumers did have some questions about how TPMAs would operate, the answers to which at this stage are unknown.

In this ideal world, in the rare event that something does go wrong:

- The Compensation Fund is in place to offer full refunds, underpinned by a spirit of equal treatment across all consumers eligible to claim.
- An individual's -personal characteristics, wealth or the nature of the legal services they used does not affect any payout from the Compensation Fund.
- Consumers needing to make a claim would be dealt with by a claims manager who personally keeps them informed on the progress of their claims, and most payments are given quickly.
- This system is easy to use, especially for those needing support. It ensures that everyone is treated equally, both while they make their claim, and when it comes to the amount they receive.

In this world, participants would expect that legal services might have increased in price to help provide these client money protections. Of course, in an ideal world there would be no increase in cost. However, if there must be, the increases faced by consumers are shared amongst everyone and are assumed to be small, so do not significantly impact the affordability of legal services.

1. The scope of this research included individual consumers, small businesses and charities. Participants did not discuss large businesses.

## **What consumers expect and want from protections**

### **5.1 Initial understanding and expectations of consumer protections beyond the legal sector**

#### **5.1.1 Familiarity with consumer protections**

Most participants were aware of general consumer protections and could spontaneously describe various forms of a consumer protection across a range of sectors. Participants had a good understanding that there are different regulators for different industries, although they did not name many specific regulators. It is worth noting that most participants did not spontaneously use the specific language of 'consumer protection', however, it was clear the concept was understood in discussions.

When participants spontaneously thought about consumer protections, they generally thought about buying goods, rather than services. Whilst most had first-hand experience with seeking consumer protection for a product, they were less certain what protections they could expect when buying services, particularly professional services like using a solicitor. However, the general assumption was that they would be compensated in a similar way to when purchasing goods if there was a problem.

When prompted on how they would seek out information about consumer protections across a range of sectors, participants said they would look at online forums or use websites such as Money Saving Expert.





"Nowadays I think the information is really easy to find on online forums – whatever problem you have had, someone will already have had it. Whatever issue you have had, there is a community online discussing their experiences which makes it so much easier." – Female, London & Southeast, Workshop 1

Some participants shared their own experiences of receiving faulty goods, services or of being scammed, but with generally positive outcomes.

"I got scammed on Depop, a poster was advertising trainers [to sell] and nothing came [when they were purchased]. I rang my bank and they gave the money back and opened up a dispute." – Male, Cardiff, Workshop 1

"Monarch airlines, for example, ended up going bankrupt before my flights with them. The money I claimed due to this did not come from Monarch, it came from ATOL Protect or something like that. So, it must have come from their insurance companies." – Male, Sheffield, Workshop 1

Others spoke about experiences where they found it more challenging to find the answers they needed, or were left to feel that they had to battle to defend their rights, rather than being protected:

"Our telly broke and we were really skint, we just got married, so I rang up [company name] and they said there was nothing we can do about it. I looked into the Sales Goods Act and I found the manufacturer had a legal responsibility to mend it. They came to the house and mended it – it was all resolved once I said I know my rights." – Female, Sheffield, Workshop 1

"I had a journey where it took 9 hours to get to Glasgow, meaning I had missed the whole day of activities I had planned. I was referred to different people constantly to sort this out. In the end it took me months to get the money back. They refer you to the internet, which then comes back with decisions that say no, and you have to pursue it further." – Male, Sheffield, Workshop 1

"During Covid, my husband and I were planning to get married but obviously the wedding could not go ahead [because of restrictions] but I still lost my deposit for the venue and I wish I knew places to complain to." – Female, London & Southeast, Workshop 1

Several participants specifically described the challenges they faced with transport or travel services, and the barriers to receiving refunds or compensation for when things have gone wrong. This is a sector where several participants have experience of using customer protections. Participants spoke about the difficulty of having to go through multiple channels to receive compensation for train delays, which they said can often deter people from spending the time pursuing what they are owed.

When asked what consumer protections they are aware of, or have used previously, participants frequently mentioned:

- Credit card protection (Section 75);
- Financial Services Compensation Scheme protection;
- Tenancy Deposit Scheme;
- ATOL (Air Travel Organiser's Licence) protection;
- Food Standards Agency (FSA);
- Various ombudsmen (e.g. housing and financial).

However, although there was awareness that these consumer protection schemes exist, there was little in-depth understanding of how these schemes work or how they are funded. Participants acknowledged that the process and policies would vary widely, depending on the item or service that the protection covered.

All participants felt strongly that consumers are entitled to protections on the goods and services they purchase. A minority felt sceptical or guarded about some forms of consumer protections, where it can feel like 'up-selling' (such as insurance and extended warranties for goods). These participants were concerned that some organisations may be trying to persuade people to buy into something that they do not need and potentially take advantage of people.

### **5.1.2 What people expect from consumer protections**

Most participants started the deliberation process with clear expectations of consumer protections. In general, as a starting point, participants felt that the providers of consumer protections should:

- Provide reimbursement or replacement for the item or service, or fix the issue without any additional cost to the consumer;
- Ensure the provider of the good or service is accountable for their mistake or dishonesty and that action can be taken against them, such as removing their ability to trade, where necessary;
- Provide advice, guidance and knowledge to consumers about their rights and the steps they need to take to seek redress.

A few participants also expected client money consumer protections to offer what might be traditionally viewed as compensation (that goes beyond the financial loss incurred) when things go wrong, particularly when issues have led to emotional distress and/or general inconvenience or stress.

Additionally, participants wanted providers of protections to make them feel cared for and valued as a consumer. They felt strongly that the process should be clear and simple to understand, should be free of jargon and have clear direction, so the onus is not on the consumer to dig deep into policies to determine the steps to take. They valued having a personalised process to suit people's needs, and being able to talk to a person, rather than just completing online forms.

"We do not usually think about it but having clear lines for procedure or policy for when it does go wrong is probably best practice." - Male, London & Southeast, Workshop 1

"We should not have to bother with safeguarding ourselves. We should have consumer protections in place so we do not have to do this ourselves." - Female, Sheffield, Workshop 1

"Every person is different and should have a personalised experience. Problems do not fit into an FAQ. Products and protections should be personally handled. If you do not know how to use it, you need to know who to contact." - Male, Sheffield, Workshop 1

Some participants described how their trust in the consumer protection process varies depending on factors such as how reputable the organisation or regulator is, or what their experience is with the people they speak to. A couple of participants said they take extra precautions, such as increased due diligence, when purchasing goods or services, and felt that the individual must also take some responsibility to protect themselves.



### Case Study: Taking precautions

Moira\* has had some bad experiences in the past, which means she now always looks closely into who and where she is purchasing goods and services from before buying.

She wants to make sure she protects herself from the risk of loss of money through choosing the right payment method and looking into the vendors' returns and other policies. She also likes to know if she can access a customer care centre, and where this is based to know if she is likely to be able to communicate with them.

'Then from there, decide how to pay; whether I will use my Visa or credit cards to get the best chance of insurance. I want to know that I can ring my bank and say 'I am not getting my refund back'. This is why I sometimes use PayPal...'- Female, Sheffield, Workshop 1

\* Participant names have been changed

A few participants noted that where consumer protections are acting well, a consumer would not even know they are there. They acknowledged that for most goods or services you buy, you do not often know protections are available, or think too deeply about the regulation behind them, mostly because things go smoothly so there is little need to access protections or regulation.

"You only tend to hear about them when you are looking. Re. the banking ombudsman because of the financial collapse. We have heard about Ofwat because they are dumping gallons of sewage so do not hear about them till you need to. [sic]" – Male, London & Southeast, Workshop 1

A few participants were concerned that some consumers might avoid getting in touch with regulators for fear they might not understand the process, or they would not have the time or money to pursue it, leaving some people more at risk of being out of pocket.

"A lot of people are frightened to get in touch with the regulation organisations because they do not understand it and money, it seems expensive and it is hard work for them, they do not understand their rights." – Male, Cardiff, Workshop 1

### Key takeaways: What people expect from consumer protections

- Most participants were aware of consumer protections in some form across a range of sectors but had little in-depth understanding of how schemes work or are funded.
- Participants were less familiar with what protections they could expect when buying services, particularly professional services like solicitors.
- Participants had some clear expectations of consumer protections, including receiving reimbursement or replacement for an item or service, ensuring the provider is accountable for any issues and providing guidance and advice for consumers.
- It is important that protections are simple to understand, have a clear direction and a process which can be personalised to suit people's needs

### 5.2 Expectations from protections in legal services

To inform discussions, a broad outline of legal client money consumer protections was explained to participants. In addition to the factors above, they were informed



about professional indemnity insurance (PII), when consumers can complain to the legal ombudsman and the criteria for claiming from the Compensation Fund. Following this explanation, participants were clearly informed that our discussions in this deliberation would focus on client money and claims from the Compensation Fund.

#### **5.2.1 Initial understanding of legal services and the SRA**

Participants, across the board, were not familiar with the regulation of legal services and there was little unprompted awareness of the SRA. However, there was a (mistaken) assumption that all legal service providers are regulated, and bound by strict rules and regulations to deliver legal services to their clients. In comparison to other sectors, participants were less clear on what client money consumer protections for legal services would look like.

For some, the concept of a client money consumer protection for using legal services seemed like an odd concept, as they believed the legal profession is all about protecting clients and maintaining a relationship of trust. Some felt particularly uneasy contemplating the thought that solicitors – which they perceived as such an upstanding profession – may in some (albeit rare) cases not do their jobs properly, be dishonest, or may even steal clients' money.

"None of us have heard of the SRA tonight, but we have all used solicitors, so why is it we have heard of Ofcom but not the SRA?" – Female, Sheffield, Workshop 1;

#### **5.2.2 Perception of importance of protections in legal services**

However, participants agreed that it is important for client money consumer protections to be in place, so consumers do not lose out financially when using a service, or if their money is lost or stolen by a solicitor. They expected solicitors to be able to reimburse any money lost but had concerns about what happens in situations where that is not possible, such as where a firm has declared bankruptcy. Given this, participants were happy to have a third party, such as the SRA, involved to protect them if something were to go wrong. They spontaneously raised the idea of something along the lines of the existing Compensation Fund to be in place so that consumers can receive refunds for any losses due to theft or dishonesty when using legal services.

For many participants, having client money consumer protections in place for legal services was particularly important due to the perceived power and knowledge imbalance between solicitors and their clients. They felt that it could be challenging for consumers to question legal work as they do not have the expertise, requiring clients to put a lot of trust in their solicitors.

#### **5.2.3 Initial expectations of consumer protections in legal services**

Prior to sharing more about consumer protection arrangements for client money, we shared several scenarios specific to the legal profession for participants to explore, and asked them to think about what they would expect in each situation.

Before learning more about consumer protection arrangements for client money in legal services, most participants expected that issues should be treated in the same way, regardless of whether it is an individual or group of people who are affected. Anyone who has lost money, or received an inadequate service, equally deserves to get their money back.



However, participants were split on how this might work in practice, with some feeling it might be easier to get money back if there were more victims (as it might be seen as a larger scale crime or issue), whereas others were concerned that it would be more difficult as people try to claim money from the same source, so a pay-out may take longer.

"It should be handled the same whether it is a group of people affected or an individual. But yes, there will be more of an effort behind it and motivation to sort things out, if there is a larger victimhood." – Female, Sheffield, Workshop 1

At the start of the deliberation, participants were divided on whether funds returned to people who had something go wrong should be distributed based on personal characteristics. Some felt that those who are most vulnerable, financially unstable, or on low incomes should enjoy stronger protections. However, there was a general sense that it is essential for everyone to be protected, no matter the person's situation. Some of the nuances explored were:

- **Low vs. high income:** participants mostly felt that although it is important to protect those who are most vulnerable, a person's income (or amount of money lost) should not define whether they receive reimbursement if they have lost out (eg participants considered that if you are a high earner, you will have proportionally high bills to pay).
- **People who are more vulnerable e.g. people with a learning disability or older people:** some participants expected these groups of people to receive additional support and be prioritised by protections, although once again, this was balanced with the idea that everyone who loses money should be entitled to reimbursement.

"I work extensively with adults with learning difficulties, if you put them in front of someone whose behaviour was not ethical, then they would be at a disadvantage." – Female, London & Southeast, Workshop 1

"How would you pick if everyone is paying for the same service? Everyone is entitled to the same compensations." – Male, London & Southeast, Workshop 1

There was also some concern that distributing payments based on personal characteristics might require additional time and resources, meaning people end up waiting even longer to receive redress.

As well as receiving financial reimbursement for any lost funds, participants felt it is important for solicitors to take responsibility for their faults. Participants did not like the idea of solicitors 'getting away' with it – even if impacted consumers have received compensation or redress. One participant expressed concern that if the SRA was seen to be covering all losses, that this might result in an increase in criminal activity as solicitors become less concerned about ramifications for criminality or providing a poor service.

"If the SRA paid out, everyone would know the SRA will cover them for losses, and in turn there will be more criminal activity." – Female, Sheffield, Workshop 1

A few participants felt like the strongest client money protections should be for cases where a solicitor has been dishonest. This was associated with participants sense of feeling around a solicitor's responsibility, where consumers are more likely to be forgiving and understanding where a genuine mistake has been made. Whereas if a solicitor has been dishonest, participants wanted not only to receive



any reimbursement and/or compensation they are owed but would also like to see the solicitor struck off.

"If you have a client or consumer and then you are breaking the law, I think it is really bad. I think it really does matter. You do not expect the solicitor to break the law. They are supposed to give the best suitable advice. Pure ethics and morals. You are trusting them with very important things – wills, life savings, divorce. If they are breaking the code of conduct rather than it just being a mistake, it is really bad." – Male, London & Southeast, Workshop 1

In addition, conversations turned to the stress and emotional impact that receiving a poor legal service, or losing significant amounts of money may cause. Some participants suggested that there should be greater compensation, beyond the financial sum that was lost, to cover the distress and inconvenience caused. For participants who felt this was necessary, this goes some way to providing care and displaying empathy for consumers. However, most had little expectation that a legal or financial industry would deliver on this kind of 'enhanced' compensation.

Some participants expected more urgent action if a case is related to larger sums of money or is time sensitive, in particular house deposits, where repercussions of consumers not receiving reimbursement quickly may have a larger impact such as stopping a house purchase.

#### 5.2.4 Key principles for client money consumer protections in legal services

When discussing what people expect from consumer protections for client money in legal services, the participants identified six key principles that determine what good looks like. These were developed in early discussions and refined in later conversations exploring protections in greater depth.

- **Equal treatment:** this was the most important principle for participants. They wanted protections to be applied in the same way across individuals (with no prioritisation based on circumstances), and for protections to be equal to individuals (so people receive back the full amount of money they have lost). After views for the treatment of individuals was explored, we asked participants to think about other parties who are able to claim on the compensation fund, such as small businesses. Participants call for equal treatment remained the same, whether the victim is an individual or a small business.
- **Transparent:** the process should be clear and transparent for consumers, who should not have to chase for updates or responses. It should also be clear to consumers at the point of purchase what protections are in place should anything go wrong. Information about protections should be readily available online and accessible through solicitors' websites. If any consumer protections for client money are instigated, it should be as clear as possible to consumers how much money they will receive and why.
- **Timely:** any consumer protections for client money that are in place should be actioned in a timely manner. There was some variation in what 'timely' looked like, dependent on situation, the need for investigation or the perceived urgency of a situation (e.g. potentially losing out on a house sale because of a lost house deposit). Timelines for action and compensation should be as short as possible, and there should be clear expectations up front for when consumers can expect to receive updates and reimbursement.
- **Simple:** linked to the principles of transparency, timeliness and empathy, participants also wanted the process to be simple. Although there was acknowledgement that a consumer will need to provide some evidence to support the case, participants feel strongly that the organisation responsible for





administering the protection should undertake the majority of the work required. Where the consumer does need to provide evidence or participate in the process to support the case, this should be simple, accessible and inclusive.

- **Protecting the fund:** this was not one of the initial principles that came up through early discussions but was added as participants learnt more about the SRA's Compensation Fund. Although important in the context of maintaining a source of finance to reimburse consumers, this was the least important principle for consumer protections. However, participants recognised that protecting the fund, so it is not depleted, helps to ensure protections are equal for everyone and everyone can be reimbursed.
- **Empathetic:** participants felt strongly that the process and procedures around consumer protections for client money should be empathetic, considerate and consumer-focused. Whilst this was not a principle that can easily be mapped against each protection, it should underpin the process of engaging with any consumer. They wanted cases to be handled sensitively, with personalisation to an individual's needs. This means that there should be a range of options available for pursuing the process which are tailored to an individual's needs and those involved in delivering consumer protections for client money should take a caring and empathetic approach.

## **Response to client money protection arrangements**

### **6.1 Overall perceptions of the proposed and existing client money protection arrangements**

In the final workshop, participants were asked to rate each client money protection arrangement against each principle they had previously generated. The protection arrangements discussed were as follows:

- Client accounts
- TPMAs
- "Fair sum" of interest
- Changing the caps on the Compensation Fund
- Tiered payments from the Compensation Fund
- Legal cover insurance

Additional detail is described in section 2 of this report.

The figure below shows the average ratings across all locations.

We used colour-coding to rate the proposed client money protections. This was as follows.

KEY:

- Green = delivers against the principle
- Amber = needs improvement
- Red = does not deliver against the principle
- Grey = not applicable

Figure 2: Chart showing the ratings of each client money protection arrangement against each key principle

**WHERE to  
focus  
protections** Risk prevention

<b>WHAT to deliver</b>	Equal treatment	Timeliness	Simplicity	Transparency	Protecting the fund
<b>Client accounts</b>	delivers against the principle	delivers against the principle	delivers against the principle	needs improvement	needs improvement
<b>TPMAs</b>	delivers against the principle	needs improvement	delivers against the principle	needs improvement	delivers against the principle
<b>"Fair sum" of interest</b>	needs improvement	not applicable	needs improvement	does not deliver against the principle	not applicable
<b>Changing the cap on the Compensation Fund</b>	delivers against the principle	delivers against the principle	delivers against the principle	delivers against the principle	needs improvement
<b>Tiered payments from the Compensation Fund</b>	does not deliver against the principle	does not deliver against the principle	does not deliver against the principle	delivers against the principle	needs improvement
<b>Legal cover insurance</b>	needs improvement	needs improvement	needs improvement	delivers against the principle	delivers against the principle
<b>HOW to deliver</b>	Empathetic				

None of the client money protections, as understood, were seen to be delivering across all the principles. TPMAs, using client accounts and changing the cap are the protections that were most successful in relation to the principles. Notably, these principles were all also thought to deliver equal treatment, which was identified as the key principle by participants.

Tiered refunds delivered against the fewest principles, although it was perceived as being transparent.

## 6.2 Detailed responses to client money protection arrangements

Full explanations of each client money protection were shared with participants.

### 6.2.1 Using client accounts

In summary, participants were:

- Given a brief overview of how client accounts currently operate, including the purpose of client accounts and the SRA's account rules setting out requirements for firms managing, and keeping safe, client money.
- Advised on the amount of the annual levy that solicitors and firms with a client account contribute to the Compensation Fund, and that this has increased this year (and the reasons for this increase).

Starting awareness of client accounts and how they operate was low. Therefore, the benefits and risks associated with this protection had to be explained to participants. To do this, we also had to include examples of where things might go wrong, such as

solicitors stealing money from client accounts, even though this is a highly unlikely occurrence.

Given this additional context and upskilling of knowledge on this protection, participants unsurprisingly raised concerns around the security of client accounts, which were perceived as not fully addressed by client accounts in their current state.

The figure below shows how well client accounts delivered against each of the principles, as rated by participants.

Figure 3: Average ratings of client accounts against each of the principles.

### Client accounts

<b>WHAT to deliver</b>	Equal treatment	Timeliness	Simplicity	Transparency	Protecting the fund
<b>Client accounts</b>	delivers against the principle	delivers against the principle	delivers against the principle	needs improvement	needs improvement

Participants recognised that client accounts are likely to aid fast transactions because they are handled directly by the solicitor, and agreed that they represent equal treatment and simplicity. Concerns arose around transparency in particular – they worried that solicitors have control over money in the client accounts, and this is always a small risk – though one which can have a large impact in the rare event that things do go wrong.

### Initial response

For the most part, participants had not considered the safety of their money in a solicitor's client account before taking part in the research. Upon hearing that funds could potentially be misappropriated or otherwise not used for their intended purpose, they were concerned and questioned the security of the existing system. Their assumption was that money in a client account is accessible to solicitors, and so it can be difficult to physically stop them taking it. This is in spite of the explanation shared that these occurrences are rare – and recognising that there are rules and regulations for how solicitors use client accounts which should prevent any dishonesty. While to begin with, they had considered solicitors to be highly trustworthy, hearing that there has been a recent increase in claims on the compensation fund changed their perceptions and sparked some concerns.

### Response to trade-offs

We explored trade-offs between:

- Security
- Timings of payments out of the account
- Control

### Response to different perspectives

We did not specifically share perspectives from solicitors and the SRA on using client accounts, but they responded to perspectives on TPMAs and reform of the client money consumer protection arrangements more generally.

The different perspectives and information shared with participants were:



- It is important that TPMAs do not introduce additional workload for law firms, delay in transactions, and additional expense to consumers when compared to client accounts.
- Solicitors could potentially lose control of, but still have responsibility for, the client money processes.
- Having to pass the money through third party control could make the process more time consuming for solicitors.

Participants' views evolved after hearing the perspective of some solicitors who did not favour reforming the client money protections. After hearing this, there was some sentiment among participants that there is no need to "fix what is not broken" because client accounts have generally worked for a long time.

Hearing this perspective resonated with some, who understood from this that if a solicitor has decided to do something dishonest with client money, it might be difficult to physically stop them, and so moving away from client accounts may not achieve a lot.

Client accounts were seen to fulfil the principle of transparency better than some other protections for client money because there is no third party involved which the consumer does not communicate with directly. This means that they know who to contact and how, should they have any concerns. But upon reflection, a greater understanding of client accounts – especially when compared with TPMAs – did not increase participants' confidence and trust in legal services. Other protections (which we will discuss below) made a far more tangible impact on confidence and trust.

#### **Final view**

Client accounts were not perceived by participants as doing enough to drive confidence and trust because they were not seen to do a good enough job protecting client funds from solicitors who are not adhering to the rules. These were acknowledged to be infrequent, but high impact occurrences.

#### **6.2.2 Third Party Managed Accounts (TPMAs)**

In summary, participants were:

- Given an overview that, rather than holding client money themselves, firms can currently choose to employ a third-party financial specialist to hold client money.
- Provided with a brief overview of the SRA's requirements for TPMA providers (must be regulated by the FCA etc).
- Informed that:
  - As specialists, TPMA providers have systems/processes in place for dealing with large sums of money and to keep it secure.
  - These systems are likely to be more secure against cyber-threats than a client account but, due to the large amounts of money held in one place, like banks, could be more of an attractive target for cyber criminals.
  - They are one step removed from the solicitor, which may present as an additional step to be coordinated.
  - May increase cost of legal services if it is more costly than running a client account. Conversely, it may not increase the price to consumers if it is a similar cost and/or if it decreases the cost of a firm's PII.
  - The Compensation Fund may be smaller. This is because if firms use TPMAs instead of client account, there is no need for them to pay the Compensation Fund levy.

Participants were initially reassured by the idea of a TPMA. When introduced further to the idea, they had concerns that the third party is chosen by the solicitor and is not in direct contact with the client. But ultimately, they felt that this added protection is worth paying for (were it to cost more than traditional banking services, and once any reduced PII costs are accounted for). They gave it the most support in terms of polling, in spite of not rating it the highest overall against the principles for what to deliver.

The figure below shows how well TPMAs deliver against each of the principles, as understood by participants.

Figure 4: Average ratings of TPMAs against each of the principles.

<b>WHAT to deliver</b>	Equal treatment	Timeliness	Simplicity	Transparency	Protecting the fund
<b>TPMAs</b>	delivers against the principle	needs improvement	delivers against the principle	needs improvement	delivers against the principle

Like client accounts, participants believed that TPMAs offer simplicity and equal treatment – all consumers are treated the same, and participants find TPMAs relatively easy to understand, in part because they were likened to more familiar services like Paypal or rent deposit schemes. However, they did have some unanswered questions, and some conceptual assumptions were made by the research team in order to test the relevant parameters. It was made clear to participants that there are differing views on the impacts on timings and costs of using TPMAs, as opposed to client accounts. However, while acknowledging that there's a possibility of higher cost or slower transactions, and that transparency may be reduced because clients are not directly connected with the TPMA provider, they saw TPMAs as a way to reduce the risk of financial loss, protecting the consumer and the Compensation Fund.

#### Initial response

TPMAs were initially well understood by participants – some made a connection to housing deposit protection schemes where an impartial third party is responsible for holding the money. Familiarity with the principle offered reassurance on the concept of TPMAs. Participants saw them as a way of making client money safer because it is held separately from solicitors. Participants were also reassured that according to the SRA's rules the providers of TPMAs are regulated by the Financial Conduct Authority (FCA), a regulator they were somewhat familiar with.

"I would feel secure knowing that the money is handled by a financial specialist regulated by the Financial Conduct Authority (FCA)." – Male, Sheffield, Online Workshop

There were questions raised about whether the client would have the opportunity to choose the TPMA provider themselves – while participants would prefer to choose, they recognised that they did not necessarily feel informed enough to make this decision. When informed that they are unlikely to have the choice, participants were slightly less trusting of TPMAs, but the understanding that TPMA providers are FCA-regulated helped to ease this concern.

When initially reviewing TPMAs, some participants pointed to the potential for complication and delay. They were mindful that transactions made with solicitors can be time-sensitive, and so any delay can be a problem.



"I would just be concerned it could cause further delays on completion of the house as it is extra steps to moving the money around." – Female, Sheffield, Online Community

Response to trade-offs We explored trade-offs between:

- Cost
- Security
- Timings of payments out of the account
- Choice of provider

When trade-offs have been discussed, TPMA providers were still viewed as the most effective of the client money protections at driving confidence and trust, having a more positive impact on the consumer than a negative one. There were two key reasons for this: adding an extra level of security (in the rare event that a solicitor decides to try to misappropriate funds), and keeping money safe from cybercriminals.

It was explained that as financial providers, TPMA providers are likely to have stronger protection against cybercrime than solicitors' firms. The possibility of stronger protection against cybercriminals (when compared with client accounts) was appealing, especially in the context of high-profile cyber-attacks/data breaches reported in the mainstream news. This outweighed concerns that a TPMA is a bigger, more appealing target for cyber-crime than individual client accounts which are likely to have less money in, but may have less sophisticated guard-rails.

Participants were mindful that a third party chosen by their solicitor creates a situation in which they cannot personally contact the party holding their money. For some this was concerning because of the urgency of some transactions, but for most, it seemed like a price worth paying for this increased security.

"I think it is more secure than the solicitors holding it themselves, but I think it should be almost not solicitor determined. If they are doing wrong things they could advise the TPMA. I think it should be a FCA list of TPMAs to select from and ask the client which they would like." – Male, London & Southeast, Workshop 2

#### **Response to different perspectives**

The different perspectives and information shared with participants were:

- If solicitors know what third party managed accounts (TPMAs) are available, and understand the pros, cons and cost of them, they might decide to use them and offer greater protection. If consumers knew more about them as well, they could make more informed decisions about protections offered by different firms.
- It is important that TPMAs do not introduce additional workload for law firms, introduce a delay to transactions, or additional expense to consumers.
- Solicitors could potentially lose control of, but still have responsibility for, the client money processes.
- Having to pass the money through third party control could make the process more time consuming for solicitors.

Hearing the perspectives of solicitors, some of which are positive and some of which are more cynical about TPMAs, participants were inclined to take the positive outlook on board. They were mindful that using a TPMA might impact public perceptions of trust in the profession. But it was reassuring for them to hear a solicitor whose perspective aligns with theirs and validates their support for this protection.





They recognised the concerns that some transactions might be slower, but upon discussion, most put these concerns aside because they could not see a practical reason why a transaction could not be carried out quickly, provided the TPMA provider was reputable and efficient.

"[It is] fairer for us but they have to be organised. I know that I have got this on this day which needs completing so I need to email them on this day - could be an issue but could go either way." – Male, London & Southeast, Workshop 3

Consumers reflected that it was important to look at what is possible to reduce the risk that consumers suffer harm in the first place, representative of their wider preference for addressing the risk at source rather than focusing on the consequences. So, whilst some were concerned that more solicitors using TPMAs would reduce the size of the Compensation Fund, they would prefer client money to be more secure in the first place.

### **Willingness to pay more**

Participants ultimately recognised that they might have to pay for what they perceive to be a better, more secure service. They were comfortable with this, provided that the increase in cost is not a large one – £50 was spontaneously mentioned in multiple locations and felt to be reasonable by participants, especially as legal services were perceived as very costly. Another reason that participants were willing to accept extra costs was the fact that they purchase legal services very infrequently.

As with other protection arrangements for client money, there was a frustration that any increase in solicitors' costs seems likely to be passed on to consumers. Particularly when the objective is to protect clients from dishonesty or negligence, participants intuitively felt that these are costs that solicitors should cover.

"It seems to me like if you are getting charged extra, you are paying extra because the solicitors cannot look after the money properly so they are just passing on responsibility and charging extra." – Male, Sheffield, Workshop 2

Participants also had questions on the cost of TPMAs – they were curious to know whether they would be explicitly billed for this, or whether it would be rolled into the solicitor's costs. Most assumed that this cost would be explicitly spelled out for them, and this would be reassuring from the standpoint of wanting to know what service they have purchased.

Final view Participants were highly supportive of TPMAs. This support reflected their preference for risk prevention, rather than redress. This protection was thought to deliver equal treatment, which participants placed the greatest importance on and was ultimately viewed as the most effective protection for keeping their money safe (due to the extra security provided by financial specialists). When polled at the end of the final workshop, the vast majority said they would prefer to have their money held in a TPMA, rather than a client account.

### **6.2.3 Getting a 'fair sum' of the interest on money in client accounts**

#### **An explanation for the inclusion of this question in the research**

The SRA wanted to understand the public's views on their rule that clients should be paid a "fair sum" of interest on the money held on their behalf by a solicitor. In

practice, this rule tends to mean that clients are paid the level of interest they might expect to have earned had they held the money themselves in a savings account, with any additional interest (due to client accounts sometimes benefitting from higher rates) kept by the firm.

In summary, participants were told:

- About the current rules around interest that firms must pay on money they are holding for clients, ie that they must pay a 'fair sum of interest' to those clients.
- As all client money can be pooled together in one account, firms may get a higher interest rate than is possible for consumers.
- Engagement with the legal profession as part of the Consumer Protection Review of client money has shown that some firms pay some of the interest earned to clients, and keep the income from higher rates to themselves. Some use this money to offset their banking and administration costs or subsidise legal fees. A small number of firms have said that they use the margin made on client interest as an income stream and would find it difficult to remain in business without it.
- That the impact of firms giving all interest to clients might mean they may have to increase prices, which could lead to a loss of business and perhaps closing down (for a few firms) which can reduce options for consumers.
- Further exploration was needed on interest on money held in TPMAs as information received to date is mixed (some providers say they do not keep interest yet some firms claim not to be aware of this arrangement).

At first, participants felt that all interest earned on client money should be given to the client. With more consideration they were comfortable with solicitors retaining at least some of the interest, whilst making sure that the consumer does not financially lose out.

Figure 5: Average ratings of a "fair sum" of interest paid on client money against each of the principles

<b>WHAT to deliver</b>	Equal treatment	Timeliness	Simplicity	Transparency	Protecting the fund
<b>"Fair sum" of interest</b>	needs improvement	not applicable	needs improvement	does not deliver against the principle	not applicable

This protection arrangement for client money was rated poorly against the principles. Ultimately, participants believed it was fair for clients to receive all interest earned. They also felt that the language of a "fair sum" is not clear or specific enough to ensure that consumers are properly compensated.

#### Initial response

Participants had largely not, until the research, considered that their money being held by a solicitor might earn interest. A small minority had considered this with regards to inheritance, but for most it had not been a consideration. This was often because their money had not been held by solicitors for long



enough for interest to be a consideration, in their view.

"A solicitor held my money for a week or so when I moved recently, I guess with interest rates being good they would have earned a bit of interest in that. Money worth having I guess." – Male, Sheffield, Online Community

However, their initial response was a preference for all interest earned to be paid to the client as they saw no reason for the solicitor to have any claim on this money. They believed the money belongs to the client, and if not for them it would not be in the client account earning interest, so there is no reason for the solicitor to benefit financially from it. Initially to participants, a "fair sum" meant all of the interest.

"The solicitors earn enough money by being paid for the service, so I do not think they are entitled to any of the interest." – Female, Cardiff, Online Community

#### **Response to trade-offs**

The trade-offs addressed for this protection were:

- Participants were shown different views on what firms do with the interest earned on the client accounts.
- If firms keep some of the interest, they may reduce operational costs, enabling them to reduce legal costs.
- Alternatively, consumers could receive all of the interest.

In further discussions on expectations, when participants were informed that some firms use interest as an income stream, most arrived at the position that as long as the consumer does not lose out financially (ie they get as much interest as they would have earned in their own account), it is acceptable. They were still not convinced that solicitors have any claim to that interest, but recognised that it is difficult to define a "fair sum" and different circumstances might lead to different definitions. Their perception of a "fair sum" changed to getting as much interest as they would have earned in their own account.

"I am reasonably happy with a fair sum if it is the same rate as a normal account. I do not think I am entitled to higher interest. But there should be something on this saying solicitors should pay out within a certain time of it being finished." – Male, London & Southeast, Online Workshop

Participants were split on how the "fair sum" amount is decided. Some were content with this being determined based on the average interest rate for a savings account, or for it to track the Bank of England's rates. Whereas others felt they should benefit from any higher interest rates and would insist that this was matched.

Given these varied views, participants had concerns that a "fair sum" is not a clear enough way of regulating the interest. They felt it is open to interpretation and might not be applied consistently. This led to the view that this rule does not provide transparency to the client. This reasoning was supported by participants' observations that in previous experiences, solicitors had not mentioned interest to them when their money had been in a client account.

"I think there is a lot of grey area with it. What are they saying is fair? What is the interest you would have got with a standard bank account

versus this?" – Female, Sheffield, Online Workshop

### Final summary

Ultimately, participants believed this rule should be clearer and more specific to ensure transparency. They believed the current rule leaves ambiguity and room for different solicitors to interpret it in different ways, and that there should be a more specific split of interest provided. They also believed solicitors should be more transparent in speaking to clients about this, as of those who had previously used a solicitor, none recalled having discussed interest. Ultimately, they did not believe it is entirely fair that solicitors are entitled to any of the interest, although they could accept this if they do not lose out on what they see as rightfully their money.

Finally, some participants in Sheffield spontaneously suggested that the additional interest should instead be contributed to the Compensation Fund.

It was explained to participants that there are conflicting views on how TPMAs deal with interest. Some TPMAs claim to pass this back to the firm, but some firms claim not to be aware of this arrangement.

### 6.2.4 Changing the caps on refunds from the Compensation Fund

In summary, participants were advised:

- The SRA levy on law firms and individual solicitors.
- That an increase in levy may increase costs of legal services.
- That the levels of money paid out of the Compensation Fund are not always predictable.
- The cap could help manage when there is high demand on the fund.
- It could be possible to consider changing the cap, to make it more flexible (explained current £2m cap for individual claims and £5m cap for linked claims, and that while these cannot be varied, the linked cap is optional and had never been used).
- It could be possible to consider prioritising payments to certain groups depending on personal circumstances such as income, type of legal service being used.
- Multiple claims from a large firm collapse may mean that if the £5m cap is used, then consumers do not get all of their money back.
- With a flexible cap (having different cap levels to apply - £10m, £15m etc), consumers may get a larger proportion of their money reimbursed.
- If there was no cap in place, there may be need to increase the amount solicitors pay, which could in turn increase legal fees.
- If a cap is applied, there needs to be criteria to decide who gets what if there are insufficient funds for everyone to get full refund.

During the deliberation, participants transitioned from a strong feeling that there should not be a cap on claims, to a view that acknowledged a need to keep the fund sustainable.

The figure below shows how well changing the cap delivers against each of the principles, as rated by participants.

Figure 6: Average ratings of changing the caps on the Compensation Fund against each of the principles.

<b>WHAT to deliver</b>	Equal treatment	Timeliness	Simplicity	Transparency	Protecting the fund
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### Changing the cap on the Compensation Fund

delivers against the principle	delivers against the principle	delivers against the principle	delivers against the principle	needs improvement
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By the end of the research, participants felt that changing the caps on the Compensation Fund delivers against four of the principles, with it delivering equal treatment, being timely, simple and transparent. It was seen to partially deliver against protecting the fund, as participants would have liked to see an increase in the cap but acknowledged that the cap does need to have a limit.

#### Initial response

At the start of the research, participants did not want there to be a cap on claims at all. They believed everyone should get a full reimbursement, as the consumer is not at fault. It felt unacceptable for people to lose any of their money due to a firm's mistake, misconduct or collapse.

Initially, making the cap more flexible was seen as positive. This was because more people may be able to get a full refund and many also felt this would increase trust in the profession as consumers are better protected. Making the £5m cap more flexible was thought to be particularly effective for multiple claims (for example, if a large firm collapses), so that claimants would stand a better chance of being reimbursed more (or all) of their money. However, the initial response to the idea of the SRA having multiple caps which could be applied at their discretion was negative – this was seen as too complicated and confusing.

"Making it more flexible would allow people to claim money back that they would not otherwise have been given back and I think that is a great benefit." – Male, Sheffield, Online Community

The main perceived downside was a possible increase in legal fees. Participants did not see the value in protecting the fund as a goal in itself at this early stage in the research.

"I hope the law firm does not pass on the cost to the consumer. Lawyers charge a lot of money per hour plus vat and the annual amount they have to pay seems minimal. I think this should be raised so the cap can be increased." – Female, London & Southeast, Online Community

#### Response to trade-offs

Trade-offs addressed for this protection arrangement were:

- Views on levy amounts paid in.
- Caps for individual and linked claims for fund sustainability.
- Setting priorities for payout versus potentially higher payments and higher number of claims, resulting in higher levies on law firms and the possible increase in cost of legal services.

Most were prepared for their legal fees to increase slightly to have greater protection from a bigger fund, which would mean everyone is more likely to get all of their money back if there are sufficient funds. However, there was a vocal minority who felt strongly that additional costs of greater client money consumer protections should not be passed onto the consumer. This is for two main reasons:



- The increase in cost would make legal services unaffordable for those who can only just about afford the service currently.
- The cost of protection should not be placed onto the consumer (ie it is not the consumer's responsibility to cover this cost).

The suggestion that payouts from the fund could be distributed based on personal circumstances or the legal service used was rejected by participants. The majority felt it is unfair to treat claims differently and strongly support treating all claims the same. There was a strong sense that people dealing with greater sums of money, or people on higher incomes, should not be at risk of losing a greater proportion of their money than people dealing with smaller amounts or on lower incomes.

The suggestion to base payments on vulnerability was also rejected, as participants felt this is discriminatory, as well as placing a high burden on the SRA in deciding who 'qualifies' for priority payments.

Furthermore, there was consensus that the ability to vary levels at which the cap might be applied in different circumstances is confusing for the consumer.

"I do not think it is easy to say what people can afford to lose. On the surface it is a good idea but how deep do you go into that? That is their inheritance, or their family has worked years and years. I do not think it should be that you have more so you can afford to lose more." – Male, Cardiff, Online workshop

#### **Response to different perspectives**

The different perspectives and information shared with participants were:

- The system has been working well, but recently has come under more strain because the cost of contributions to the fund has increased significantly this year. This might feel unfair for firms that have a good track record. The term 'Compensation Fund' suggests a wider form of payout rather than what the fund actually does, so some people approach the SRA for compensation for distress they have gone through in addition to losses. Revising the name might help people clearly understand what the fund can cover.
- Last year there were 65 interventions, twice as many as the year before, and there was an increase in big firm failures, eg in October 2023 the SRA conducted their largest intervention where more than £60m of client's money had gone missing. As well as looking at what is possible to reduce the risk that consumers suffer harm in the first place, the SRA want to think about how to keep the compensation fund sustainable. This means getting the right balance between consumers being protected and making sure the approach does not increase the cost of legal services too much.
- Changing the scope of the Compensation Fund could be damaging to the reputation of solicitors and remove the differentiation between regulated and unregulated providers.
- If the average payouts from the fund are less than £40,000 there would seem little reason to reduce the limit from £2m.

Learning that the average payout is £40K increased positivity towards the current cap on the fund (especially for single claims), as claims are likely to be within the cap (£2m for single claims and £5m for linked claims). However, participants understood that capping the total amount paid from Compensation Fund for linked circumstances at £5m would mean that some claimants could still lose large sums of money.



Understanding the increase in claims made this year following the collapse of several law firms contributed to participant feelings that the cap does need to be managed in some way to keep the Fund sustainable. They also recognised there is not an endless supply of money.

### **Willingness to pay more**

Most assumed that if firms have to pay more into the Compensation Fund to maintain a higher balance, this cost will be passed onto consumers.

There was a willingness amongst most participants to pay more for what they consider to be better protection. Most participants were prepared for their bill to be increased by a small amount to ensure that the Compensation Fund can refund everyone, in full. It was assumed that this increase in price will be small, relative to the overall cost of their legal fees.

However, there was a small group of participants who felt strongly that the cost of client money consumer protections should not be passed onto consumers. They also felt a price increase may exclude some from being able to access legal services at all.

"I have felt the same since the beginning of the research. It makes sense to pay a small premium to insure [your money]." - Male, Sheffield, Workshop 2

When polled at the end of the research, almost all participants opted to pay more for stronger client money consumer protections.

### **Any concerns not yet addressed**

Concerns were centred around the £5m cap for linked claims. The most important principle for participants was that the protections allow for equal treatment of all claimants. If a cap on the fund means that not everyone gets a full refund, this was perceived as unfair and therefore unacceptable to most.

The principle of 'equal treatment' was more important to participants than even protecting the fund. Although they did recognise the importance of sustainability, on balance they were clear this needed to be done in a way which was equal. They did note however that the SRA has not yet applied the linked cap in practice.

### **Final summary**

By the end of the research, most discussion concerned linked claims, as the £2m cap for single claims was felt to be sufficient. This was because participants felt there are unlikely to be many large single claims, and a single claim will rarely reach the threshold for the cap.

Regarding linked claims, most understood that, whilst the cap does not necessarily have to be applied, there needs to be a cap in order to maintain the fund as it may not be realistic to give everyone a 100 percent reimbursement in all circumstances. However, participants continually emphasise 'equal treatment' and ensuring as full of a reimbursement as possible. Therefore, the preference was to have a slightly higher cap than is currently available for linked claims, to cover a greater number of people. Most were prepared to pay a little more for this greater level of protection because they felt they were unlikely to engage a solicitor many times in their life and assumed the increase in cost will be small.

## 6.2.5 Tiered payments from the Compensation Fund

Participants were advised that:

- This does not exist, but it was suggested, and widely supported, in a consumer focus group conducted early in the SRAs engagement. We wanted to test it with more consumers using the deliberation process. The idea is that the SRA could set a limit below which everyone gets 100% of their money back from the fund but above that amount, they get a smaller percentage back. For example, imagine the limit was set at £100,000 – if you are claiming back up to £100,000, you will be paid all your money. If you are claiming between £100,001 and £300,000 you will be paid all of the money up to £100,000 and then 90% of the money above £100,000. If you are claiming between £300,001 and £600,000 you will be paid all of the money up to £100,000, 90% between £100,001 and £300,000 and 80% of the money above £300,000 and so on (these amounts are just illustrative examples).
- Another option could be a flat percentage (ie everyone gets the same proportion of their money back, for example, 50%).
- Another option is variable payments depending on the number of claims on the fund in a 12-month rolling period – if there are few claims, then everyone is more likely to get all of their money back. Conversely, if there are many claims then everyone is less likely to get all of their money back.
- Overall, an approach seeing people with smaller claims get a larger proportion of their money back, might be a way of sustaining the Compensation Fund.

Although initially more difficult to understand for some participants, tiered payments from the Compensation Fund were supported by those who did understand. It was seen as a way to give people (almost) a full reimbursement, whilst protecting the fund. However, as participants moved through the research, the sense that this protection is unfair became stronger and stronger.

The figure below shows how well tiered payments deliver against each of the principles, as rated by participants.

Figure 7: Average ratings of tiered payments from the Compensation Fund against each of the principles.

<b>WHAT to deliver</b>	Equal treatment	Timeliness	Simplicity	Transparency	Protecting the fund
<b>Tiered payments from the Compensation Fund</b>	does not deliver against the principle	does not deliver against the principle	does not deliver against the principle	delivers against the principle	needs improvement

Tiered payments were seen to deliver against the principle of transparency, as the percentage tiers makes it clear how much money each consumer would get. However, it was not thought to deliver on equal treatment, timeliness or simplicity.

### Initial response

Tiered payments were less well understood when first introduced into the deliberation (in comparison with other options). For those who did understand it when initially introduced, they were largely in support of tiered payments as a balance between most people getting a high proportion of reimbursement and protecting the fund from very large claims. Participants who were supportive of tiered payments assumed that the vast majority of claims will be small and therefore



under the 100 percent threshold, meaning most people would get all of their money back.

"Tiered refunds seem like a reasonable approach because they prioritise full compensation for smaller, potentially more vulnerable claimants while still offering significant, though proportionally reduced, compensation for larger claims." – Male, London & Southeast, Online Community

However, there were others who were negative towards tiered payments, as it did not feel fair to them that some people do not get all of their money back. There was a strong sense amongst this group that money holds equal importance to everyone and it is not fair that those who have more money being held are at an increased risk of losing some. This was particularly felt to be the case in the instance of solicitors stealing money.

"I do not think a tiered refund scheme is fair as people should be able to claim all the monies they have lost due to dishonest solicitors." – Male, Sheffield, Online Community

At an early stage of the research, tiered payments were preferred to an alternative which was discussed – involving a flat percentage reimbursement (eg everyone receiving 80%). Participants perceived most people would receive a greater proportion of their money back through the tiered system.

#### **Response to trade-offs**

The trade-offs addressed for this protection were:

- The impact of any potential tiered payments on different consumer groups, versus the sustainability of the Compensation Fund.
- A flat percentage reimbursement (eg everyone receiving 80%), versus a tiered payment system.

The trade-offs associated with tiered payments did not particularly resonate with participants, or change their views. Most did not engage with the argument that tiered refunds could help keep the fund sustainable (ie ensure there is enough to refund claimants that year even if it is not the full amount, without potentially making legal services more expensive). The perceived unequalness of this option overshadowed the sustainability of protection, in their views.

Possible delay to receiving funds through this option also did not change opinions, as participants tended to be more focussed on client money consumer protections being equal and full, rather than timely.

#### **Response to different perspectives**

The different perspectives and information shared with participants were:

- As well as looking at what is possible to reduce the risk that consumers suffer harm in the first place, the SRA want to think about how to keep the Compensation Fund sustainable. This means getting the right balance between consumers being protected and making sure the approach does not increase the cost of legal services too much.

The different perspectives highlighted the need to get a balance between protecting consumers without increasing the cost of legal services too much, especially in the light of increased claims on the fund in recent years. However, these perspectives

did not shift views of this protection amongst the participants. It was still viewed as unequal.

**Any concerns not yet addressed;**

This protection evoked a regional difference in opinion, with those in London typically less supportive of tiered payments. Participants in London/South East felt they were at greater risk of losing money through this protection, as they were likely to be using legal services involving greater sums of money than consumers in other parts of the country. In particular, this was discussed in relation to solicitors holding house deposits, which were felt to be more likely to be over the 100 percent refund threshold in London/South East. It should be noted that for the purpose of these discussions, a hypothetical 100 percent refund threshold of £100,000 was applied.

"I think it is discriminative as well. The system should protect everybody in the most fair and equal way to do it. Even in not so affluent areas you are looking at a £100,000 deposit. So when you are buying a house in London or Brighton you will certainly not get your money back." – Female, London & Southeast, online workshop

Participants were very concerned about consumers not getting all their money back with this protection. As an alternative solution, whilst still maintaining the fund, participants began combining ideas together. They suggested merging tiered payments with the hypothetical option of legal cover insurance to cover the money that would not be refunded to consumers with higher amounts of money being held.

**Final summary**

By the end of the research, the sentiment towards tiered payments in isolation was typically negative. Participants felt it is unequal treatment to give people different proportions of their money back. When polled in the final workshop, the majority voted for there to be no tiers on payments.

Participants suggested using the hypothetical idea of legal cover insurance to bridge the 'gap' not covered by tiered payments. While this option was slightly more appealing to the participants, it still did not score well in polling and acknowledged the fact that the legal cover insurance does not exist.

**6.2.6 Legal cover insurance**

To see how consumers value the attributes of different client money protections being discussed, we invented legal cover insurance. Participants were informed of the following:

- Legal cover insurance does not exist but if it were to it could operate like holiday insurance.
- It could, in theory, replace the need for a Compensation Fund, as this fictitious product insures against dishonesty.
- Consumer takes out a policy (directly with an insurance company) at the point of hiring a solicitor.
- If not replacing the Compensation Fund completely, it could, in theory, bridge the gap between a payout from the Compensation Fund and the full amount lost. This could mean a reduction in the cap on the Compensation Fund. However, this means those not taking insurance out may get less back.
- Perhaps legal fees reduce as a result of not paying into the Compensation Fund.
- This fictitious product may cover payments for distress/inconvenience not currently paid for by the Compensation Fund.

It is important to note that this type of legal cover insurance does not currently exist, and so we were not able to share solicitor perspectives on it.

The idea of legal cover insurance was initially supported by participants and continued to be supported throughout the research. However, as participants progressed through the workshops, they discussed the downsides of this protection more, for example, potential lack of trust in solicitors and additional cost to the consumer. As such it helped to crystallise their thinking on attributes such as equal treatment.

Figure 8: Average ratings of legal cover insurance against each of the principles.

<b>WHAT to deliver</b>	Equal treatment	Timeliness	Simplicity	Transparency	Protecting the fund
<b>Legal cover insurance</b>	needs improvement	needs improvement	needs improvement	delivers against the principle	delivers against the principle

Legal cover insurance was thought to deliver against transparency and protecting the fund. It was seen to partially deliver against the principles of equal treatment, timeliness and simplicity.

#### **Initial response**

There was initial high support for legal cover insurance. It was more easily understood and was a familiar concept to participants, often compared to taking out travel insurance. Those who supported the introduction of legal cover insurance did so for two reasons. Firstly, because they liked the idea that they could be compensated for stress and inconvenience as well as the money lost. This fills what they felt was a gap in the Compensation Fund arrangement. Secondly, they felt this gives 'peace of mind' to the consumer and reassurance that the entirety of their money will be covered.

For some, they preferred the idea of insurance to the current fund, as they felt this better protects their money in the event of a solicitor's dishonesty. This was because it would not have conditions such as the cap applied to it, and so there is no chance of receiving a smaller amount of money than they lost.

"It would be an extra peace of mind... I imagine the premium would be small, because claims are, I imagine, extremely rare. Therefore, a nominal amount might be worth paying for the extra peace of mind." – Male, Sheffield, Online Community

Those who were less supportive of legal cover insurance were concerned about the potentially prohibitive cost, which may mean some people cannot take out the insurance and are therefore at greater risk should problems arise. There was a sense that this allows more wealthy people to protect themselves, with those on lower incomes remaining vulnerable to loss as perhaps they may be less inclined or able to take out such insurance. There was also a concern that it implies legal services cannot be trusted and consumers should not be fronting the cost to protect themselves against solicitor dishonesty. For participants who had previously had poor experiences with insurers, they felt insurers are not trustworthy (eg looking for any reason not to payout).

"It furthers inaccessibility of legal services to people with lower incomes. Solicitor services are already expensive, and an additional cost could put off consumers from lower income circumstances. This would mean they



either give up on pursuing legal services completely, or they are exposed to more risk if they choose not to take out insurance." – Female, London & Southeast, Online Community

#### **Response to trade-offs**

The trade-offs addressed for this hypothetical protection were:

- Exploring willingness to pay for insurance to provide greater protection.
- The onus being on the consumer to take this out, meaning some consumers may have less or no cover.
- Balancing this with the sustainability of the Compensation Fund.

When considering the trade-offs associated with insurance, most were happy to pay extra for this insurance (assuming it is a small cost, similar to travel insurance), even though most of the time they will not need it. They accepted that this is how insurance in all sectors works.

The idea was explained that if many consumers take out insurance, then there may be an impact on the Compensation Fund (less money paid in for example may mean there is less money available to pay out). This was not received positively. Participants preferred the idea of using the insurance to 'top up' or cover the gap that the current levels of the fund might not cover (for example levels over the cap).

In addition, most felt solicitors would not lower their prices even if consumers are also taking out insurance.

The key trade-off regarding legal cover insurance that landed with participants was that insurance might cover compensation for the trouble caused. This resonated strongly with participants as (prior to receiving more information about the Compensation Fund) many felt the fund should cover this.

#### **Response to different perspectives**

As this kind of legal insurance does not currently exist, there were no perspectives from solicitors or the SRA to share.

#### **Any concerns not yet addressed**

There was a strong sense that consumers should not have to take out insurance for legal services or to protect against a solicitor they are buying a service from. Participants felt they are already paying a large fee for the service and the additional cost of protecting against mistakes, malpractice etc should not be placed onto the consumer.

Additionally, participants felt that it could be uncomfortable for the solicitor to suggest their client takes out insurance against mistakes, and this may decrease trust in the legal profession and may lower consumer confidence.

There were also concerns amongst many that some consumers (particularly those who are on the cusp of being able to afford legal services currently) may be unable to afford the additional cost of insurance. If they are unable to afford this, they may be at risk (especially if other protections are decreased due to the introduction of insurance). This led participants to feel that the SRA still needs to have a Compensation Fund, even with a hypothetical introduction of legal insurance cover.



Lastly, there were concerns amongst some that consumers may forget to take out insurance (as it is an extra step in the process for them) and therefore may be vulnerable to loss.

"This is more admin and inconvenience on the consumer and more cost on us [the consumer]. Some people are busy and forget to [take out the insurance]. At the end of the day, we are paying more money - It is the easier solution if the SRA puts a levy up on the solicitors so we are all 100 percent covered and not do things separately." - Male, Cardiff, Online workshop

### **Final summary**

Legal cover insurance was supported by participants when positioned as a way to cover the 'gap' between the amount of money lost and the amount refunded by the Compensation Fund (where this potentially cannot be the full sum). They felt clients could take out optional insurance to cover themselves if they are dealing with larger sums of money.

However, concerns associated with this protection (consumers not taking out insurance and potential reputational damage for the legal profession) persisted throughout the research.

These findings helped to introduce clarity around some of the preferred attributes associated with other options, especially 'equal treatment'. Discussing hypothetical legal cover insurance demonstrated the importance that consumers associate with being able to get a full reimbursement, and their willingness to pay a small additional amount to ensure this.

### **Conclusions**

Having learned about the SRA, the client money consumer protection arrangements it offers, and a range of existing and exploratory protections, participants reached a clear perspective on what is important. Their key messages are:

- Anything that can be done to reduce the risk or prevent misappropriation of funds should be the priority for the SRA in driving confidence and trust in legal services through client money consumer protections. There was a strong sense of loss-aversion among participants, along with some willingness to pay slightly more for legal services if it means their money will be safer. They are more comfortable with an outcome where they pay more, than one where they lose money, even if they receive all of it back.
- However, having learned about the increase in claims on the compensation fund, participants could see that reforming how the fund operates could help ensure equal treatment and sustainability, so they are not opposed to this.
- They identified a clear set of principles to be considered when designing any new client money protections, or reforming existing ones. They heavily favoured equal treatment between different consumers (in how money is distributed) and for individuals (being able to receive all of their money back wherever possible).
- They are comfortable with third parties holding their funds - in the instance of TPMAs - or being responsible for compensating them - in the instance of Legal cover insurance - provided that these third parties are regulated. Regulation is a key source of confidence and trust both within legal services (as affirmed by other research) and outside of it in sectors such as financial services.

### **Appendix**

## 7.1 Sample

Sample characteristics		Number in Sample
Location	London/South East	14 <sup>2</sup> <a href="#">[#num2]</a>
	Cardiff	14
	Sheffield	14 <sup>3</sup> <a href="#">[#num3]</a>
Gender	Female	24
	Male	18
Age	18 - 24 years	6
	25 - 34 years	8
	35 - 44 years	9
	45 - 54 years	7
	55 - 64 years	7
	65+ years	5
Ethnicity	Ethnic minority	14
	White British / White European / White other	28
	Never	7
Legal experience	Within the last 2 years	23
	More than 2 years ago	12
Attitude to financial risk	Uncomfortable with any risk	14
	Uncomfortable with risk sometimes	19
	Comfortable taking risk	5
	Conveyancing (when buying a property)	16
	Probate	5
Legal services accessed	Personal injury	5
	Will writing	7
	Power of attorney	1
	Family matters (e.g. divorce)	3
	Problem with goods / services	3
	Benefit / tax credit advice and appeals	1
	Housing matters	2
	Employment disputes	5
	Accident or injury claims	3
	Other (Court of protection order)	2

2. 13/14 participants for the final F2F workshop for London / Southeast

3. 12/14 participants for the final F2F workshop in Sheffield