



Review of the CLC Compensation Fund Rules

Consultation

This consultation will run for 8 weeks, from 20th December, 2024 to 14th February 2025

CLC contact: clc@clc-uk.org

Background

1. As set out in the Administration of Justice Act 1985, the Courts and Legal Services Act 1990 and the Legal Services Act 2007, we, the CLC, must make rules for the making of grants or other payments for the purpose of relieving or mitigating losses arising from certain wrongs committed by CLC Practices. The types of losses are explained in our Rules.
2. In order to do so, we have established a discretionary Compensation Fund ('the Fund') of last resort from which we may make grants. This means that we can decide to offer grants however we expect consumers to first pursue all other reasonable remedies and/or taken all other reasonable measures to avoid or to mitigate their losses and/or to obtain compensation elsewhere.
3. The fund is financed by contributions from CLC Practices who are required to pay into the Fund annually, and their contributions are calculated as a percentage of the practice's turnover. Every year, we carefully consider (and consult on) the annual Compensation Funds contributions and then submit an application to the LSB, which contains our analysis and rationale behind the fee.¹
4. Our Compensation Fund Rules outline the operation of the fund, eligibility of claims and claimants, and how we assess those Applications and make determinations. Our supplementary guidance aims to support consumers to understand the policy and process.
5. We want consumers to be aware that the Compensation Fund exists. All Practices are expected to include references to the CLC's Compensation Fund in their standard documentation (which is reviewed during our inspections), that others, such as intervention agents, the Office of Legal Complaints and Insurers signpost consumers to us.

Why this consultation is important

6. Consumers who suffer financial losses due to the negligence or poor conduct of CLC Practices deserve to be compensated.
7. We want to ensure that our Rules are clear for consumers, helping them to determine whether their claim is eligible, and that it is accessible enough to enable them to use it without the need of legal support.

¹ The most recent application can be found online: <https://legalservicesboard.org.uk/wp-content/uploads/2024/09/CLC-Compensation-Fund-contributions-Application.pdf>

Proposal

We have revised the Rules in order to:

- improve clarity for consumers, specifically in relation to eligibility, losses covered by the Fund and the process;
- ensure that the Fund remains true to its core purpose, and
- meet the Regulatory Objectives and embed the principles of Better Regulation.

8. Our proposed changes:

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

Our existing Rules outline the principles of the Compensation Fund, but do not explain our established approach in detail. We believe our current approach should be better explained in our Rules, in line with the principles of Better Regulation. This includes providing more information about our Compensation Fund, its core purpose, eligibility criteria, how we process applications (including our established ‘special grouping’ approach) and how we make decisions. We believe this will bring several positive benefits for consumers who will better understand our existing eligibility thresholds and how we will handle any applications.

B. Remove ‘recovery of funds’ provision.

We have taken this opportunity to remove this provision which is obsolete in practice. The CLC would still proceed with disciplinary proceedings against individuals, as appropriate, but not the financial recovery.

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

As we do not limit applicant eligibility based on their net-worth/assets, we can accept applications from large companies or charities, for example. We prefer to consider each grant determination on a case-by-case basis rather than exclude upfront.

This provision is not intended to be used for the vast majority of applications, but in order to uphold the core purpose of the fund there may be circumstances in which it would be important to consider the net assets/worth of an applicant for grant determination. Although it is an absolute discretionary fund, and we can apply this approach without inclusion in the Rules, we believe it is appropriate to explicitly include this mechanism, allowing us to consider means-testing when determining a Grant to ensure that our Grant determinations align with the Core Purpose of the Fund, in the interests of transparency.

D. Introduce a new provision to ring-fence funds available for a ‘Special Category’ grouping from which any Grants offered will be drawn, detailing how

this will be decided and **new timescales to be eligible**. Currently, we already can process multiple applications together which is a pragmatic solution to considering systemic failure which enables us to be consistent with our approach, but we do not explicitly ring-fence funds available, nor do we limit the application timeframe. This change has been introduced particularly to ensure financial viability of the Fund and ensure consistency and parity within our processes. This provision has been informed by looking at other regulators' approaches. Information about the operation of the Compensation Fund is currently available on the CLC's website and will be updated when the revised rules come into effect.

9. The following is out of scope:

- The existence of a Compensation Fund – this is a provision we are legally required to have for consumer benefit.
- The mechanism for setting the fund contributions. This is already well-established and is unaffected by any of the proposed changes to the Rules/Guidance/Forms.

Desired Outcomes and Measures:

10. We plan to measure the impact of our revised policy through: success rates for claimants, any potential EDI impacts, and feedback from consumers/applicants.

Responding to this consultation

We are particularly interested in feedback from consumers. Should you require any support in responding to the consultation, please do not hesitate to contact us via consultations@clc-uk.org or 020 3859 0904.

There are several ways to respond to this consultation:

- 1) You can complete the consultation response form online.
- 2) You can respond to the consultation by email to consultations@clc-uk.org, or
- 3) You can respond to the consultation by post to:

The Council for Licensed Conveyancers,
WeWork
120 Moorgate
London
EC2M 6UR

4) If you are a consumer and would prefer to talk us through your feedback (either individually or as part of a focus group), please contact us via consultations@clc-uk.org or 020 3859 0904.

We will publish all responses received and may refer to any of them specifically in any further document it publishes following this consultation. If you wish your response to be treated as confidential, please let us know when you respond.

Consultation deadline

This consultation will run for 8 weeks, to the close of business on 14th February, 2025.

Next steps

We will analyse the consultation responses and may make further amendments to the draft Rules, as appropriate.

We will then present the consultation responses to the CLC's Council (our Board) for their consideration and ratification. If ratified, an application for approval will be made to the Legal Services Board (LSB), in accordance with Part 3 of Schedule 4 of the Legal Services Act 2007. That submission will be published along with consultation responses (noting the caveat about confidentiality above).

Privacy notice

Respondents to the consultation are able to specify in their consultation response whether and how they wish to be identified in any CLC communication about the consultation exercise.

Annex 1 – [Proposed Rules](#)

Annex 2 – [Comparison of existing and proposed changes](#)

Annex 3 – [Impact Assessment](#)

[Your consultation responses can be provided online](#)

The consultation questions are set out below for ease.

CONSULTATION QUESTIONS

SECTION 1: About you

Name:

Email:

Are you responding as (please tick one)?

A member of the public

CLC Lawyer (probate)

CLC lawyer (conveyancer)

CLC lawyer (dual registered)

Student/trainee

CLC Practice – if so, name of practice:

A membership body, trade union or representative organisation – if so, name of organisation:

A regulator – if so, name of regulator

Do you agree to being contacted about your response, should we have any further questions? Yes / No.

Publication – please select your preference:

- Publish name or organisation's name and response
- Publish response anonymously
- Do not publish my name or response.

SECTION 2: The Rules

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

Q1. Do you agree that, overall, the proposed Rules are clear for consumers to understand what the fund is and its purpose? Yes / Somewhat / No / No comment

Q2. Specifically, do you agree that the following sections are clear?

- The purpose of the Fund – Yes / Somewhat / No / No comment
- The administration of the Fund – Yes / Somewhat / No / No comment
- Eligibility for a Grant – Yes / Somewhat / No / No comment

- Eligibility for Losses – Yes / Somewhat / No / No comment
- Making an application – Yes / Somewhat / No / No comment
- Determination of applications – Yes / Somewhat / No / No comment
- Grouping of applications into Special Categories – Yes / Somewhat / No / No comment
- Making and acceptance of an Offer of Grant -- Yes / Somewhat / No / No comment
- Refusal of an application for a Grant -- Yes / Somewhat / No / No comment

Q3. Please provide any suggestions to make the Rules easier to understand.

[free text]

B. Remove ‘recovery of funds’ provision.

Q3. Do you foresee any disadvantages to removing this provision?

Yes / No / No comment

If yes, please explain:

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

Q4. Do you agree that the CLC should formally introduce the ability to conduct a means-tested when determining grants (to be used in rare circumstances)?

Yes / No / No comment

If yes, please explain:

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

Q5. Do you agree that ring-fencing funds for a ‘special category’ grouping is appropriate?

Q5. To what extent do you agree that introducing ring-fenced funds, will enable the CLC to ensure that determinations arising from special group will be fair for applicants. Agree / Somewhat agree / Disagree / No comment

Q6. What do you think would be the most effective way(s) to ensure that consumers are aware of the eligibility timescales for special category grouping?

[List some options, tick box multiple responses]

Website / Press release / Other:

Q7. Please provide any additional comments: