

COMPARISON OF THE EXISTING AND PROPOSED COMPENSATION FUND OPERATING FRAMEWORK

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<p>Not in existing framework</p>	<p>Introduction</p> <p>As set out in the Administration of Justice Act 1985, the Courts and Legal Services Act 1990 and the Legal Services Act 2007, 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 Regulated Practices.</p> <p>In order to do so, the CLC has established and maintains as trustee a Compensation Fund ('the Fund') from which the CLC may make grants in its absolute discretion. This document sets out the rules that will apply to all applications for a grant from the Fund and, in particular, explains how the CLC will assess those Applications. Anyone considering making an application to the Fund should consider these rules carefully, together with the Application Form, the Guidance, the Glossary and the FAQs, all of which should be read together.</p> <p>Please note, defined terms in these Rules are explained in the Glossary.</p>

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	<p>As set out more fully in these rules, the following is emphasised:</p> <ul style="list-style-type: none"> • The core purpose of the Fund is to protect consumers from losses caused by the negligence or fraud of a CLC Regulated Practice in regulated conveyancing transactions for the acquisition of residential property for the occupation of the applicant and/or the applicant’s family; and/or probate transactions. In the overwhelming majority of cases, the applicants will have been clients of the CLC Regulated Practice against which complaint is made. The further the facts of an application for a grant are from this core purpose the less likely it is that the Fund will make a Grant in full or part. • The Fund is a fund of last resort. The CLC is entitled to refuse to offer any Grant where the applicant has not, before making their application to the Fund, first pursued all other reasonable remedies and/or taken all other reasonable measures to avoid or to mitigate their losses and/or to obtain compensation elsewhere. • Grants are offered or not from the Fund in the CLC’s absolute and unqualified discretion. The CLC will evaluate the merits of each

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	<p>application by reference to the criteria, principles and considerations set out in these rules, but the decision whether to offer a Grant or not is the CLC's alone and the CLC's decision is final.</p> <p>The CLC will endeavour to determine applications for a grant within 6 months of receipt of the fully completed application and relevant supporting documentation. If the CLC requires additional information from the applicant or other 3rd parties or if the application is considered by the CLC in its absolute and unqualified discretion to constitute a 'special category application' then the determination of the application may take longer than 6 months. At all times, the CLC will endeavour to keep the applicant informed as to when the application might be determined.</p>
Not in existing framework	<p>Rule 1 - Establishment and contribution to the Compensation Fund</p> <p>1.1 The CLC has established a Compensation Fund ('the Fund') in accordance with the Administration of Justice Act 1985, the Courts and Legal Services Act 1990 and the Legal Services Act 2007 for the purpose of compensating persons in accordance with these Rules.</p>

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<p>1. As a condition of being authorised by the CLC, a body must make a contribution to the CLC Compensation Fund at such time and of such an amount as determined by the CLC. The CLC may require a body to make a further contribution towards the Fund at anytime.</p>	<p>1.2 As a condition of being authorised by the CLC, a CLC Regulated Practice must contribute to the Fund at such time and in such an amount as determined by the CLC. Failure to pay the contributions may result in suspension of the licence to practice, disciplinary action and/or action to recover the debt.</p>
<p>2. In its absolute discretion the CLC may agree that a contribution to the Fund is paid by instalments which become immediately payable on the date specified by the CLC. If any instalment is not paid by the due date the balance of contributions the body owes will be recoverable as a debt owed to the CLC.</p>	<p>1.3 Contributions to the Fund are due by return upon presentation of an invoice by the CLC. The CLC may, however, agree to accept contribution to the Fund by instalments, in which case the instalments shall become payable on the dates specified by the CLC. If any instalment is not paid by the due date the balance of the unpaid contribution will become immediately due.</p>
<p>Purpose of the Fund</p> <p>3. The CLC shall place the money constituting the Fund in a separate designated account entitled “Council for Licensed Conveyancers’ Compensation Fund”.</p>	<p>Rule 2 – Administration of the Fund</p> <p>2.1 The CLC shall place the money constituting the Fund in separate designated accounts.</p>
<p>4. As trustee the CLC may:-</p> <ul style="list-style-type: none"> (a) invest the money constituting the Fund in such a manner as it thinks fit; (b) borrow for the purposes of the Fund, and may charge any 	<p>2.2 The CLC may invest all or some of the money constituting the Fund in such a manner as it sees fit in its absolute and unqualified discretion.</p>

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<p>investments of the Fund by way of security for such a loan;</p> <p>(c) take out insurance with Authorised Insurers for such purposes and on such terms as it deems appropriate to the Fund.</p>	
<p>5. The Fund will be credited with:-</p> <p>(a) all contributions paid to the CLC;</p> <p>(b) all interest, dividends and other income and accretions of capital arising;</p> <p>(c) the proceeds of any realisation of the investments of the Fund;</p> <p>(d) all money borrowed for the purposes of the Fund;</p> <p>(e) all money recovered by the CLC either directly or following the assignment to the CLC of the rights of any Claimant;</p> <p>(f) all recoveries under any insurance policy effected by the CLC;</p> <p>(g) any other money which may belong to or accrue to the Fund or be received by the CLC in respect of the Fund.</p>	<p>2.3 The Fund will be credited with:</p> <p>(a) all contributions paid to the CLC for that purpose;</p> <p>(b) all interest, dividends and other income and accretions of capital arising;</p> <p>(c) the proceeds of any realisation of the investments of the Fund;</p> <p>(d) all money recovered by the CLC either directly or following the assignment to the CLC of the rights of any Applicant;</p> <p>(e) all recoveries under any relevant insurance policy;</p> <p>(f) any other money which may belong to or accrue to the Fund or be received by the CLC in respect of the Fund.</p>

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<p>6. All of the Fund’s money and investments are applicable for:-</p> <ul style="list-style-type: none"> (a) payment of costs of establishing, maintaining, administering, protecting and applying the Fund; (b) payment of any CLC insurance premiums or any premium relating to run off cover following the closure of a body; (c) the purpose of settling any claim in respect of CLC insurance or any other claim relating to run off cover following the closure of a body; (d) repayment of any money borrowed by the CLC for the purposes of the Fund, for payment of interest on any money so borrowed, and for reimbursing the CLC for any costs incurred in that respect; (e) making grants or other payments the CLC determines should be paid out of the Fund (whether such grants or other payments relate to practices regulated by the CLC as a Recognised Body or a Licensed Body); (f) the refund of contributions to a body which ceases to be regulated by the CLC (the CLC may at its discretion refund a proportion of a contribution made in respect of any unexpired period). 	<p>2.4 All of the Fund’s money and investments may be used for the following permitted purposes:</p> <ul style="list-style-type: none"> (a) payment of the costs of establishing, maintaining, administering, protecting and applying the Fund; (b) payment of the costs of considering the making of Grants or other payments from the Fund; (c) procurement of insurance for such purposes and on such terms as it deems appropriate to the Fund and payment of any relevant CLC insurance premiums;
<p>7. Where it has passed a resolution under paragraph 6 schedule 5 to the 1985 Act the CLC may credit to the Fund any sum vested in it as a result of the passing of such a resolution.</p>	<p>2.5 Where it has passed a resolution under paragraph 6 of Schedule 5 to the 1985 Act the CLC may credit to the Fund any sum vested in it as a result of the passing of such a resolution.</p>

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<p>8. Where it has passed a resolution under paragraph 6A schedule 5 to the 1985 Act the CLC may credit to the Fund any sum vested in it under paragraph 6A(3) of schedule 5 to the 1985 Act.</p>	<p>2.6 Where it has passed a resolution under paragraph 6A of Schedule 5 to the 1985 Act the CLC may credit to the Fund any sum vested in it under paragraph 6A(3) of schedule 5 to the 1985 Act.</p>
<p>9. If the Rightful Recipient contacts the CLC after a credit has been made to the Fund under a resolution the CLC will treat the Rightful Recipient as a Claimant and invite them to make a claim under this Code out of the Fund.</p>	<p>2.7 If the rightful recipient contacts the CLC after a credit has been made to the Fund under a resolution the CLC will treat the rightful recipient as a claimant and invite them to make a claim for compensation.</p>
<p>Not in existing framework</p>	<p>Rule 3 – The Absolute and Unqualified Discretion of the CLC</p> <p>3.1 No Applicant has a right to a Grant from the Fund or any legitimate expectation that they will receive one. All Grants are offered and/or made in the CLC’s absolute and unqualified discretion.</p> <p>3.2 Whenever these Rules provide for or refer to or contemplate that the CLC will consider anything, decide anything, elect to do (or not to do) anything, be satisfied (or not) as to anything or evaluate anything, the CLC shall do so in its absolute and unqualified discretion.</p>

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<p>Making a Compensation Claim</p> <p>10. The CLC may in its absolute discretion make a grant or other payment out of the Fund for the purpose of relieving or mitigating loss which the CLC is satisfied any person has suffered or is likely to suffer in consequence of:</p> <ul style="list-style-type: none"> a) negligence or fraud or other dishonesty on the part of a licensed conveyancer, or their employees or <i>associates</i> in connection with their practices (or purported practices) as licensed conveyancers; or b) failure on the part of a licensed conveyancer to account for money received by them in connection with their practices (or purported practices) as licensed conveyancers; (c) the negligence, fraud or other dishonesty on the part of a body or of any of its employees or managers in connection with its practice (or purported practice) as a CLC Recognised Body or CLC Licensed Body; (d) the failure on the part of a body to account for money received by it in connection with its practice (or purported practice) as a CLC Recognised Body or CLC Licensed Body. 	<p>4.7 For an Application to be eligible for consideration for a Grant from the Fund the CLC needs to be satisfied of the following:</p> <ul style="list-style-type: none"> (a) That the loss was caused as a consequence of: <ul style="list-style-type: none"> (i) negligence or fraud or other dishonesty on the part of a CLC Regulated Practice, or their directors, employees or agents in the execution of the regulated activities that the practice is licensed and insured to undertake; or (ii) failure on the part of a CLC Regulated Practice to account for money received by them in connection to the regulated activities that the practice is licensed to undertake;

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<p>Not in existing framework – except 4.7 (a)</p>	<p>Rule 4 – Eligibility for a Grant</p> <p>4.1 A person may apply for a Grant from the Fund if they have suffered direct losses caused by the actions of a CLC Regulated Practice in the course of executing its CLC regulated business activities. A person includes a body of persons (whether corporate or unincorporate).</p> <p>4.2 Where a loss was suffered by two or more persons jointly, then the CLC reserves the right:</p> <p>4.2.1 to insist that any application for a Grant in respect of the said loss be brought jointly by all those persons who jointly suffered the said loss; and</p> <p>4.2.2 to refuse to progress any application(s) in respect of such a loss suffered by two or more persons jointly where it is made by fewer than all the persons who together jointly suffered the said loss.</p>

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	<p>4.3 Applications relating to or arising out of services provided by trading styles, group companies, associated companies or businesses not regulated by the CLC are not eligible for a Grant from the Fund.</p> <p>4.4 Applications relating to or arising out of activities of CLC regulated individuals employed by Practices not regulated by the CLC are not eligible for a Grant from the Fund.</p> <p>4.5 An Applicant will be eligible to make an Application relating to a conveyancing transaction if:</p> <ul style="list-style-type: none"> (a) they are a person (or persons); and (b) they were the client of the practice in relation to the conveyancing transaction; and (c) the Property at issue is located in England or Wales; and (d) the Application Form has been submitted within 6 months of the Applicant becoming aware (or when they should reasonably have become aware) of the losses or, if later, within 90 days of

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	<p>exhausting all other reasonable remedies available to the Applicant, provided that the Applicant started pursuing such other reasonable remedies within 6 months of the Applicant becoming aware (or when they should reasonably have become aware) of the losses.</p> <p>4.6 An Applicant will be eligible to make an Application relating to a probate transaction if:</p> <ul style="list-style-type: none"> (a) they are a person (or persons); and (b) they were the client of the practice or were acting on behalf of the person on whose behalf the grant of probate was obtained; and (c) the Application Form has been submitted within 6 months of the Applicant becoming aware (or when they should reasonably have become aware) of the losses or within 90 days of exhausting all other reasonable options available to the Applicant.

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	<p>4.7 For an Application to be eligible for consideration for a Grant from the Fund the CLC needs to be satisfied of the following:</p> <p>(a) That the loss was caused as a consequence of:</p> <p style="padding-left: 40px;">(i) negligence or fraud or other dishonesty on the part of a CLC Regulated Practice, or their directors, employees or agents in the execution of the regulated activities that the practice is licensed and insured to undertake; or</p> <p style="padding-left: 40px;">(ii) failure on the part of a CLC Regulated Practice to account for money received by them in connection to the regulated activities that the practice is licensed to undertake;</p> <p>(b) That the loss is eligible in accordance with Rule 5.</p> <p>(c) That the application for a grant was submitted within the deadline specified in Rule 6.</p>

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	<p>4.8 The CLC will consider the actions, behaviour and conduct of the Applicant both at the time of the transaction or loss and when making the Application when considering if the Applicant is eligible for a Grant from the Fund. An Application will be considered ineligible and will be dismissed if the CLC considers that:</p> <p>(a) the Applicant has behaved fraudulently or dishonestly in relation to:</p> <p>(i) any of the circumstances that gave rise to the loss in respect of which the application is being made or from which the said loss flowed; or</p> <p>(ii) the making of the Application for a Grant;</p> <p>(b) the Applicant has provided inaccurate and/or incomplete information and/or evidence in the Application Form or otherwise or has in some other way made misrepresentations to the CLC;</p>

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	<p>(c) the claim has been exaggerated by the Applicant;</p> <p>(d) the Applicant has not provided sufficient information and/or evidence in the Application Form or otherwise;</p> <p>(e) the Applicant has, by their actions or omissions, caused the losses in respect of which they are claiming a grant from the Fund;</p> <p>(f) the statutory limitation period that applies to the claim that the Applicant might bring against the CLC Regulated Practice whose misfeasance has caused the loss has expired.</p> <p>4.9 If any of the sub-paragraphs 4.8(a) to 4.8(f) apply, if the CLC may refuse to make an Offer of a Grant and/or offer a reduced Grant to the Applicant.</p> <p>4.10 If the CLC considers that the Applicant’s behaviour lacked diligence or was reckless or heedless then the CLC may refuse and dismiss the application.</p>

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	<p>4.11 The CLC may consider any evidence, information and materials as it sees fit when determining the eligibility of an Applicant under this Rule 4.</p>
<p>Not in existing framework</p>	<p>Rule 5 – Eligibility of losses</p> <p>5.1 Losses will only be eligible for a Grant from the Fund if they are:</p> <ul style="list-style-type: none"> (a) Direct financial loss suffered by the Applicant; and/or (b) Insurance Excess deductions from an insurance settlement where the insurer has accepted that the insured was at fault, or a Court or Tribunal has determined that the insured was at fault; <p>and, in either case,</p> <ul style="list-style-type: none"> (c) The eligibility conditions set out in Rule 4.7 are satisfied. <p>5.2 Losses that are not eligible for a Grant from the fund will include but are not limited to:</p>

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	<ul style="list-style-type: none"> <li data-bbox="1182 272 2123 480">(a) Pain, suffering, loss of amenity and/or losses representing or otherwise calculated by reference to the time spent by the Applicant dealing with the consequences of the alleged fault of the CLC Regulated Practice; <li data-bbox="1182 539 2123 632">(b) Indirect losses suffered such as capital growth, lost opportunity, lost interest; <li data-bbox="1182 691 1525 722">(c) Speculative losses; <li data-bbox="1182 782 1700 813">(d) Losses that have not crystallised; <li data-bbox="1182 873 1980 904">(e) Losses which are incapable of financial quantification; <li data-bbox="1182 963 2123 1114">(f) Legal fees and/or any expert fees incurred in pursuing any remedies that the Applicant might have against the CLC Regulated Practice or other route of recovery; <li data-bbox="1182 1173 2018 1204">(g) Legal fees incurred in making an Application to the Fund;

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	<ul style="list-style-type: none"> <li data-bbox="1182 272 2123 363">(h) Third party costs such as survey fees, expert witnesses etc unless specifically requested by the CLC; <li data-bbox="1182 424 2123 515">(i) Loss relating to, associated with or arising out of financial products or investment schemes; <li data-bbox="1182 576 2123 667">(j) Insurance Excess deductions in cases in which there has not been any finding or admission of fault; <li data-bbox="1182 727 2123 930">(k) Shortfalls in recovery constituted by the difference between the amount claimed by an applicant and the amount for which the applicant agrees to settle with the CLC Regulated Practice said to be at fault or its insurers; <li data-bbox="1182 991 2123 1082">(l) Losses relating to, associated with or arising out of with any tax evasion or avoidance scheme; <li data-bbox="1182 1142 2123 1233">(m) Losses relating to, associated with or arising out of and/or financed by illegal activity; <li data-bbox="1182 1294 2123 1321">(n) Interest on any grant payable from the Fund;

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	<p>(o) Losses in respect of which the Applicant has been compensated in part or in full by another means.</p>
<p>11. Where making a claim for a grant the Claimant must complete, sign and deliver to the CLC a notice of claim in the form required by the CLC. Such notice shall provide for:-</p> <p>(a) the assignment to the CLC of all rights of action the Claimant has against the Respondent Body or any other person liable for the loss;</p> <p>(b) retention by the Fund of all money recovered by the CLC whether or not in excess of any grant made by the CLC to the Claimant after deduction of the Costs incurred by the CLC in making such recoveries;</p> <p>(c) the Claimant to covenant to do all such further things and produce such documents as may be required by the CLC for the purpose of pursuing any claim against the Respondent Body or any other person liable for the loss.</p> <p>Where the Claimant requires assistance in completing a notice of claim this will be provided.</p>	<p>Rule 6 - Making an Application</p> <p>6.1 Before an Applicant makes an Application for a Grant they should carefully consider whether the eligibility criteria in Rules 4 and 5 are satisfied. The CLC will dismiss an Application for a Grant if the eligibility criteria are not satisfied.</p> <p>6.2 To apply for a Grant from the Fund, the Applicant must truthfully, accurately and comprehensively complete an Application Form in the prescribed form and submit this to the CLC using the contact details contained in the Application Form.</p> <p>6.3 Where losses have been suffered jointly by several persons, then those persons may jointly complete one Application Form in respect of the losses that they have jointly suffered. In such circumstances, all such</p>

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	<p>persons shall together and collectively be considered “the Applicant” for the purposes of these Rules and they must jointly comply with all the requirements of the Applicant.</p> <p>6.4 Save where Rule 6.3 above applies, different Applicants must each bring their own applications on separate, individual Application Forms, setting out their individual circumstances and explaining how they have suffered their individual losses.</p> <p>6.5 If an Application Form is not completed accurately and completely and supported with all the relevant evidence it will not be considered.</p> <p>6.6 The Application Form must be received by the CLC within 6 months of the claimant becoming aware (or should reasonably have become aware) of the Loss or within 90 days of exhausting all other reasonable options available to the Applicant.</p>
<p>12. The Claimant must deliver the claim to the CLC within 6 months (or such longer period as the CLC may allow in a particular case) after the loss or likelihood of loss first came or should reasonably have come to their attention.</p>	<p>See rule 6</p>

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<p>13. The Claimant must deliver any subsequent claim to the CLC within 56 days of the making of the grant (or the date of receipt of notification by the CLC that no further grant is to be made beyond that made by way of interim grant or grants).</p>	
<p>14. On receipt of a claim the CLC may require the Claimant to:-</p> <ul style="list-style-type: none"> (a) support their claim with a statutory declaration; (b) produce any relevant documents; and (c) assist with any enquiries the CLC thinks fit to pursue. 	<p>7.3 The onus is on the Applicant to satisfy the CLC of all the facts pertinent to the Application. The CLC may disregard any uncorroborated assertions or statements made in the application, whether they relate to the transaction said to give rise to the loss, or to the loss claimed or to any other circumstance.</p> <p>7.4 The CLC may ask the Applicant for additional information, clarification or evidence (but is not obliged to do so). If the Applicant does not provide the information, clarification or evidence requested within the timeframe specified by the CLC at the time of request then the CLC may reject the Application.</p>
<p>15. Where a grant has been made and they wish to seek an additional grant in respect of interest or costs, the Claimant must submit a notice of claim. A claim for both interest and Costs may be made in a single application.</p>	<p>5.2 Losses that are not eligible for a Grant from the fund will include but are not limited to:</p>

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	<ul style="list-style-type: none"> <li data-bbox="1182 272 2123 480">(a) Pain, suffering, loss of amenity and/or losses representing or otherwise calculated by reference to the time spent by the Applicant dealing with the consequences of the alleged fault of the CLC Regulated Practice; <li data-bbox="1182 539 2123 632">(b) Indirect losses suffered such as capital growth, lost opportunity, lost interest; <li data-bbox="1182 691 1525 722">(c) Speculative losses; <li data-bbox="1182 782 1700 813">(d) Losses that have not crystallised; <li data-bbox="1182 873 1977 904">(e) Losses which are incapable of financial quantification; <li data-bbox="1182 963 2123 1114">(f) Legal fees and/or any expert fees incurred in pursuing any remedies that the Applicant might have against the CLC Regulated Practice or other route of recovery; <li data-bbox="1182 1173 2018 1204">(g) Legal fees incurred in making an Application to the Fund;

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	<ul style="list-style-type: none"> <li data-bbox="1182 272 2119 363">(h) Third party costs such as survey fees, expert witnesses etc unless specifically requested by the CLC; <li data-bbox="1182 424 2119 515">(i) Loss relating to, associated with or arising out of financial products or investment schemes; <li data-bbox="1182 576 2119 667">(j) Insurance Excess deductions in cases in which there has not been any finding or admission of fault; <li data-bbox="1182 727 2119 930">(k) Shortfalls in recovery constituted by the difference between the amount claimed by an applicant and the amount for which the applicant agrees to settle with the CLC Regulated Practice said to be at fault or its insurers; <li data-bbox="1182 991 2119 1082">(l) Losses relating to, associated with or arising out of with any tax evasion or avoidance scheme; <li data-bbox="1182 1142 2119 1233">(m) Losses relating to, associated with or arising out of and/or financed by illegal activity; <li data-bbox="1182 1294 2119 1321">(n) Interest on any grant payable from the Fund;

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	(o) Losses in respect of which the Applicant has been compensated in part or in full by another means.
16. The CLC may in its absolute discretion waive any requirement under requirements 9, 14 and 15.	
<p>Determining Claims</p> <p>17. Without limiting its absolute discretion the CLC may take into account when deciding whether a claim for a grant should be paid in full, reduced or rejected:-</p> <ul style="list-style-type: none"> (a) whether the Claimant has complied with 12-13, and if appropriate, 14; (b) whether sufficient information has been provided in a reasonable timescale in support of the claim; (c) whether the Claimant: - <ul style="list-style-type: none"> (i) has any responsibility for the loss, or (ii) directly or indirectly hoped to profit or did profit, whether wholly or otherwise, from the circumstances giving rise to the loss; (d) whether the Claimant is protected in respect of their loss by any other scheme or any contract of insurance or indemnity or guarantee; (e) whether the Claimant has recovered damages or compensation in respect of the loss which had been suffered including any interest recovered as a result of any available civil remedy or in criminal proceedings or is likely to make such recovery in the future; (f) the assets available to the Fund; 	<p>Rules 4, 5 & 6 will be considered when determining claims</p> <p>Rule 7 – Determination of Applications</p> <p>7.1 Grants are offered or not from the Fund in the CLC’s absolute and unqualified discretion. The CLC will evaluate the merits of each application in accordance with these Rules and the criteria, principles and considerations set out therein (and, in particular, in this Rule 7), but the decision whether to offer a Grant or not is the CLC’s alone and the CLC’s decision is final.</p> <p>7.2 The CLC will consider the eligibility of the Application in accordance with Rules 4 and 5. If any of the eligibility criteria are not met then the CLC will reject the Application without considering it further.</p>

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<p>(g) any representations made to the CLC by the Respondent Body, their personal representative, trustee in bankruptcy or the liquidator of the body;</p> <p>(h) whether any statutory limitation period has expired;</p> <p>(i) whether the Claimant has taken all reasonable steps to mitigate loss;</p> <p>(j) whether the claim has been exaggerated by the Claimant;</p> <p>(k) whether the CLC has reason to suspect fraud or other dishonesty on the part of the Claimant in respect of the loss or in respect of the claim.</p>	<p>7.3 The onus is on the Applicant to satisfy the CLC of all the facts pertinent to the Application. The CLC may disregard any uncorroborated assertions or statements made in the application, whether they relate to the transaction said to give rise to the loss, or to the loss claimed or to any other circumstance.</p> <p>7.4 The CLC may ask the Applicant for additional information, clarification or evidence (but is not obliged to do so). If the Applicant does not provide the information, clarification or evidence requested within the timeframe specified by the CLC at the time of request then the CLC may reject the Application.</p> <p>7.5 The CLC will consider the application, whether to offer a Grant and/or how much to offer in accordance with the following criteria, principles and considerations:</p> <p>(a) The core purpose of the Fund is to protect consumers from losses caused by the negligence or fraud of CLC Regulated Practices in regulated conveyancing transactions for the acquisition of residential property for the occupation of the applicant and/or</p>

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	<p>the applicant’s family; and/or probate transactions. In the overwhelming majority of cases, the Applicant will have been clients of the CLC Regulated Practice against which complaint is made. The further the facts of an application are from this core purpose the less likely it is that the Fund will make a Grant in full or part;</p> <p>(b) The resources available to the Fund are finite and limited and, when considering and/or determining Applications and/or offering Grants from the Fund, the CLC will be mindful not just of the merits of the current application(s) but also of the likelihood that other applications will be received in the future, whether relating to the same, similar or related circumstances or otherwise, and that the Fund must retain substantial monies in order to be able to offer Grants to those future applicants if and insofar as the CLC might consider that it is appropriate to do so;</p> <p>(c) The Fund is a fund of last resort. The CLC may dismiss an application or refuse to offer a Grant in full or at all where it considers that the applicant has not, before making their</p>

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	<p>application to the Fund, first pursued all other reasonable remedies and/or taken all other reasonable measures to avoid or to mitigate their losses and/or to obtain compensation elsewhere.</p> <p>(d) Where the CLC considers that the Applicant has, by their acts or omissions, contributed to the losses suffered and/or has otherwise failed to mitigate their losses, then the CLC may dismiss the application or reduce the Grant that might otherwise have been offered;</p> <p>(e) Where the CLC considers that it is or might be necessary to limit the Grants made to existing and/or future eligible applicants in order to protect the financial viability and stability of the Fund for future applicants, then the CLC may be guided by the following principles:</p> <p>(i) Grants are less likely to be offered in full or at all in respect of losses caused by or relating to or arising out of an inherently speculative transaction than in respect of</p>

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	<p>losses caused by or relating to or arising out of a transaction for the acquisition of residential property for the occupation of the applicant and/or the applicant's family and/or probate transactions;</p> <p>(ii) Grants are unlikely to be offered in full or at all in respect of losses caused by or relating to or arising out of transactions that were being pursued more by way of investment or in the hope of making a profit than for the acquisition of residential property for the occupation of the applicant and/or the applicant's family and/or probate transactions;</p> <p>(iii) The greater the remaining net worth of an Applicant, the greater the likelihood that the CLC will, in the exercise of its absolute and unqualified discretion, decide not to offer the Grant for which the applicant is applying in full or at all;</p> <p>(iv) The greater the recovery that the Applicant has made</p>

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	<p>(including, without limitation, from a damages claim or pursuant to a policy of insurance or pursuant to an indemnity or guarantee, for example) before making their Application, as a proportion of the total loss suffered by the Applicant, the less likely it is that Applicant will be offered the Grant for which they are applying in full or at all;</p> <p>(f) If the CLC receives multiple applications:-</p> <ul style="list-style-type: none"> (i) in respect of the same CLC Regulated Practice; or (ii) in respect of or arising out of transactions or proposed transactions concerning flats or houses in the same development or locality; or (iii) in respect of or arising out of claims making the same essential complaint or series of complaints or alleging the same failing or series of failings against different CLC Regulated Practices,

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	<p>or if it considers that it might do so, then the CLC may elect to treat all those applications together in their own ‘Special Category’ to which Rule 8 below shall apply.</p> <p>7.6 The CLC aims to determine an Application within 6 months of it being submitted. Where, for any reason, it is not able to do so, simply by way of example because Rule 8 applies, then it shall notify the Applicant accordingly.</p> <p>7.7 Each Applicant will be notified in writing of the CLC’s decision on their Application (whether their Application has been held eligible for a Grant as part of a Special Category pursuant to Rule 8 or otherwise).</p>
Not in current version	<p>Rule 8 – Grouping of Applications into Special Categories</p> <p>8.1 If the CLC receives multiple applications:-</p> <p>(i) in respect of the same CLC Regulated Practice; or</p> <p>(ii) in respect of or arising out of transactions or proposed transactions concerning flats or houses in the same development</p>

CURRENT	PROPOSED
	<p>or locality; or</p> <p>(iii) in respect of or arising out of claims making the same essential complaint or series of complaints or alleging the same failing or series of failings against different CLC regulated Practices,</p> <p>or if it considers that it might do so, then the CLC may elect to treat all those applications together in their own ‘Special Category’. The purpose of considering applications together in a shared Special Category is to:</p> <p>(a) ensure a consistent, even-handed and transparent approach to assessing and determining Applications received in respect of the same CLC Regulated Practice or in respect of or arising out of transactions or proposed transactions concerning flats or houses in the same development or locality or in respect of or arising out of claims making the same essential complaint or series of complaints or alleging the same failing or series of failings against different CLC Regulated Practices;</p> <p>(b) facilitate the fair exercise of the CLC’s absolute and unqualified</p>

CURRENT	PROPOSED
	<p>discretion;</p> <p>(c) facilitate the application by the CLC of particular criteria to all those applications;</p> <p>(d) provide a suitable time period for all Applications falling within the Special Category to be submitted, and for the CLC then to gather information on those Applications, to evaluate and to determine them;</p> <p>(e) ensure the proportionate and prudent allocation of compensation monies from the Fund;</p> <p>(f) protect the financial viability and stability of the Fund for future Applications; and</p> <p>(g) provide reasonable compensation for successful Applicants from the funds allocated for the Special Category concerned in accordance with Rule 8.3 below.</p>

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	<p>8.2 Applications included in a Special Category will still be required to satisfy the eligibility requirements set out in Rules 4 and 5. If any of the eligibility criteria are not satisfied then the CLC reserves the right to reject the Application without considering it further.</p> <p>8.3 The CLC shall be entitled to impose a financial limit on the aggregate grants to be paid to Applicants whose claims fall within the same Special Category and to allocate those limited funds to the Special Category concerned. When setting such a limit, the matters to which the CLC will have regard will include:</p> <p>8.2.1 The total sums claimed by all the Applicants whose applications fall within the same Special Category;</p> <p>8.2.2 The existing balance of the Compensation Fund;</p> <p>8.2.3 The further applications for compensation from the Fund that the CLC reasonably expects to receive in the short and medium terms; and</p>

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	<p data-bbox="1182 272 2123 421">8.3.4 The need to ensure that the Compensation Fund remains viable as a fund to meet those applications in accordance with these Rules.</p> <p data-bbox="1093 480 2123 687">8.4 All applicants whose applications have been grouped with others in a Special Category will be notified in writing by the CLC as soon as is reasonably practicable, and kept up to date by the CLC from time to time, as to the following facts and matters:</p> <ul style="list-style-type: none"> <li data-bbox="1182 746 2123 895">(a) That the CLC has, after an initial review of the Application, determined that the Application has the potential to fall within a Special Category; <li data-bbox="1182 954 2123 1102">(b) Which particular aspect of their application has caused it to be placed in a Special Category with other applications sharing that aspect; <li data-bbox="1182 1161 2123 1257">(c) How many other applications the CLC expects might also fall within that Special Category; <li data-bbox="1182 1316 2123 1350">(d) That the determination of their Application is likely to be delayed

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	<p>in order to provide a window within which the other applications falling within the Special Category can be made;</p> <p>(e) When the CLC anticipates that the Special Category is likely to close such that the applications falling within that Special Category might then be determined;</p> <p>(f) That the CLC will publicise details of the Special Category, whether via updates placed on the CLC’s website or as otherwise determined by the CLC;</p> <p>(g) Whether specific criteria will be applied to applications in that Special Category pursuant to Rule 8.10 below and, if so, what those specific criteria are; and/or</p> <p>(h) Whether the CLC has imposed a financial limit on the aggregate Grants to be paid to Applicants whose claims fall within the same Special Category and, if so, the total funds allocated to all the claims in the Special Category concerned.</p>

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	<p>8.5 Where an Applicant is notified in accordance with Rule 8.4 that their Application is being grouped with others in a Special Category, such notification does not amount to a final determination:</p> <ul style="list-style-type: none"> (a) that the Applicant meets the eligibility criteria; or (b) that the Application does, in fact, fall within the Special Category; or (c) that the Applicant will be Offered a Grant from the Fund; or (d) of the amount of any Grant which may be Offered to the Applicant. <p>8.6 The CLC shall keep the Applicants updated on the status of their Application and the collation of applications to the Special Category and the determination of applications within the Special Category on an appropriate basis via updates placed on the CLC’s website or as otherwise determined by the CLC.</p>

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	<p>8.7 The CLC will give 6 calendar months' notice of the date after which no further applications that would fall within the Special Category will be accepted. Once that date has passed then:</p> <ul style="list-style-type: none"> (a) no further applications that would have been allocated to the Special Category will be accepted; and (b) the CLC will proceed to determine the Applications that have been grouped together in the Special Category. <p>8.8 Where the CLC has closed the Special Category to new Applications in accordance with Rule 8.7 any Applications that would have qualified for allocation to the Special Category but were received after the closure will only be considered at the CLC's discretion.</p> <p>8.9 Applications which the CLC in due course determines do not, in fact, belong in the Special Category will be reclassified as an individual Application and will be considered by the CLC separately from the Special Category and without reference to any distinctive criteria which are applied to that Special Category.</p>

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	<p>8.10 The Applications which the CLC subsequently determines in its discretion do belong in the Special Category shall be considered by the CLC by applying criteria specifically relating to that Special Category, as may be determined by the CLC in its absolute and unqualified discretion. Such criteria may (but do not have to) differ from the criteria applied to Applications which are not placed into a Special Category. In addition, the CLC may:</p> <ul style="list-style-type: none"> (a) Apply different time limits for determining an application placed into a Special Category; (b) Request additional supplementary information for the purpose of making a determination or deciding on the amount of the Grant to be offered to any particular Applicant; (c) Take into account any information or evidence provided in relation to any application allocated to a Special Category when considering any other application in the same Special Category; (c) Offer Grants of varying amounts to different Applicants' dependant on relevant criteria set during the assessment of

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	<p style="text-align: center;">Applications.</p> <p>8.11 The CLC shall determine the amount of any Grant to be Offered to each Applicant in a Special Category in accordance with the following principles and criteria:</p> <ul style="list-style-type: none"> (a) The total aggregate amount allocated to the Special Category; (b) The total number of eligible Applications in the Special Category; (c) Any subcategorization of Applications within the Special Category; and (d) The considerations set out in Rule 7.5. <p>8.12 For the avoidance of doubt, not all Applicants whose Applications have been grouped within a Special Category will necessarily be considered eligible for a Grant from the Fund. All Applications will be determined in accordance with the specific facts and circumstances of each Application and the standard eligibility criteria as set out in Rules 4 and 5.</p>

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	<p>8.13 Allocation of funds to the special category is not an indication of likely payment of all or any claim within the category and some or all of the allocated funds may be unused at the end of the determination of the special category applications. If that is the case those funds will be reallocated to the general Fund.</p>
<p>18. The CLC may make interim or final payments by way of a grant or grants at any time before, during or after an investigation of a claim against a Respondent Body. It will only do so when it is satisfied that the payment falls within the circumstances for which a grant may be made under this Code.</p>	<p>Rule 9 – Making and acceptance of an Offer of Grant</p> <p>9.1 If the CLC considers an Application to be eligible for a Grant from the Fund, it may Offer to pay the Applicant a Grant from the Fund.</p> <p>9.2 The amount Offered by the CLC via a Grant may not cover all losses suffered by the Applicant and/or may not match the amount applied for. Any amount offered is final and not subject to negotiation.</p> <p>9.4 The CLC may seek remedial action(s) and undertake other steps as an alternative to and/or in combination with any Offer of a Grant. For instance, if the Loss suffered was an unperfected title, the CLC may</p>

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	<p>undertake the post-completion procedures as an alternative to the Offer of a Grant.</p> <p>9.5 The Applicant will have 28 days to accept in writing the CLC’s offer of a Grant, such period starting on the date in which the Grant is offered. If the Applicant does not accept the Grant within 28 days, the offer will lapse.</p> <p>9.6 Should an offer of a Grant lapse, no renewed or further Application relating to substantively the same loss will be considered by the CLC.</p> <p>9.7 Should further information come to light during the offer period that causes the CLC to reconsider the offer of a Grant, the offer may be withdrawn and may not be reinstated. Should this be the case no renewed or further application relating to substantively the same loss will be considered.</p> <p>9.8 Where an Applicant accepts the offer of a Grant, the Applicant must, at the same time, provide such documents and complete such steps as the CLC requires to verify the identity of the Applicant. This identity check may involve a variety of methods and no payment will be made unless</p>

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	<p>and until such checks are completed to the CLC’s satisfaction. A failure by the Applicant to complete the identification formalities satisfactorily and within the required time frame may result in the Offer being withdrawn.</p> <p>9.9 Where an Applicant accepts the offer of a Grant, the Applicant must, at the same time, provide the full and complete details of the bank account into which the Grant is to be paid. The details must be of a bank account held by the Applicant (or, where the Applicant constitutes a number of persons any of those persons) in the UK with a bank authorised by the FCA to accept deposits. Failure to provide the necessary bank details within the required time frame may result in the Offer being withdrawn.</p> <p>9.10 Upon receiving bank details in compliance with Rule 9.10 above, and having verified the Applicant’s identity(ies), the CLC will require each person constituting the Applicant to sign a Settlement Agreement. In addition, the CLC may require each person constituting the Applicant to sign a Deed of Assignment, assigning to the CLC all claims and/or rights (whether or a proprietary nature or otherwise) that the persons constituting the Applicant or any of them might have against third parties</p>

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	<p>in respect of or arising out of the subject matter of their Application. Such Settlement Agreement and any Deed of Assignment required by the CLC must be signed and returned to the CLC within 28 days of being sent to the Applicant or any of the persons constituting the Applicant. Within 30 days of the CLC's receipt of the signed Settlement Agreement and any Deed of Assignment required by the CLC, the Grant will be transferred to the bank account detailed in the Settlement Agreement. If the Settlement Agreement and any Deed of Assignment are not properly signed by or on behalf of all the persons constituting the Applicant and returned to the CLC within 28 days of the date on which the Grant was offered to the applicant, then the offer will lapse and no similar Applications will be considered.</p>
<p>19. The CLC will consider such a claim in its absolute discretion may make an additional grant or grants out of the Fund under this provision as follows: (a) in lieu of interest on the amount of a grant for such a period and at such rate as determined at the CLC's discretion; (b) a sum in respect of the amount of reasonable costs incurred by making a claim wholly and exclusively in connection with the preparation, submission and proof of a claim.</p>	<p>See 5.2 (g) and (n)</p>

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<p>20. The CLC may before deciding whether or not to make a grant require a Claimant to pursue any civil remedy which may be available in respect of the loss.</p>	<p>See 10.2 (c)</p>
<p>21. Where the CLC refuses to make a grant of either the whole or part of the amount claimed the CLC shall inform the Claimant in writing of the reason for its decision within 28 days of that decision.</p>	<p>Rule 10 – Refusal of an Application for a Grant</p> <p>10.1 Where the CLC declines to offer a Grant to an Applicant, the Applicant will be informed of the CLC’s reasons in writing.</p> <p>10.2 Entirely without prejudice to the CLC’s absolute and unqualified discretion, the circumstances in which the CLC may refuse to offer a Grant include (but are not limited to) the following:</p> <ul style="list-style-type: none"> (a) If the Applicant does not meet the eligibility criteria (Rule 4); (b) If the loss suffered by the Applicant does not meet the eligibility criteria (Rule 5); (c) If the Applicant has not exhausted all other reasonable routes to compensation prior to submitting an Application Form;

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	<p>(d) If the Application Form is incomplete or contains inaccuracies, misrepresentations and/or falsehoods;</p> <p>(e) If the Applicant has not responded to requests by the CLC for additional information, clarification or evidence within the requested timeframes;</p> <p>(f) If the Allegations made by the Applicant cannot be substantiated to the satisfaction of the CLC. This would include any assertions made by the Applicant that cannot be verified; and/or</p> <p>(g) If following the consideration of the criteria in Rule 7.5 the CLC concludes that no Grant should be offered.</p> <p>10.3 Should new significant information or evidence come to light following the refusal, dismissal or rejection of a Grant by the CLC, the Applicant may re-apply with the new significant information or evidence if the new information or evidence was not known to the applicant at the time of the earlier application and could not, with reasonable diligence on the part of the Applicant, have been so known.</p>

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	10.4 What constitutes new significant information or evidence shall be determined by the CLC in its absolute discretion.
22. The CLC may review a decision if the Claimant is able to produce new information not previously considered. Any new information must be submitted within 90 days of the date of the decision to be considered. Should a Claimant accept a full or partial grant of a claim , this will be considered a full and final settlement and the decision will not be eligible for review. If a Claimant does not respond to a full or partial grant of a claim or provide the CLC with bank details to make payment of the grant within 90 days, then the grant will be withdrawn and no further claims relating to the original claim will be considered.	10.3 Should new significant information or evidence come to light following the refusal, dismissal or rejection of a Grant by the CLC, the Applicant may re-apply with the new significant information or evidence if the new information or evidence was not known to the applicant at the time of the earlier application and could not, with reasonable diligence on the part of the Applicant, have been so known.
Recovery of monies paid out of the Fund	
23. The CLC shall not make a grant unless it has caused a letter giving notification of the claim or additional claim to be sent to the Respondent Body at the last known correspondence address or to any solicitor or other representative instructed by the Respondent Body or appointed on its behalf or in its stead and in any case not less than 8 days have elapsed since the date of such letter.	
24. The CLC may take proceedings against the Respondent Body to recover the amount of any grant or other payment made in consequence of the act or omission of that Respondent Body in accordance with this Code:	

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<ul style="list-style-type: none"> a. provided no other civil proceedings for recovery in respect of the same cause of action have already been issued; b. even if it is not possible to obtain an assignment of the cause of action from or on behalf of the Claimant. 	
<p>25. The CLC may in its absolute discretion take proceedings against a Manager or former Manager of a Respondent Body to recover the amount of any grant or other payment made in accordance with this Code.</p>	
<p>26. Any sum payable as a result of proceedings taken against a body, Manager or former Manager is recoverable as a debt owed to the CLC.</p>	