

SRA Consultation Paper 6 - Client financial protection

LSC Response

Our basic position is that the client should not have to take the risk in situations where they have taken reasonable steps to ensure that the firm are authorized to undertake the necessary work and that suitable indemnity insurance is in place.

1. Do you agree that individual solicitors (Category A above), and individual RELs and RFLs (Category B above) who are engaged in private practice, should continue to be covered by compulsory professional indemnity insurance through their firms? (Paragraph 17)

Yes

2. Do you agree that the compulsory professional indemnity insurance requirement should apply to all firms that we authorise? (Category C above - paragraph 18)

Yes

3. Regarding unauthorised firms that only we can authorise, (Category D above), do you think:

(a) we should reject the role of default regulator so that the compulsory professional indemnity scheme does not cover unrecognised partnerships/sole practitioners (paragraph 19, D1); or

(b) we should adopt the role of default regulator in that the protection afforded by the compulsory professional indemnity scheme applies to partnerships and sole practitioners whether recognised or not (paragraph 19, D2)?

We believe option D2 should be adopted i.e. that the compulsory scheme should apply in these circumstances.

4. Regarding unauthorised partnerships/sole practices that can be authorised by us or another regulator (Category E above):

(a) do you think that we should reject the role of default regulator so that the protection afforded by the compulsory professional indemnity scheme applies to recognised bodies and recognised sole practitioners only? (paragraph 20, E1)

(b) If you believe that we should adopt the role of default regulator, should that be on the basis of: accepting it in all Category E cases (paragraph 20, E2); confining cover to the personal liabilities of those individuals we authorise (paragraph 20, E3) or accepting it only in those cases where the partnership is dominated by individuals we authorise? (paragraph 20, E4)

We believe you should adopt the role of default regulator in all cases i.e. option E2. Any arrangement to limit your liability in these categories should be for you to make with the other regulator. The client should not be left in a position where there is no compulsory insurance.

5. Do you agree that firms that are authorised by another regulator should be excluded from our compulsory professional indemnity scheme? (Category F above - paragraph 21)

No we do not agree. We believe that appropriate compulsory insurance should be available and that it should be a matter for the SRA to come to arrangements with the other regulators. Clients should not have to take the risk that there is no compulsory scheme.

6. Do you agree that unauthorised firms that cannot be authorised by any regulator should be excluded from our compulsory professional indemnity scheme? (Category G above - paragraph 22)

No we do not agree. We believe that appropriate compulsory insurance should be available. Clients should not have to take the risk that there is no compulsory scheme.

7. Do you believe that the Compensation Fund should continue to be available in the last resort for claims in respect of a solicitor's dishonesty, even if the solicitor is practising in a firm authorised by another regulator?

Yes we agree that this should continue.