

Joint V Law Societies' Response to SRA Consumer Protection Review Consultation

Introduction

The Joint V is an informal grouping of the five largest local law societies: Birmingham, Bristol, Leeds, Liverpool and Manchester. Collectively, we represent the interests of over 15,000 legal professionals across the UK. We meet to discuss areas of interest in common to our respective members, and collaboratively take action on issues where that would enhance the voice of our societies individually.

Each of the Joint V members is submitting a response on behalf of its members. The purpose of this paper is to give our collective voice to the common themes of those responses in the form of a high-level review, rather than engaging with the consultation questions as written. It should be read in conjunction with our member societies' substantive responses.

Paper 1: The Model of Holding Client Money

1. Third-Party Managed Accounts (TPMA) & solicitors' ability to hold client money

- The SRA's long-term suggestion to eliminate the holding of client money by solicitors is disproportionate and poorly justified.
- The vast majority of the legal profession act ethically and comply with existing regulations. This reform appears to be a reaction to isolated high-profile cases (in which context, the SRA has faced criticism from the LSB) rather than evidence of systemic issues. The suggested approach has potential to undermine trust in the legal profession.
- Consolidating client money in a single TPMA provider (or small number of TPMA providers) itself creates new risks, including cybersecurity concerns, while limiting competition and choice.
- Such reforms would also lead to significant job losses in law firms' finance teams and increase costs to clients.
- The SRA has not adequately explained why it considers client money held to a solicitor's instruction in a TPMA would be safer than client money held in a separate client account.
- Removal of client funds to TPMA merely pushes responsibility of failure of a TPMA to the FCA rather than the SRA. It gives no greater protection to consumers which is the SRAs entire purpose.

2. Interest on Client Accounts

- The suggestion that firms are incentivised to retain funds in client account to generate interest is misconceived and demonstrates a lack of understanding of the profession and the importance which solicitors place on acting in their clients' best interests.
- The consultation is yet to adequately engage with the costs and challenges involved in firms operating a client account facility, nor the myriad circumstances in which client balances can arise unavoidably in many cases.
- The costs and administrative burdens of maintaining client accounts were not questioned during periods of low interest rates, demonstrating the proposal's inconsistency.

3. Residual Balances

- The proposed 12-week timescale for dealing with residual balances is unrealistic and impractical, especially for complex transactions, such as those involving mergers, property matters, international clients, or vulnerable or deceased clients.
- The 'prompt' obligation adequately addresses the different circumstances in which such balances can arise, providing appropriate flexibility to regulated firms and the regulator.
- Anecdotally, we would anticipate that a significant proportion of residual balances will be cleared more quickly than 12 weeks. Others may take significantly longer as a result of circumstances which regulated firms cannot control.
- An arbitrary deadline could have the opposite to the desired effect:- (i) pushing clearing funds back on some transactions; (ii) generating rule-breaches on cases where there is a good reason for delay; and (iii) not serving to accelerate transfers by any truly delinquent firms (who must already have been ignoring the 'prompt' obligation).

4. Advance fees

- Again, there is insufficient evidence for reform in this area. We are not aware of there being widespread, unjustified inflation of advance fees. Overregulation in this area risks creating inefficiencies and limiting access to justice.

The proposals in Paper 2 focus on improving the SRA's internal processes. We would broadly support:

- Enhancing pre-authorisation procedures to identify and mitigate risks early.
- Investing in staff training and improving data analysis to strengthen regulatory enforcement.
- Reintroducing accountants' reports to add an additional layer of scrutiny while ensuring proportionality.
- Reviewing a perceived tendency by the SRA to apply a "one-size-fits-all" approach, which often fails to reflect the diverse operating environments of firms. Prescriptive regulation risks creating undue burdens on smaller practices and those handling complex client money arrangements.
- Addressing the need for more effective audits and better oversight of high-risk transactions, including acquisitions involving firms primarily engaged in conveyancing or personal injury work.
- Caution regarding strict benchmarking against other regulators, such as the FCA, given the FCA's more established regulatory history and resources, which the SRA lacks.

Paper 3: Compensation Fund

The SRA's proposals for the Compensation Fund raise concerns about the fund's scope, transparency, and sustainability.

- The Compensation Fund currently covers not only payments to clients who have suffered losses but also the costs of interventions, including archive and storage expenses. This is not widely known by solicitors, which leads us to a general concern that there is insufficient scrutiny and understanding within the profession regarding how the Compensation Fund operates and its financial sustainability.
- Removing this function would require these costs to be sourced elsewhere, potentially leading to higher levies or other unintended consequences. There should be greater transparency from the SRA on the future impact of the removal of this cost from the fund or if the fund is no longer viable and closes.
- The SRA must provide clearer information and engage more effectively with stakeholders to ensure the fund remains fit for purpose.

Common Themes and Recommendations

Across all three consultation papers, the following themes emerge:

- **Disproportionate Proposals:**

The SRA's suggested reforms are often disproportionate to the issues identified and lack sufficient empirical or independent evidence to justify their implementation or their impact on the profession.

- **Increased Costs and Impact on Clients:**
Many of the proposals would lead to higher costs for firms, which would inevitably be passed on to clients, reducing access to justice.
- **Erosion of Trust in the Profession:**
Several proposals imply a lack of trust in solicitors, which risks damaging the reputation of the profession and undermining public confidence.
- **Focus on Internal Improvements:**
The SRA should prioritise improving its own processes and enforcement mechanisms rather than imposing additional burdens on the profession.
- **Engagement and Collaboration:**
Meaningful engagement with the profession is essential to develop reforms that are practical, evidence-based, and proportionate.

Conclusion

The Joint V Law Societies urge the SRA to refocus its approach to the Consumer Protection Review. Instead of implementing disruptive, knee-jerk reforms, the SRA should focus on targeted improvements to its own processes and enforcement of existing rules. By working collaboratively with the profession, the SRA can achieve its objectives while maintaining public confidence in the legal sector and ensuring access to justice.

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Bristol Law Society

Birmingham Law Society

Leeds Law Society

Liverpool Law Society

Manchester Law Society