

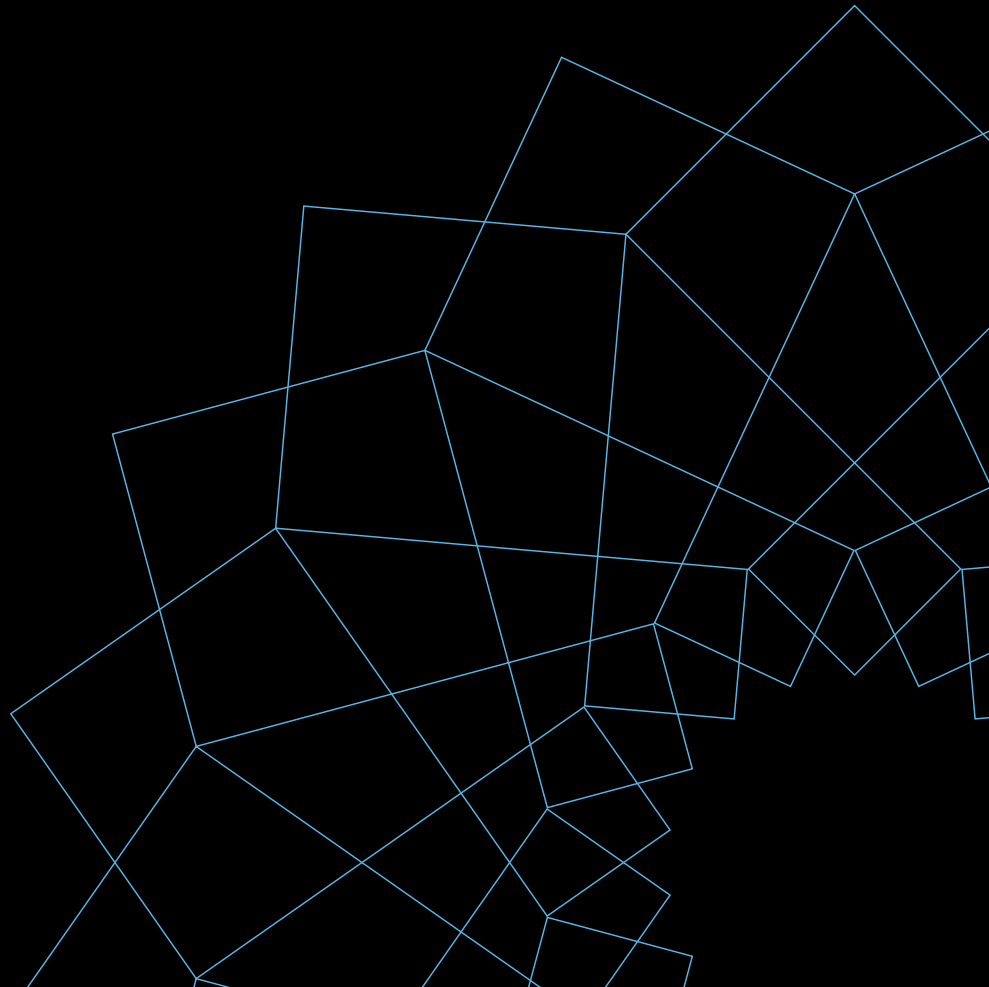


Ministry  
of Justice

Claims Management Regulation

# Applications for Authorisation Guidance

November 2015



## Competence and Suitability

When processing an application for authorisation, the Claims Management Regulator (CMR) will complete an assessment of the competence and suitability of an applicant to provide regulated claims management services.

Regulation 10 of the Compensation (Claims Management Services) Regulations 2006 requires that the CMR must not grant an application for authorisation unless he is satisfied that the applicant is both competent and suitable to provide the regulated claims management service to which the application relates.

## Assessment of Suitability

The CMR will make an assessment of the suitability of an applicant and any relevant individuals (directors, partners or someone who appears to the CMR to be able to exert significant influence over the business) based on a number of criteria, such as (but not limited to):

- Any relevant criminal convictions or proceedings in any court, tribunal or a body exercising functions in relation to a trade or profession.
- Qualifications and experience.
- Whether an individual has ever been disqualified as a company director.
- Financial circumstances and management arrangements, which includes any previous relationship with a company that has become insolvent.
- Any actual or proposed connections with other people or organisations.
- Proposed arrangements for the training, monitoring and recruiting of staff.
- The applicant's practice or proposed practice in relation to providing contractual information to clients (with particular regard given to the provision of information to clients around fees).

## Assessment of Competence

The CMR will need to be satisfied that an applicant understands the requirements of authorisation and the relevant processes and procedures regarding the intended sector of operation. A common mis-conception is that attaining a law degree in itself is sufficient to represent clients, including at a tribunal or County Court.

Failure to demonstrate a sufficient understanding in this regard would be a serious concern which could lead to a refusal to grant authorisation. An example of these assessments includes;

- Applicants applying to advise and/or represent clients in respect of employment matters would be required to have adequate experience, knowledge and understanding of the processes involved in representing clients. This would include having experience of identifying potential claims, providing appropriate advice and demonstrating direct experience of mediation, ACAS pre-conciliation and representation at Tribunal where applicable.

- Applicants proposing to provide services to clients in relation to financial claims would also be expected to have adequate experience, knowledge and understanding of the services to which their application relates. This would include (but is not limited to) fully understanding the requirements of due diligence with regards to identifying potential claims and being able to provide appropriate guidance to clients regarding their potential options.

## Assessment of Proposed Business Models

As part of the assessment process, the CMR will generally look to ensure that any proposed business model would comply with the Conduct of Authorised Persons Rules 2014 and other relevant requirements set out in The Compensation (Claims Management Services) Regulations 2006, should authorisation be granted.

Where the CMR identifies that a proposed business model or specific elements of any proposed model would not satisfy the requirements of the rules (if authorisation were to be granted), the CMR will notify the applicant, outlining the areas of non-compliance and provide the reasons for this. The CMR will then usually allow a limited opportunity for the business model to be revised so that the application can be re-assessed.

The provision of proposed, non-compliant business models as part of an application may be a determining factor in whether or not an applicant is deemed suitable to be authorised to provide regulated claims management services.

## Specific Assessments

The general nature of an assessment of any proposed business model will be tailored to take account of the specific services which an applicant proposes to provide. Some examples of these considerations are set out below;

### Client Documentation

Applicants wishing to contract and represent clients will be requested to supply copies of all draft client documentation and their complaints procedure with the application form.

Client documents must comply with the Client Specific Rules (CSRs) which are contained within the Conduct of Authorised Persons Rules 2014 and the Complaints Handling Rules 2015 (CHRs). In addition, client documents must contain fair contract terms and the CMR expects clients to be provided with enough information regarding the proposed services in order to make an informed decision.

### Marketing

Applicants will be requested to supply an explanation of their proposed marketing, website content, copies of sales scripts, written due diligence and monitoring procedures, where applicable. The CMR will look to ensure that the applicant has a good understanding of the relevant conduct rules and any other relevant regulations applicable to its intended marketing.

For example, if applicants intend to use direct marketing methods to generate business, such as telesales, text and email, the CMR will expect the applicant to demonstrate a good understanding of its obligations under the Privacy and Electronic Communications Regulations 2003. The CMR will

also look to ensure that the applicant has adequate written procedures in place. This can include the screening of data against the Telephone Preference Service (TPS) register, the suppression of certain data, and the due diligence of any data suppliers.

## Financial Products and Services and Employment Services

The CMR may request a written explanation of the proposed business model, financial planning/ circumstances and details of qualifications and experience in the relevant sectors and proposed services.

## Personal Injury

Applicants proposing to provide services in this sector must supply an explanation of their business model. The CMR will ask for specific clarification on how the business model complies with the Legal Aid, Sentencing and Punishment of Offenders Act 2012 (LASPO) and will seek to ensure that applicants have a good understanding of the relevant compliance requirements in relation to the referral fee ban.

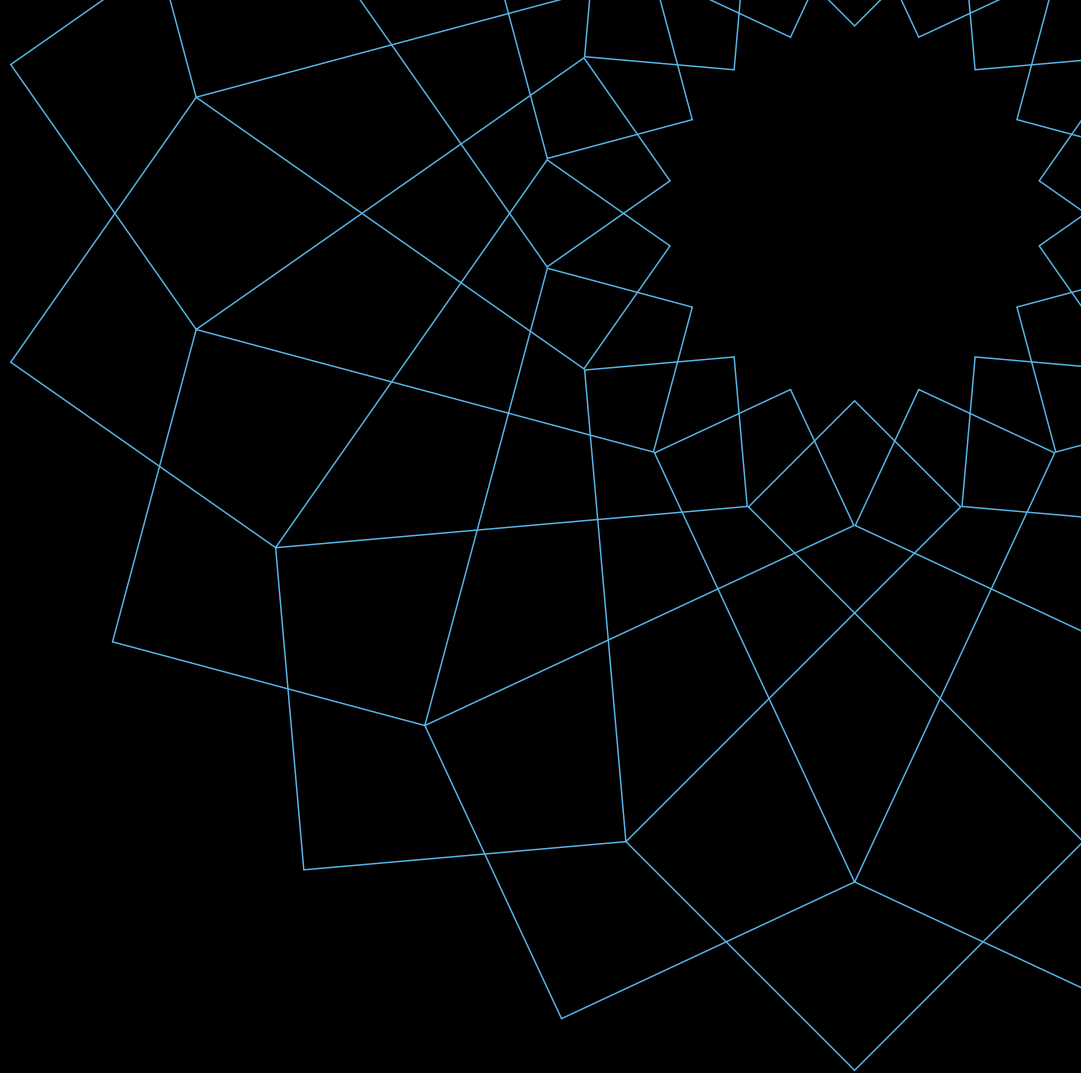
## Applicant Interviews

Correspondence will primarily be conducted with applicants via email, by letter or over the telephone. The CMR may however wish to interview applicants in order to gain a better understanding of the business model, further assess competence and discuss the details of an application. The interview may be conducted in either the Burton on Trent or London office, or a visit may be made to the applicant's premises.

Interviews in particular may consist of questions in relation to the proposed business model, an applicant's knowledge of the sectors they intend to operate in, relevant procedures and other questions. The interview also provides an opportunity for an applicant to raise any queries or concerns.

If the applicant fails to respond to a request for interview, or does not attend the interview, then a decision will be made on the basis of the information available. Applicants should note that authorisation **will not** be granted unless the CMR is satisfied that the applicant is both competent and suitable to be authorised.

Further information on applying for authorisation can be found at: <https://www.gov.uk/guidance/apply-for-or-renew-authorisation-for-a-claims-management-company>



## Contact Information

For queries concerning information in this publication  
please contact:

Ministry of Justice  
Claims Management Regulation Unit  
Headquarters  
102 Petty France  
London SW1H 9AJ

E-mail: [claimsmanagementregulation@justice.gsi.gov.uk](mailto:claimsmanagementregulation@justice.gsi.gov.uk)  
[contactus@claimsregulation.gov.uk](mailto:contactus@claimsregulation.gov.uk)

Website: [www.gov.uk/moj/cmr](http://www.gov.uk/moj/cmr)