



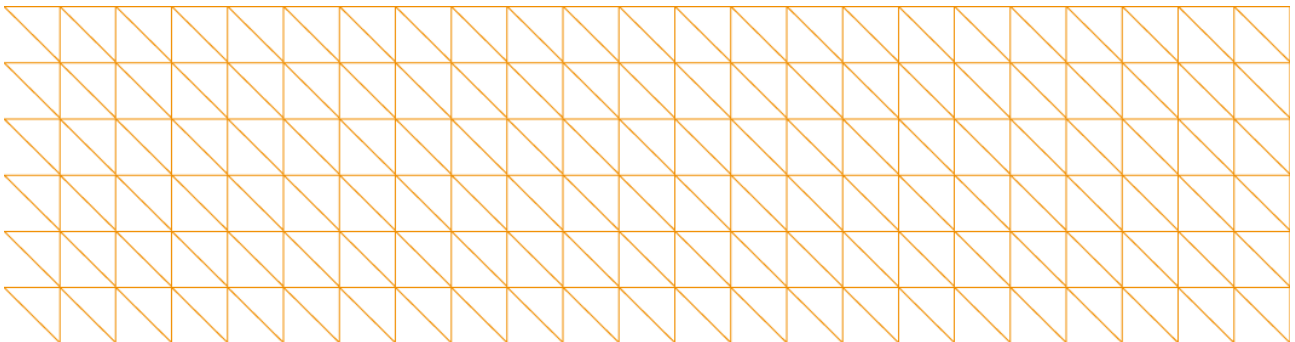
Ministry  
of Justice

# Claims Management Regulation

Regulation fees paid by claims management  
companies

**Proposed regulation fee levels for 2018-19**

This response to consultation is published on 2 February 2018







Ministry  
of Justice

## **Claims Management Regulation**

Regulation fees paid by claims management companies

**Proposed fee levels for 2018-19**

**Response to consultation carried out by the Ministry of Justice.**



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## **Introduction and contact details**

This document is the post-consultation report for the consultation paper '*Regulation fees paid by claims management companies. Proposed regulation fees levels for 2018-19*' which was published on 20 October 2017.

It covers:

- the background to the consultation
- a summary of the responses to the consultation
- next steps following consultation.

Further copies of this report and the consultation paper can be obtained by contacting the address below:

**Claims Management Regulation Unit  
Ministry of Justice  
Area 2.54, 102 Petty France  
London SW1H 9AJ**

**Telephone: 020 3334 3168**

**Email: [claimsmanagementregulation@justice.gov.uk](mailto:claimsmanagementregulation@justice.gov.uk)**

### **Complaints or comments**

If you have any complaints or comments about the consultation process you should contact the Ministry of Justice at the above address.

## Background

1. The consultation paper '*Regulation fees paid by claims management companies. Proposed regulation fees levels for 2018-19*'<sup>1</sup> was published on 20 October 2017. It invited comments on the proposed regulation fees for authorised claims management companies for the regulatory year 2018/19.
2. Under provisions in the Compensation Act 2006, businesses that provide regulated claims management services must be authorised and pay the relevant application and regulation fees. This consultation was conducted pursuant to regulation 15 of the Compensation (Claims Management Services) Regulations 2006 which enables the Regulator to determine the fees.
3. Regulation is intended to be self-financing, with the total costs of the regulatory regime recovered from applicant and authorised businesses. Fee levels are based on estimates of income receipts and the ongoing monitoring, compliance and central costs of operating the CMR Unit. Gross regulation costs are expected to be at least £6 million in 2018/19.
4. The consultation period closed on 17 November 2017 and this report summarises the responses.

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<sup>1</sup> <https://www.gov.uk/government/consultations/regulation-fees-paid-by-claims-management-companies-2018-to-2019>



## Executive Summary

5. The consultation paper published on 20 October 2017 set out the CMR Unit's proposals for the levels of regulation fees to be paid by CMCs for authorisation for the 2018/19 regulatory year, with a recommendation that fee levels should remain unchanged.
6. The responses to the consultation paper have been considered and the Regulator has decided to implement the proposal that fee levels should remain unchanged for 2018/19. The following fees or fee scales will therefore continue to apply:
  - Application fee £2,000.
  - Annual regulation fee scales for claims management companies paying flat-fees under the turnover threshold of £88,889 unchanged (see Annex B).
  - The percentages of annual turnover levied on CMCs with turnover above the flat-fee threshold of £88,889 will be 0.9% of annual turnover up to £1 million, 0.80% of annual turnover up to £5 million and 0.75% of annual turnover over £5 million.
  - The existing financial products and services rate levied on annual turnover from regulated activities in the financial products and services sector will be 0.145%.
  - The fees caps on both the annual regulation fee and the financial products and services fee will be £150,000.

## Summary of responses

7. Responses to the consultation paper were received from two authorised CMCs, Money Management Team Ltd and Gladstone Brookes Ltd. The respondents did not disagree with the proposal that fee levels remain unchanged, and took the opportunity to mention wider issues that affect regulation fee levels, in particular proposed reforms and the impact they may have on the claims market. Other issues raised include the level of fees paid by non-compliant CMCs; the suitability of fee levels based on projected turnover; and the workload and costs of the Regulator.

## Responses to specific questions

### 1. Do you have any comments on the fee scales and the proposed draft Fees Determination for 2018-2019?

The main concern raised was about the implications of forthcoming reforms – especially the proposals to cap the fees that CMCs can charge consumers for PPI claims and the introduction of a time bar on the making of PPI complaints. It was suggested that these reforms will result in a declining claims market with reduced turnover in the industry. The respondents suggested that any proposals on CMR fee levels for 2018/19 should take more account of this factor.

Other issues raised include:

- The burden of paying for regulation should be borne by non-compliant CMCs. Consideration should be given to rewarding compliant businesses – for example by a discount on fees or with income from fines used to offset those fees
- The Financial Products and Services sector “uplift” is unfair, particularly in comparison to the Personal Injury sector
- The costs of regulation should have reduced as non-compliant firms are removed or exit the industry, with customer complaints being handled by the Legal Ombudsman
- It is unfair to pay a fee based on projected turnover – particularly in the current circumstances where the future of the claims market is uncertain.

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### 2. Do you have any views on any potential equalities impacts (race, sex, disability, sexual orientation, religion or belief, age, marriage, civil partnership, gender reassignment, pregnancy and maternity) on individuals regarding the proposed fee determination? If so, please give reasons where possible to support your views.

There were no equality issues identified in the proposals.

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### 3. Bearing question 6 in mind, are there any particular forms of mitigation in relation to any potential equalities impacts that should be considered?

There were no equality issues identified in the proposals.

## Conclusion and next steps

8. The responses to the consultation paper have been considered and the Regulator has decided to implement the proposal that fee levels should remain unchanged for 2018/19. The following fees or fee scales will therefore continue to apply:
- Application fee £2,000.
  - Annual regulation fee scales for claims management companies paying flat-fees under the turnover threshold of £88,889 unchanged.
  - The percentages of annual turnover levied on CMCs with turnover above the flat-fee threshold of £88,889 will be 0.9% of annual turnover up to £1 million, 0.80% of annual turnover up to £5 million and 0.75% of annual turnover over £5 million.
  - The existing financial products and services rate levied on annual turnover from regulated activities in the financial products and services sector will be 0.145%.
  - The fees caps on both the annual regulation fee and the financial products and services fee will be £150,000.

These details are set out in the CMR Fees Determination 2018/19 at **Annex A**.

### Claims market

9. In response to the main concern raised about the possible impact of the proposed reforms, we remain of the view that it is unlikely that those reforms where fully implemented would have a significant impact in 2018/19. We anticipate the level of new entrants, exits and turnovers to remain broadly consistent with current levels over that period.
10. The Regulator is aware of the potential impact of current and proposed reforms on both the financial and personal injury claims sectors and notes this could contribute to a future contraction in the claims market. However, we believe the concerns raised around a declining market are unlikely to have significant relevance to the year to which these fee proposals are applicable.
11. This view is supported by market analysis<sup>2</sup> which suggests that the personal injury market has been boosted by a rise in the value of claims, and will grow modestly in value terms

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<sup>2</sup> <http://www.irn-research.com/wp-content/uploads/2017/09/IRN-Personal-InjuryReportRelease-September-2017.doc>

between 2017 to 2018. This view of a stable, rather than a declining market also appears to be supported by increased marketing activity by CMCs operating in the financial services sector in the current period before the FCA's time bar on bringing PPI claims comes into effect.

### **CMC turnovers**

12. The CMR fees model has always been based on retrospective turnover performance together with an assessment of future market exits and regulatory costs. We consider that provides an appropriate, effective and fair way to calculate a fee charged in advance of the regulation year to which it relates – particularly in a potentially changing market.

### **Regulatory costs**

13. We note the comments about regulatory costs and use of resources. The changing nature of the market means that we need to actively review our key priorities and implement measures such as reallocating staff resources to focus on those areas. Such changes improve efficiency and ensure effective use of existing resources. Although the number of CMCs has declined, regulatory activity remains high, with the ongoing need for the Regulator to scrutinise in detail the ways CMCs obtain business, handle claims, deal with their customers and deal with other stakeholders involved in the claims market.

### **Financial products and services (FPS) uplift**

14. We believe the uplift should remain. This uplift will be held at last year's level of 0.145% of annual turnover. This represents a fair allocation of the additional costs of resource created by the FPS sector, particularly regarding mis-sold PPI activities.
15. It is also worth noting that the last reported 12-month period (to 30 November 2016) saw turnover in the FPS sector increase by 2% whereas the PI sector saw turnover decrease by 15%. These figures do not provide support to the suggestion that the FPS uplift should be removed now to restore parity between the sectors.
16. The uplift will apply to new and existing CMCs, with the uplift to new CMCs based on their estimated turnover for the FPS sector. The current cap of £150,000 that applies to the FPS uplift (and to the annual regulation fee) will also remain unchanged.

### **Funding models**

17. We acknowledge the comments made about the need for an alternative fee structure, including the level of fees paid by non-compliant CMCs. Any fundamental or major structural changes to the CMR fees model are unlikely given the planned transfer of regulation to the FCA. The FCA will be considering an appropriate fee charging model as part of the transition of responsibility for regulation.

### **Fee scales: flat-fees under the £88,889 threshold**

18. The annual regulation fee bands for CMCs with annual turnovers between £0 - £88,889 will be held as consulted on:

- Turnover under £5,000                      Fee = £200
- Turnover £5,000 - £14,999                Fee = £350
- Turnover £15,000 - £24,999              Fee = £500
- Turnover £25,000 - £74,999              Fee = £650
- Turnover £75,000 - £88,889              Fee = £800

**Fee scales: annual turnover above the £88,889 threshold**

19. These fee scales will be unchanged for 2018/19. The Regulator has carefully considered the risk posed by potential market exits to CMR funding and detailed modelling and contingencies have been built into the fee proposals to take account of this factor. The final proposal has been evaluated to achieve a proportionate balance between recovering estimated CMR costs for 2018/19 and a fair distribution of fees across the industry.

## **Consultation principles**

The principles that Government departments and other public bodies should adopt for engaging stakeholders when developing policy and legislation are set out in the consultation principles.

<https://www.gov.uk/government/publications/consultation-principles-guidance>

## Annex A – Fees Determination 2018-2019

***This Determination is made under regulation 15 of the Compensation (Claims Management Services) Regulations 2006 and sets out the application and annual fees applicable from 1 April 2018.***

### Definitions

1. In this determination:

**‘the Act’** means the Compensation Act 2006;

**‘Regulator’** has the same meaning as in section 14 of the Act;

**‘Applicant’** means a person who has applied for authorisation under the Act;

**‘Authorisation’** means an authorisation to provide regulated claims management services under the Act;

**‘Authorised Business’** means a person who is currently authorised under the Act;

**‘Client’** means a person for whom an authorised business is providing a regulated claims management service;

**‘Regulated claims management service’** means the prescribed services set out in article 4 of the Compensation (Regulated Claims Management Services) Order 2006;

**‘Turnover’** means the sum of the amounts paid to, or received by, an authorised business in respect of regulated claims management services, including:

- a) charges, commission, the share of any compensation, fees and subscriptions, and
- b) the monetary value of any services received by the authorised business where it makes no payment for those services or where the payment received is worth less than the monetary value of the services, and
- c) the monetary value of any advertising in respect of the authorised business that it has not paid for out of funds referred to in sub-paragraphs (a) and (b).

**‘Annual turnover’** means

- a) The authorised business's or applicant's turnover for the 12 months to 30 November 2017.
- b) If the business or applicant did not trade for the full 12 months to 30 November 2017, the estimated turnover for the 12 months to 30 November 2018.
- c) Where the application for authorisation is made on or after 30 November 2017, the estimated turnover for the 12 months to 30 November 2018.

### Application of this determination

2. This fees determination applies to fees for all applications for authorisation made on or after 1 April 2018 and sets the annual fees for all businesses authorised at and after that date to the end of March 2019.



### **Application fee**

3. An applicant seeking authorisation to provide regulated claims management services must submit an application fee of £2,000.00 with the application form.

### **Annual Fee**

4. Authorised businesses will pay an annual fee. This fee will be equal to the sum of the amounts payable in relation to regulation and the financial products and services uplift, as set out by this determination.

### **Amount payable in relation to regulation**

5. (1) Subject to sub-paragraphs (2) and (3), authorised businesses shall pay an amount equal to 0.90% of annual turnover up to £1 million, plus 0.80% of annual turnover between £1 million and £5 million, plus 0.75% of annual turnover above £5 million.  
(2) The fee under sub-paragraph (1) shall be no more than £150,000.  
(3) Where the annual turnover of a business is £88,889 or less, then the amount payable will be a fixed fee of –

<b>Annual Turnover of Authorised Business</b>	<b>Annual Fee Payable</b>
Under £5,000	£200
£5,000 - £14,999	£350
£15,000 - £24,999	£500
£25,000 - £74,999	£650
£75,000 - £88,889	£800

### **Pro rata calculation of amount payable in relation to regulation**

6. Where an authorisation is given which has effect from a date on or after 1 April 2018, the fee shall be one twelfth of the sum calculated in accordance with paragraph 5 for each month or part of a month for which the Regulator has indicated that he is minded to authorise the business under the Act. This paragraph does not apply to any person who the Regulator is satisfied has been providing regulated claims management services prior to being authorised.
7. Where the Regulator is satisfied that the business or those who control the business have previously had control of another authorised business then the Regulator may require the business to pay an annual fee calculated by reference to the annual turnover of all of those authorised businesses.

### **Adjustments**

8. Where an applicant has reported an annual turnover figure based on estimated turnover to 30 November 2018 and the actual annual turnover is more than the estimated turnover, an additional charge shall be levied based on actual annual turnover to 30 November 2018.

### **Financial products and services uplift**

9. (1) Subject to sub-paragraph (2), authorised businesses shall pay an amount equal to 0.145% of annual turnover they received from regulated claims management services in relation to financial products and services.  
(2) The fee under sub-paragraph (1) shall be no more than £150,000.

### **Pro rata calculation of financial products and services uplift**

10. Where an authorisation is given which has effect from a date on or after 1 April 2018 or an authorised business begins to carry out regulated activities in relation to financial products and services, from a date on or after 1 April 2018, the fee shall be one twelfth of the sum calculated in accordance with paragraph 9 for each month or part of a month for which the Regulator has indicated that he is minded to authorise the business under the Act. This paragraph does not apply to any person who the Regulator is satisfied has been providing regulated claims management services prior to being authorised.
11. Where the Regulator is satisfied that the business or those who control the business have previously had control of another authorised business then the Regulator may require the business to pay an annual fee calculated by reference to the annual turnover in relation to financial products and services of all those authorised businesses.

### **Adjustments**

12. Where an applicant has reported an annual turnover figure in relation to financial products or services based on estimated turnover to 30 November 2018 and the actual annual turnover in relation to financial products or services is more than the estimated turnover, an additional charge shall be levied based on actual annual turnover to 30 November 2018.

### **Compliance**

13. Where the authorised business does not provide the annual turnover figures requested, the Regulator may use the previous year's actual or estimated annual turnover figure to calculate and issue an invoice pending the information required being supplied.

### **Kevin Rousell**

(Head of Claims Management Regulation)