



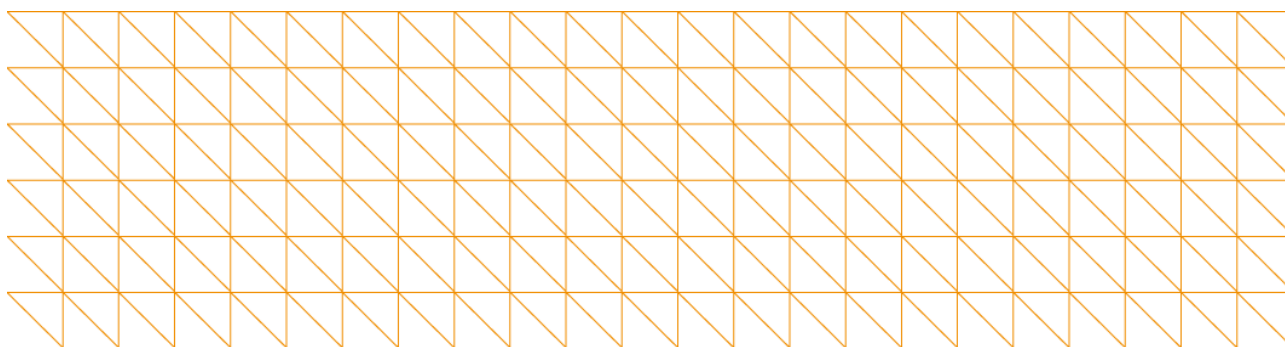
Ministry  
of Justice

# Claims Management Regulation

Regulation fees paid by claims management companies

**Proposed regulation fee levels for 2016-17**

This response to consultation is published on 4 February 2016





Ministry  
of Justice

## **Claims Management Regulation**

Regulation fees paid by claims management companies

Proposed fees levels for 2016-17

**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 2016-17*' which was published on 10 November 2015.

It will cover:

- 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 Mr Sal Ahmed at the address below:

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London SW1H 9AJ**

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Alternative format versions of this publication can be requested from [claimsmanagementregulation@justice.gsi.gov.uk](mailto:claimsmanagementregulation@justice.gsi.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.

## Executive Summary

- 1 The Claims Management Regulation (CMR) Unit was established in 2007 within the Ministry of Justice, with responsibility for regulating claims management companies (CMCs) operating in the following sectors: personal injury, financial products and services, criminal injuries, industrial injuries disablement, employment matters and housing disrepair. There are currently just under 1700 authorised CMCs.
- 2 The consultation paper published on 10 November 2015<sup>1</sup> set out the CMR Unit's proposals for the levels of regulation fees to be paid by CMCs for authorisation for the 2016/17 regulatory year, with a recommendation that fee levels should remain unchanged.

### Paying for Annual Regulation

- 3 The proposed fee levels are designed to fully recover the costs of operating the regulatory regime from authorised businesses without a subsidy from the taxpayer. Fee levels for the 2016/17 regulatory year must also remain sufficient to support the necessary enforcement and compliance programmes, and build on the ongoing work to maintain and improve regulation. Having considered all of the factors that contribute to the current and future size of the industry, and in particular taking into account the general stabilisation of the market, the Regulator proposed that fee levels should remain unchanged for 2016/17.
- 4 The consultation paper was sent to all regulated CMCs and members of the Claims Management Regulatory Consultative Group, and was open on the Claims Management Regulation website to other interested parties and the wider general public. A total of seven responses were received, including one from an association with multiple members. All responses were from authorised CMCs. Details of the responses to each of the proposals are set out later in this document.
- 5 The responses to the consultation paper have been carefully considered and the Regulator has decided to implement the proposal that fee levels should remain unchanged. From April 2016 the following measures will therefore come into effect:
  - The application fee will remain at £2,000.
  - The annual regulation fee pay scales for claims management companies paying flat-fees under the turnover threshold of £88,889 will remain unchanged.
  - The percentages of annual turnover levied on CMCs with turnover above the flat-fee threshold of £88,889 will remain at 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.

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<sup>1</sup> [www.gov.uk/government/consultations/regulation-fees-paid-by-claims-management-companies-2016-to-2017](http://www.gov.uk/government/consultations/regulation-fees-paid-by-claims-management-companies-2016-to-2017)

- The existing financial products and services rate levied on annual turnover from regulated activities in the financial products and services sector will be held at 0.145%.
- The fees caps on both the annual regulation fee and the financial products and services fee will remain at £150,000.
- The option of making an in-year adjustment to the 2016/17 fees will be retained for use if market conditions result in a shortfall in funding.

## Background

- 6 The consultation paper '*Regulation fees paid by claims management companies proposed regulation fees levels for 2016-17*' was published on 10 November 2015. It invited comments on the proposed regulation fees for authorised claims management companies for the regulatory year 2016-2017.
- 7 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, and under regulation 16 which permits the Regulator to amend any fee determination.
- 8 Regulation is intended to be self financing with the 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, expected to be approximately £6 million over 2016-2017.
- 9 The consultation period closed on 8 December 2015 and this report summarises the responses, including how the consultation process influenced the final shape/further development of the proposal consulted upon.

A list of respondents is at **Annex A**.

The Fees Determination 2016-2017 is at **Annex B**.

## Summary of responses

- 10 Seven responses to the consultation paper were received. Of these, six were from individual authorised CMCs, and one was from an organisation representing multiple members, the Professional Financial Claims Association. Responses were analysed for levels of support for the proposals among differentially affected groups; evidence of impact of the proposals and any potential new approaches.
- 11 Overall there was general acknowledgment and appreciation for the proposal not to increase 2016-2017 fee levels. This was seen as being particularly relevant in light of suggested difficulties some CMCs are experiencing with the recent industry contraction and a general reduction of average annual turnover in the industry over recent years. This, combined with the work the Legal Ombudsman is now undertaking on dealing with customer complaints, and the related fee that CMCs have to pay, led to some suggestions that the Regulator should go further and reduce regulatory fees.
- 12 Whilst generally supporting the proposal to leave fee levels unchanged, some responses took the opportunity to mention wider issues such as the current CMR review and the potential impact on the industry, and to suggest alternative funding structures.
- 13 Responses to the questions as set out in the consultation are summarised below.



## Responses to specific questions

### 1. Do you have any comments on the fee scales and the proposed draft Fees Determination for 2016-2017?

This was a broad question seeking views on the CMR Unit's approach to finalising the 2016-17 Fees Determination and the responses gave clear general support to the proposal. Responses acknowledged the reasons and were appreciative of the proposal to keep the fees at their current rate, whilst noting the importance to the industry of a robust and sufficiently resourced Regulator.

Some responses raised concerns about the implications of any reduction in the number of authorised CMCs for the CMR budget and funding model. The increased remit of the Legal Ombudsman to deal with customer complaints and associated cost for CMCs was also raised. It was suggested that there should have been a resulting reduction in direct consumer contacts handled by the CMR Unit, with a beneficial effect on the Unit in terms of financial resources. This saving should mean that regulatory fee levels can be reduced.

Other issues raised include:

- Changing the fees structure to offer greater support to smaller CMCs. A higher flat fee level applicable to all firms at a lower tiered fixed cost rate was suggested as an alternative to the current system which disproportionately affects firms with turnover on the boundary of one rate and another.
- A suggestion for an alternative fee model that provides a 'per submission' fee payable to the Regulator - balanced by a reduction in turnover based fees. This would deter vexatious claims for compensation as there would be an inbuilt incentive to make sure claims were successful and would cut the number of unmeritorious claims made.
- The extent of the disclosure and transparency of CMR was raised – particularly relating to how the fees rate and structure is decided on, and the perceived “value for money” CMR offers.

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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.

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## Conclusion and next steps

1. As noted in the consultation, the claims market continues to evolve and changes to the regulatory landscape have to be taken into account when considering the level of annual regulation fees. Having considered all of the responses to the consultation and balanced these with factors such as the current and future size of the industry, and in particular taking into account the general stabilisation of the market, the Regulator has reached the view that fee levels should remain unchanged for 2016/17.
2. In response to calls for regulatory costs to be reduced, it should be noted that the costs of the primary compliance and enforcement functions of the Regulator remain ongoing. Continuing resource is needed to meet the challenges posed by regulation and to ensure compliance with our existing commitments and new reform programmes. Detriment caused to consumers and others by CMC activity can be attributed to a relatively small number of companies whose actions have a disproportionate effect on regulatory activity. A contracting market does not therefore necessarily result in a corresponding reduction in regulatory costs.
3. The current fundamental review of CMR commissioned by HM Treasury and the Ministry of Justice, being undertaken by Carol Brady, will be reporting in early 2016 on the powers and resources required for a strengthened regulatory regime, what structure might be most appropriate to deliver this and what other reforms may be necessary. The full effect of that review is likely to be seen in the 2017/18 financial year, so maintaining the current CMR regulation fee levels and regime will ensure that effective regulation continues during the 2016/17 financial year, pending the outcome of the review.

### Application fees

4. The application fee will remain at £2,000. Maintaining the current level will avoid existing CMCs having to subsidise the detailed investigations conducted into new applicants – particularly in the event of a reduction in the volume of companies applying for authorisation.

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

5. 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**

6. These fee scales will be unchanged for 2016/17. 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 carefully evaluated to achieve a proportionate balance between recovering estimated CMR costs for 2016/17 and a fair distribution of fees across the industry.

**Financial products and services uplift/fees caps**

7. This uplift will be held at last year's level of 0.145% of annual turnover. This fairly apportions the additional costs of regulatory resource created by the financial products and services sector, particularly regarding mis-sold PPI activities - whilst recognising the sector has required no sizeable increase to regulatory resource other than that already accounted for previously.
8. The uplift will apply to new and existing CMCs, with the uplift to new CMCs based on their estimated turnover for the financial products and services sector. The current cap of £150,000 that applies to the financial products and services uplift (and to the annual regulation fee) will also remain unchanged.

## 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.

[www.gov.uk/government/publications/consultation-principles-guidance](http://www.gov.uk/government/publications/consultation-principles-guidance)

## **Annex A – List of respondents**

### **Claims Management Companies**

Hatton James LLP

Credo Claims

Baltnet Claims

Gladstone Brookes

The Fair Trade Practice

The Claims Guys

### **Other respondents**

Professional Financial Claims Association

## Annex B – Fees Determination 2016-2017



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### Fees Determination 2016-2017

*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 2016*

#### 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,
- 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 2015;
- b) if the business or applicant did not trade for the full 12 months to 30 November 2015 the estimated turnover for the 12 months to 30 November 2016;
- c) where the application for authorisation is made on or after 30 November 2015 the estimated turnover for the 12 months to 30 November 2016.

### **Application of this determination**

2. This fees determination applies to fees for all applications for authorisation made on or after 1 April 2016 and sets the annual fees for all businesses authorised at and after that date to the end of March 2017.

### **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 must 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 0.750% of annual turnover above £5 million.  
 (2) The fee under sub-paragraph (1) must 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 2016, the fee must 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 2016 and the actual annual turnover is more than the estimated turnover, an additional charge must be levied based on actual annual turnover to 30 November 2016.

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

9. (1) Subject to sub-paragraph (2), authorised businesses must 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) must 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 2016 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 2016, the fee must 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 2016 and the actual annual turnover in relation to financial products or services is more than the estimated turnover, an additional charge must be levied based on actual annual turnover to 30 November 2016.

### **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)





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