Solicitors’ Regulation Authority



The Cube
199 Wharfside Street
Birmingham
B1 1RN

By email only: postsixyear@sra.org.uk

Dear Sirs

**Consultation on post six year run-off cover and the Solicitors Indemnity Fund**

We welcome the opportunity to respond to the Solicitors Regulation Authority (SRA) consultation on post six year run-off cover and the Solicitors’ Indemnity Fund. In responding to this consultation we have considered the impact of the proposals on personal injury claimants.

Those who are injured through another’s negligence should receive full compensation which puts them, as close as possible, to the position they were in prior to the negligent incident. Solicitors must hold appropriate professional indemnity insurance (PII) to ensure that should there be professional negligence in the handling of a case, a person who is injured will still receive full compensation for their injuries and will be compensated for any losses that they have suffered as a result of the professional negligence. The SRA plays an important role in maintaining the full compensation principle, via the Solicitors Indemnity Fund and the Compensation Fund, providing protection for clients where, for example, the solicitor acts dishonestly; does not hold PII; or a claim is brought six years after a firm has closed and so is not covered by professional indemnity insurance policies on the market. Regarding the latter, the proposed removal of post six year run off cover (PSYROC) provided through the Solicitors’ Indemnity Fund would mean that those who wish, and are permitted, to bring a professional negligence claim against a firm which closed more than six years ago, would be unlikely to be able to do so. The claimant will then be left uncompensated or undercompensated for their losses as a result of the professional negligence. Personal injury claimants will be denied full compensation for their injuries, either because they will have to cover the losses they have suffered as a result of the professional negligence with the damages they were awarded for their injuries, or because the professional negligence led them to be awarded less compensation than they should have been for their injuries.

We agree with the virtual reference group that PSYROC should be maintained for the whole profession, and disagree with the reasoning behind the proposed removal. At paragraph 57 of the consultation, the SRA sets out that they do not consider that any future decision not to provide ongoing PSYROC will have significant market impacts, including in relation to access to justice. We disagree. While 90 per cent of run off claims may be made within the six year period, this means 10 per cent are not – that 10 per cent will be left undercompensated, as explained in the paragraph above, which is certainly a threat to access to justice.

We also disagree with the reasoning that because cost is a more significant driver of whether a consumer will purchase a legal service than provision of legal redress should something go wrong, PSYROC should no longer be provided due to the potential increase in costs of legal services as a result of ongoing provision. As we have set out in several consultation responses to the Legal Services Board, price should not be the deciding factor when people choose a legal services provider – people need to be properly educated and empowered to make the right choice of legal provider, based on a variety of information which indicates competence and quality service. The provision of financial protection and compensation to consumers of legal services should something go wrong is vital, and should not be taken away simply because consumers may not be properly informed of the benefits of such provision.

We acknowledge the difficulties in providing run off cover via the Solicitors Indemnity Fund, and the challenges of implementing alternative provision, but we do not believe that the answer is to remove run off cover completely. It is vital that those who are injured can obtain full compensation for their injuries, and removing run off cover jeopardises this principle.

We hope that our comments prove useful. If you would like to discuss our comments further, please contact Alice Taylor, alice.taylor@apil.org.uk in the first instance.

Yours faithfully



Alice Taylor

Legal Policy Manager

APIL