Solicitors Regulation Authority

Discussion paper: High-volume consumer claims market

A response by the Association of Personal Injury Lawyers

November 2025

Introduction

APIL welcomes the opportunity to respond to the Solicitors Regulation Authority's (SRA) discussion paper on high-volume consumer claims.

We believe that the issues outlined in the paper and the initial proposals suggested should not be considered in isolation. Our response to this consultation is based on our knowledge of holiday-sickness claims[1], which fall within the scope of the review, as well as our members' experience in the personal injury (PI) and medical negligence sector. We are concerned that the proposals under consideration may have a wider impact and unintended consequences on the personal injury sector.

The SRA should not, in our view, be looking at an overhaul of how high-volume claims are regulated or imposing a higher regulatory threshold on those firms handling high-volume claims, as a result of the SRA's regulatory failures. As the Legal Services Board report into the SRA's investigation of the Sheffield firm SSB Law highlights, the issues are around the 'systemic shortcomings' in consumer protection and responsiveness of regulators, and these must be urgently addressed. The SRA should adopt a balanced regulatory approach and seek to identify problematic players in this area, including active monitoring and early and proportionate intervention on individuals and firms flagged as high-risk to protect consumers. We have previously suggested that the SRA invest in proactive engagement with the profession, as well as monitoring new business models and practices to stay ahead of emerging issues in the market. Collaboration with others involved in the profession, such as financial institutions and professional indemnity insurers, would also assist with monitoring and understanding what is happening in legal businesses. This will allow for greater focus on identifying and minimising large-scale risk. Creating a risk profile and list of red flags to allow for further investigation when those markers are raised, coupled with sharing that information with the profession to invite further feedback, would greatly assist.

The current system for handling high-volume consumer claims works well and allows consumers to access justice in circumstances where it would not be viable for a firm to take on their case individually. It is crucial that changes to the regulation of the high-volume claims market do not restrict access to justice.

There should be consideration of the impact of 'no win no fee' terminology, generally. We accept that the term can lead to confusion and does not, of itself, accurately reflect the costs that claimants will need to pay. However, it must also be acknowledged that the term is familiar to the public and will be used by those who are injured when searching for a lawyer. The SRA must carry out further investigation about the use of the term by firms, and the understanding of the term by consumers. The key issue is that clients must be fully informed before entering into any funding agreement about what such an agreement entails and our experience suggests that the majority of firms have good systems in place to do that.

[1] Our references to 'high-volume claims' throughout our responses should be read as relating to holiday sickness claims.

Question 1. How can we enhance our regulation of high-volume consumer claims, so consumers are clear about what they are signing up to (for example through developing standardised wording or checklists for firms to refer to during the onboarding process)?

We welcome the introduction of standardised wording and checklists for firms during the onboarding process. This can enhance transparency and reduce disputes due to misunderstandings with clients, for example, regarding success fees if a case is won.

APIL believes that the standardised approach should apply across the board, not just to high-volume claims, to ensure consistency and avoid ambiguity in regulatory expectations. Consistent regulatory expectations across the legal sector can prevent issues with clients being un- or misinformed, and if any issues do occur, practitioners can refer back to the approach set by the SRA and demonstrate that they have adhered to the standards established.

The SRA should ensure that there is sufficient guidance for practitioners regarding expectations and standards. The Legal Ombudsman has provided practical advice on how to prevent complaints related to costs in no win no fee arrangements. We recognise that throughout the discussion paper, the SRA mentions collaboration with other regulators. We support this intention as we believe that a coordinated approach and analysis of good practice can contribute significantly to the development of comprehensive and transparent standards for both the profession and consumers.

Question 2. What approaches do other sectors take to ensure consumers are appropriately informed about risks?

Question 3. Are there any examples from other sectors that should be avoided?

We are unable to provide a view on the approaches from other sectors.

Question 4. The term 'no win, no fee', falsely implies that there is nothing to be lost in commencing such litigation, which is clearly not the case. What further should be done here to impress upon consumers the risks of litigating in these circumstances?

We are responding to both this question and question 5, from a PI perspective, as we do not believe that any reform around the term ‘no win no fee’ should be considered in isolation, or for one type of claim only.

The term ‘No win no fee’ is advertising/legal jargon frequently used to describe the costs agreement between a lawyer and their client. Conditional Fee Agreements (CFAs) are one such agreement and these play a vital role in enabling injured people to access justice, following the removal of legal aid. We recognise the SRA’s concerns that the term ‘no win no fee’ does not give consumers a full view of what could be involved when pursuing a claim. The term ‘no win no fee’ was already widely used in the personal injury sector prior to the personal injury costs reforms introduced through Part 2 of the Legal Aid, Sentencing and Punishment of Offenders Act 2012 (LASPO). Following the introduction of LASPO, success fees and ATE premiums are no longer recoverable from the defendant in a successful case and are likely to be deducted from the claimant’s damages. In addition to this the introduction of Qualified One Way Costs shifting and fundamental dishonestly has further

complicated the costs process meaning that the term has little meaning beyond being a catchy advertising slogan. However, the term is widely recognised by consumers, and we suspect that many individuals will use the term when searching for firms online. The SRA must undertake further investigation about the use of the term by firms, and the understanding of the term by consumers.

APIL believes that the key issue is whether consumers are fully informed of the details of the funding agreement between the solicitor and the client from the outset. We agree that the proposals set out in the discussion paper, including the checklist of information requirements and the use of standardised wording, would help address these concerns. We do not agree that these requirements should only apply to firms providing high-volume consumer claims services. It is not realistic to look at these claims in isolation, and it should be good practice for all consumers to be equally informed when pursuing a claim.

Question 5. The term 'no win, no fee' is clearly aimed at giving confidence to clients to enter into such arrangements. Should we seek to restrict, prevent or caveat use of the term 'no win, no fee'? Should this marketing term be banned across the board?

While CFAs are essential for access to justice following the removal of legal aid, we accept that there should be consideration given to the impact of using ‘no win no fee’ terminology. The SRA should further investigate the use of ‘no win no fee’ by firms, and the understanding of the term by consumers.

There should be careful thought, around any suitable alternative to ‘no win no fee’ , as while there is confusion around what ‘no win no fee’ actually means, it must be acknowledged that the term is familiar to the general public, and will be used as a search term by those who are injured and looking for legal advice. Any replacement terminology would also need to reflect the arrangement and its benefits for consumers as a generally low risk way of pursuing their claim, which may otherwise not be possible. At the same time, it should not mislead clients into thinking that they will not have to pay anything towards their case when this is usually not the reality.

As above at question 4, the focus, ultimately, should be on clear information and effective communication to consumers about the risks and realities of such arrangements. Banning or replacing ‘no win no fee’ is unlikely by itself to address such concerns. The introduction of standardised wording and/or a checklist of information requirements could better achieve the aim of informing and giving confidence to clients. Regardless of whether the term is restricted/banned, the SRA should continue to work on identifying the firms that are not effectively complying with their communication and client care standards. If the term is restricted or banned, law firms must have a reasonable time to adjust their marketing approach.

Question 6. Are firms doing enough to accommodate individual needs through high-volume claims processes? If not, what more could firms do to meet the needs of consumers with vulnerabilities through a high-volume consumer claim? Do we need to make regulatory changes to achieve this?

As set out in our introduction, we do not believe that there should be an overhaul of the high-volume consumer claim sector, or a higher regulatory threshold for those conducting high-volume claims, as a result of issues that have arisen due to the SRA’s regulatory failures.

We are of the view that when firms have good processes in place to manage high-volume claims, client needs are met. We believe it is important to acknowledge that the majority of claims processed as high-volume cases would not be cost-effective and viable as individual claims and that their streamlined handling is a result of cost pressures. The high-volume market is an inevitable product of reforms in the legal sector.

The current system, while not perfect, is extremely important for access to justice, and this should be considered in the approach that the SRA decides to take forward. We would suggest consideration of the benefits of these claims being pursued as high-volume claims against not being pursued at all, and the impacts on consumers.

We propose that the SRA seeks to identify problematic players in this area and adopts a targeted regulatory approach, including monitoring and early and proportionate intervention on individuals and firms flagged as high risk. In addition, when clients raise concerns or complaints regarding their claim, the SRA should act swiftly to investigate them and intervene when necessary. The Legal Services' Board recent review into the SRA's regulation of the SSB group found that the SRA did not act effectively or efficiently in its handling of more than 100 reports relating to SSB over a five-year period.[2] The review recommended changes to the SRA's assessment and investigation of reports. The Legal Services Consumer Panel recommends an overhaul in how the SRA handles complaints and assesses risk, and that clear safeguards are put in place to protect clients involved in high-volume claims. It also wants regulators to proactively inform consumers about their rights, risks and avenues for redress, and we agree with this recommendation.

We also suggest that the SRA conducts an analysis of the proportion of consumers considered to be adversely affected compared to those who have had a positive experience and were able to access justice and compensation through a high-volume claim.

Question 7. What information do claimants need to have about funding agreements?

Question 8. What options are there to make sure this information is provided at the right time, and in a way claimants can easily understand?

Third-party funding is not a common source of funding for personal injury cases, as the significant return on investment usually sought means this will, in most cases, mean a level of deduction from an injured person's damages that they are rarely able to manage. We are responding to these questions on the basis that, in some limited circumstances, for example, in group claims, or where CFAs and/or ATE insurance are not a viable option, litigation funding may provide an option of last resort for claimants.

Where third-party funding is a potential funding option, our view is that claimants must be fully informed of their rights and options. This should include clear information regarding what the agreement would entail, for instance, that a percentage of their damages will be paid to the funder if they are successful (only success fees are capped at 25 per cent, and the deductions taken by third-party funders are not classed as success fees). Claimants must be made aware and be clear about the terms and conditions of any third-party funding agreement, including the circumstances under which third-party funders can withdraw funding partway through the case. The claimant will then be in a position to decide whether to enter into the agreement or not to pursue their case.

[2] Independent Review of the Solicitors Regulation Authority's Regulation of SSB Group Limited https://legalservicesboard.org.uk/wp-content/uploads/2025/10/SSB-report.pdf

To improve the regulatory position, APIL suggests that third-party funders should be subject to mandatory membership of the Association of Litigation Funders, to provide some safeguards to claimants that the funder is legitimate. Funders registered with the Association have to adhere to the Code of Conduct, which provides for capital adequacy, standards on termination and funding withdrawal, and protection from litigation control.

A balanced approach to regulation should ensure protection for consumers without disproportionally disrupting the market in a way that could impact the availability of third-party funding.

Question 9. What steps could we take (such as routinely collecting information) to make sure firms regulated by us manage the risks around thirdparty litigation funding so that consumers are adequately protected?

We believe it is the responsibility of firms to assess the credibility of funders. Firms have established processes to assess risk and carry out their own due diligence before proceeding with funding agreements. We understand the concerns in the discussion paper regarding the risks, but, as mentioned throughout our response, we believe that the SRA should identify risks early and adopt a proactive and targeted regulatory approach.

Question 12. What more could be done to improve the protection that ATE insurance offers consumers when they are pursuing claims by us? by others?

We acknowledge concerns that issues with ATE providers reflect badly on the profession and affect public trust. We propose that the SRA collaborates with the Financial Conduct Authority to agree and establish appropriate safeguards for consumers. This should include a review of the standards currently in place and assess whether they go far enough to protect consumer interests.

Question 13. Should we enhance our regulation of firms working in high-volume consumer claims? For instance, should we have an enhanced authorisation process for all firms working in this area? Should we continue our programme of proactively checking compliance of firms already working in this area? Are there other things we could be doing? Or if you don't think we need to enhance our regulation in this area, why not?

We oppose changes to the standards and authorisation process for firms working in high-volume consumer claims. As above, we do not agree that these firms should be subject to different standards or held to a higher threshold than others in the sector.

We reiterate our view that the SRA should adopt a targeted regulatory approach and identify high-risk firms and individuals operating in this market. When concerns are identified by the SRA or flagged by consumers, the regulator should act swiftly to investigate the issues raised. The approach should strike a careful balance between robust regulation, effective consumer protection, and the risk of significantly restricting access to justice by making these claims unviable to pursue.

Question 14. What factors should we take into account to make sure consumers' interests in high-volume consumer claims are well protected if their files are transferred to another firm?

Please see our response to questions 6 and 13 concerning a targeted regulatory approach. We maintain that the regulator must identify and address issues with firms early on to prevent large-scale problems with file transfers and ensure consumer interests are safeguarded.

Question 15. We believe there is scope for consumer interests to be better protected by the wider system. Thinking about good practices seen in similar areas such as Group Litigation Orders, is there more could we do in this area? What more could others do?

We do not believe that practices in Group Litigation Orders would help in the context of high-volume claims. We also query what 'good practices' are being referred to in the question.

The discussion paper, particularly in this section, mentions the need for collaboration with stakeholders from different sectors, organisations that provide guidance and support and other regulators. APIL fully supports this approach and agrees that it can ensure complex issues are addressed holistically.