Ministry of Justice

Interest on lawyers' client accounts scheme

A response by the Association of Personal Injury Lawyers

March 2026

Introduction

We welcome the opportunity to respond to the Ministry of Justice's consultation on an interest on client accounts scheme. We are responding from a personal injury perspective and set out below some general points for consideration, rather than engaging with specific questions. Due to the nature of PI litigation, client money is not often kept in client accounts for a long time. However, we are concerned that the proposals would nevertheless have a negative impact on injured people, increasing legal costs and ultimately amounting to a stealth tax. Considering where the majority of the Ministry of Justice's spending occurs, it is unlikely that without specific earmarking, there would be any benefit to the civil justice system from this tax.

The proposals are not straight forward, and it must be acknowledged that the interest generated on client accounts is not 'free money'. Clients get at least a share of the interest generated on these accounts, and our members report that any interest that is retained by the firm – with respect to PI – is used to offset costs to the client. If the proposals were to go ahead, costs for clients will likely increase.

Background from a personal injury perspective

The PI sector has experienced at raft of reforms over the past decade and a half, which have undermined access to justice for injured people, and eroded the principle of full and fair compensation. There has been the introduction and extension of fixed fees for claims valued up to £100,000, and a failure to uprate existing fixed fees in line with inflation. The Legal Aid, Sentencing and Punishment of Offenders Act 2012 removed the recoverability for success fees and ATE premiums for claimants if they are successful, meaning that these costs now come out of the claimant's damages. The increased small claims limit removed costs shifting for lower value road traffic accident claims, meaning that the cost of legal representation in these cases must again come out of the claimant's damages. Court fees have also been increased far above inflation to produce a profit for the Government. All of these reforms have impeded the injured person's ability to access compensation, and increased costs for those injured people when bringing claims. At the same time the civil justice system is marred by court delays and court buildings that are in a state of disrepair. The MoJ's proposal would likely increase costs for claimants, leading to further erosion of damages, and there is no suggestion that any of the money generated would go towards funding the civil justice system.

It is important to point out that any money held in client accounts is held for legitimate reasons and for the benefit of clients – this could be money for interim payments, or money being held in relation to provision of care, while that care regime is being established.

Further, not all interest on client accounts is retained by firms. Rule 7 of the SRA Accounts Rules states that firms must account to clients for a fair sum of interest. Interest generated on client accounts is not 'free money'. From a PI perspective, as explained below, it is either paid to the client, or retained to contribute towards costs that otherwise the client would need to pay. The proposals are effectively a stealth tax on legal consumers.

Impacts on injured claimants

While it is not usually common for a claimant's damages to be retained in client accounts for a long time to generate substantial interest, there is a risk that PI claimants could be negatively affected should the proposals go ahead. Members have explained that the money generated by client interest can be used to allow firms to offer more beneficial funding arrangements to clients. Some firms cap all claimant contributions at no more than 25 per cent of damages (excluding future loss), to cover all of the client's costs including the basic shortfall, success fee, VAT and ATE premium. The income generated by client account interest helps towards this and some members raised that they would be unlikely to be able to continue to offer this funding arrangement if they no longer received interest from the client account. Costs to the claimant would instead increase, meaning that they would lose a greater proportion of their damages.

Another area where retained interest may be beneficial for PI claimants is in the payment of disbursements. Prior to the reforms, legal aid was available to assist the upfront funding of disbursements. When legal aid was withdrawn, there were some funding schemes available to help firms, but these have since ceased. Now firms must stand the upfront cost of disbursements, and this often involves overdraft arrangements with banks, which require interest payments. The interest from client accounts can be offset against the overdraft interest. If this were not possible, firms will have to absorb those costs, or some firms may be required to pass on additional costs to claimants. In some cases, it may be that firms determine that it is no longer feasible to operate a personal injury department. Alternatively, if firms have to ask claimants to fund outlays as the claim progresses, while claimants will have a degree of protection as they would recover those outlays if successful, or get refunded through their ATE insurance if they are not, there will be large upfront costs for the claimant. If claimants are required to, for example, fund their own court fee, this could be £10,000 – this situation is likely to deter many of those with a valid claim.

More generally, client accounts require oversight and administration and the costs of managing these accounts can be offset by the ability to retain interest. Examples of the administration required to run client accounts include the payment of banking fees; maintenance of internal reconciliation systems; external audits and the implementation of the controls required to ensure protection of client funds. The scheme would also increase the administrative burden required of firms – without a legal requirement to do so, financial institutions are unlikely to voluntarily take on the administrative burden of automatically paying interest over to the MoJ. The increased administrative burden will take the form of, for example, reviewing interest policies; reviewing current banking arrangements to ensure compliance; changing interest calculations; establishing and operating new controls to ensure compliance; making payments to the MoJ and additional audit/external reporting requirements. The increased administrative burden and remittance of interest to the Government combined, will likely mean an increase in the level of de minimis interest amounts paid to clients, reducing the amount claimants receive in interest. Increased

administration costs may also have to be factored in by some many legal practices into the rates clients pay, again increasing costs to clients. While the increased administrative burden and associated costs/strain on resources will be felt by all firms, there will be a disproportionate effect on smaller firms.

As above, clients are paid a fair share of interest generated from client accounts. It is unclear whether the proposed percentages that the Government is seeking are calculated before or after the client has been paid a share of the interest – if the Government's deduction is taken prior to the client's share being paid, the client may end up with less interest back as a result of the Government scheme.

The proposals are weighted towards lay legal service consumers

The consultation states that 'client funds in relation to all 'reserved legal activities' under the Legal Services Act 2007 would be in the scope of the scheme.' It is unclear whether this means that *only* client funds in relation to reserved legal activities would be in the scope of the scheme. If this is the case, we query why only client funds related to reserved legal activities would be included, and not, for example, money held in client accounts in relation to commercial legal activities. Reserved legal activities are weighted very heavily towards certain personal legal services (e.g. conveyancing, probate), and if only reserved legal activities are within scope, it is lay members of the public who are seeking those legal services, who will be left to pick up the bill. As above, this is a stealth tax on legal consumers, who are – particularly in relation to PI – having to access legal services at a very vulnerable time and through no fault of their own.

Claimants lacking capacity

One of the most common reasons for money to be held in a client account – particularly in a personal injury context – is because the claimant lacks capacity. General client accounts can be used as a temporary or holding position prior to deputies setting up segregated client accounts or separate bank accounts as expected, to manage ongoing transactions. The interest generated on funds held in Court of Protection cases is always paid out in full to claimants. It is concerning that there is no mention of whether money within client accounts due to the client lacking capacity will be included within the calculation of interest, but it cannot be just for the Government to take the interest generated on money in these circumstances.

Additional complexities

Our members have reported that firms all have different arrangements with different banks in relation to how client accounts are set up and managed, with different arrangements in relation to interest. It will be extremely complex, costly and time-consuming for firms if they are required to unpick these arrangements to fit with any new scheme, and there are likely to be unintended consequences. For example, some banks offer client accounts without interest, in exchange for reduced bank charges. It may be that if the proposals are introduced, some firms will be forced to opt for 0 per cent interest accounts, as they will no longer be able to use some of the interest generated to offset bank charges for those accounts. We also query if there will be a minimum level of interest that will need to be generated on client accounts, and if firms will be required to move bank accounts if their

current arrangement does not meet the required minimum level? Again, this will be hugely costly and time-consuming for firms.

As above, it appears to be envisaged that only money held in relation to reserved legal activities will be included within these proposals. For firms that offer a range of services, it will be extremely difficult to arrange the holding of funds so that only the interest on money from reserved legal activities is remitted to the Government.

We also query what would happen to any scheme that is established, should interest rates fall as predicted. Members have said that when interest rates were very low prior to the Covid-19 pandemic, the amount that it cost to run the client account was not covered by the amount of interest generated. This would be a variable income stream that is likely to become less and less productive in the coming years – this, coupled with the negative impacts on lay legal consumers as described above, highlights that the proposals have not been thought through, and should not be implemented. If the government were to take a percentage of the interest even with rates very low, the amount the client will receive in interest will be vanishingly small.

We envisage that any scheme would be a huge administrative burden, not only on firms as we have explored above, but also for the Ministry of Justice, and we query the cost of establishing any scheme and how this would be funded. There are also concerns around ensuring that the courts do not make orders that do not comply with any scheme in place, and ensuring that there is no conflict with the SRA rules and duties to clients provided there

Lack of defined proposals for money generated

Further, we are very concerned that, as the proposals stand, there would be no specified use for the money generated by this tax. The money would instead be incorporated within the Ministry of Justice's general funds. There does not seem to be any mechanism to monitor accountability for how the money is spent, and no way to measure the benefits of any increased revenue as a result of the scheme. As Professor Linda Mulcahy told the House of Commons justice select committee on 10 February, there are no beneficiaries of the scheme currently. It is also concerning that the MoJ will be administering the scheme, as again, Professor Mulcahy pointed out that any funds initially set aside for, for example, legal aid funding, could just be taken by the Government and used for a different purpose entirely. We note that most schemes in place around the world are administered by an independent foundation separate from Government.

We know that the majority of the Ministry of Justice's spend is on HM Prisons and Probation Service – the MoJ's total expenditure last year was £15.5 billion, with HM Prisons and Probation Service accounting for £7 billion of the total spend. While we acknowledge that the criminal justice system is costly, we object to further increased costs for injured people where there is no subsequent improvement in the civil justice system. The Legal Aid system is chronically underfunded, and it is increasingly difficult to obtain legal aid in the already very narrow circumstances that personal injury legal aid applies. Members also report numerous problems with the administration of legal aid, inconsistencies as to whether certificates are granted, certificates being rejected for arbitrary reasons. It is increasingly difficult to contact anyone at the legal aid agency who has knowledge of the case, with staff who do not understand the information they receive handling cases, calls are not returned and documents are lost and requested repeatedly. The Criminal Injuries Compensation

Authority also suffers from a lack of resources, with our members struggling to receive updates on where cases are at, unable to contact anyone by telephone, leading to stress and anxiety for applicants. At the very least, there should be a proportion of any money received by the government to be specifically earmarked for civil justice. Otherwise, as with the extortionate increases to court fees introduced in 2015, the users of the civil justice system will simply be paying to fund the criminal justice system and prisons.

Any queries or comments related to this response should be directed to:

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