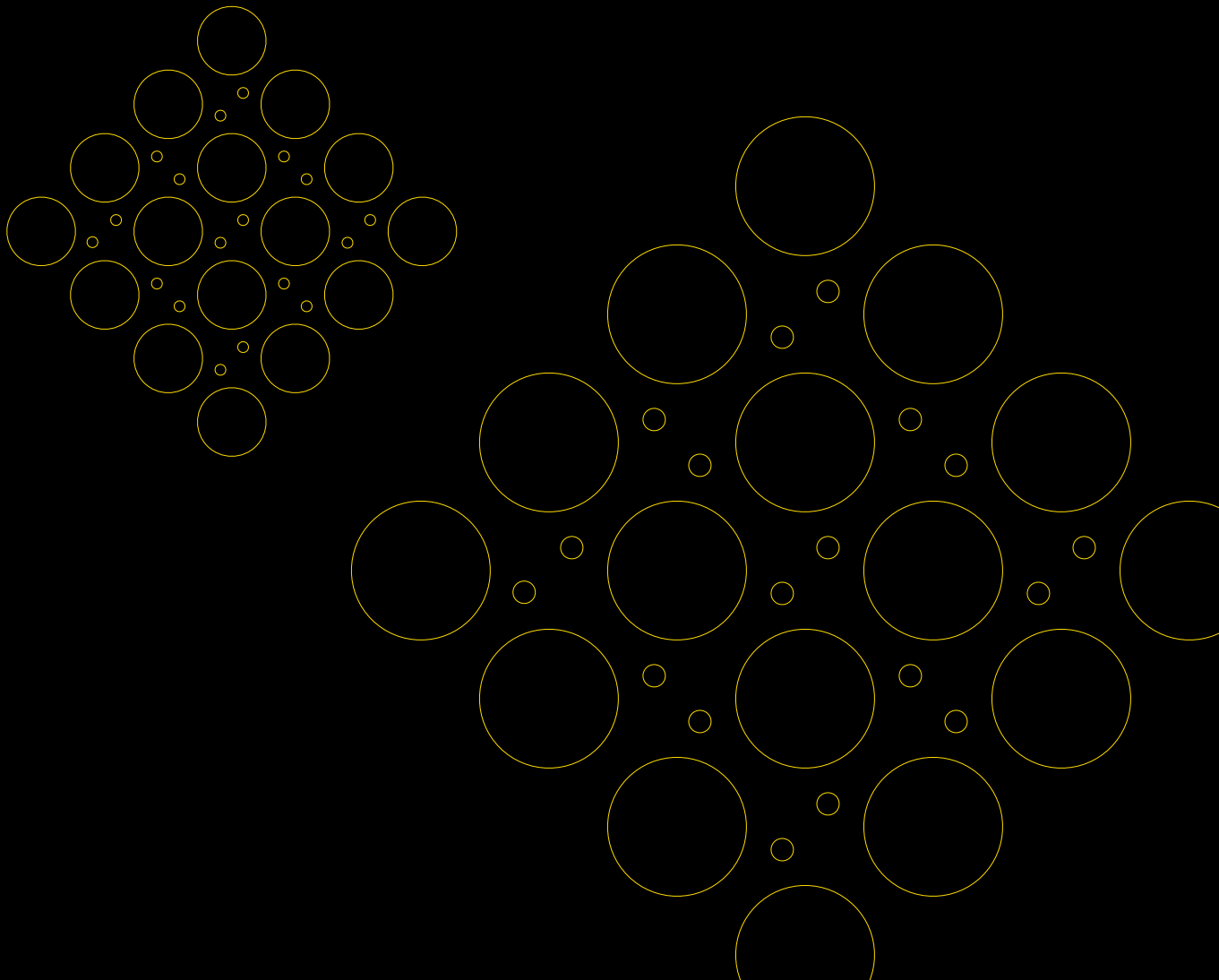




Ministry of  
**JUSTICE**

# Claims Management Regulation

Annual Review 2007/2008



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## Foreword – Bridget Prentice, Parliamentary Under Secretary of State



Ambulance chasers, claims farmers, claims cowboys were all terms used to describe claims management businesses. It was alleged that some of the tactics used to encourage people to make a claim for compensation were fuelling the compensation culture. There was evidence of consumers who were left out of pocket as they had signed up to loans to finance the cost of making a claim; claims being dropped because they were not considered lucrative, or worse compensation awards swallowed up by the fees and costs associated with making the claim.

Regulation of the claims management sector was needed to bring much needed protection to consumers. The statutory requirement for all claims management businesses to be regulated will help ensure that consumers receive a better service and give them confidence when using a claims intermediary. All authorised businesses must comply with strict rules of conduct on advertising, marketing and contracts. Those that represent clients must inform them of the options for making a claim, the risks involved and the costs.

Consumers are at the heart of the legal service reforms and central to what we have done in regulating claims management services. But regulation has done much more as it is raising standards across the industry. The first year of formal regulation has seen many achievements in dealing with the malpractice, not least the almost total removal of unauthorised marketing in hospitals, cold calling in person and misleading use of the expression 'no win no fee'. It also provides enforcement powers including the prosecution of unauthorised traders and cancelling the authorisation of authorised businesses that breach their terms and conditions of authorisation.

Claims Management Regulation has also provided a unique opportunity for a Government Department to work directly with local government in the delivery of a regulatory regime. Staffordshire County Council's Trading Standards Unit is working in partnership with the Ministry of Justice in regulating claims management services by running the Monitoring and Compliance Unit. I am grateful to Unit for their efforts in delivering the infrastructure in such a short timescale, which meant the MoJ could invite applications for authorisation four months after the Compensation Act 2006 received Royal Assent.

I must also congratulate Mark Boleat for leading this work during the early stages of regulation. The expertise he brought to the role has much to do with its success. We will continue the work in the coming year to tackle the malpractice so that consumers can feel confident when seeking the assistance of a claims management business.

A handwritten signature in black ink that reads "Bridget Prentice". The signature is written in a cursive, flowing style.

**Bridget Prentice**  
**Parliamentary Under Secretary of State**  
**Ministry of Justice**

## An introduction



When the Government decided to introduce statutory regulation of claims management activities it wanted to do so quickly. It was just over a year from a completely blank sheet of paper on my desk to Royal Assent for the Compensation Act and only around nine months more to complete all the secondary legislation, set up the regulatory structure and to fully commence the statutory regime.

Delivering a brand new regulatory system in such a short time was a huge challenge. A number of factors made this challenge achievable. The right ministers needed to drive things forward politically, the right officials with the necessary commitment and determination, and compelling consumer protection reasons.

The learning curve has been a very steep one for me personally, for the Ministry of Justice claims management policy team in London and for the Monitoring and Compliance Unit in Staffordshire. It has also been steep for the claims management industry. That of course includes claims management businesses but also those who do business with claims management businesses, in particular solicitors.

In recent contacts with the claims management industry I have heard a few say that we've been heavy handed and some say that we've been light touch. That probably means we are getting the balance about right. I believe that we've been tough where the circumstances have dictated that we needed to be – where the risks and potential detriment to the consumer have been the greatest – and we've been light touch the rest of the time.

The speed at which the regime has been set up and the substantial progress made in the first year of regulation make it easy to forget that regime is still a very young one and there is much left to do. Expectations are high and we will be working hard to ensure we meet them.

A handwritten signature in black ink, appearing to read 'Kevin Rousell', written in a cursive style.

Kevin Rousell  
Head of Claims Management Regulation  
Ministry of Justice

## Chapter 1 The Regulatory framework

- Why Regulate?
- The Regulatory Framework
- Who we Regulate
- Regulatory Objectives
- Regulations and Rules
- CMR and Better Regulation

### Why Regulate?

Prior to the introduction of statutory regulation it was clear that many claims management businesses were engaged in a number of malpractices to the clear detriment of consumers and the public interest. These included:

- Using aggressive marketing techniques;
- Encouraging frivolous claims resulting in the perception of a compensation culture;
- Misleading consumers about funding options;
- Providing poor quality advice;
- Dropping claims where they were not financially lucrative.

The Better Regulation Task Force (BRTF) was asked by the Government to investigate the perceptions of a compensation culture. In its report, *Better Routes to Redress* (May 2004), the BRTF recommended that the claims management industry be given a chance to self-regulate and if progress was not made by December 2005, then the Government should regulate the sector. The Government stepped in with the Compensation Act 2006, which established the framework for the regulation of claims management activities.

### The Regulatory Framework

The key drivers for the way regulation of the claims management industry was delivered were:

- Speed
- Effectiveness
- Cost

The timescale within which the regulation was fully established is unprecedented. The Act received Royal Assent on 25 July 2006. Regulation fully commenced on 23 April 2007, although claims management businesses were encouraged to apply for authorisation long before this to ensure that they were fully authorised before the deadline.

Whoever was selected to perform the monitoring and compliance role needed to have the appropriate mechanisms in place and to be up and running quickly; they also needed to have the relevant expertise. The crucial factors included experience of licensing, enforcement and complaints handling.

The final consideration was the cost. Setting up an Agency or Non-Departmental Public Body is costly and time consuming. Limited funds were available to establish the regulation and the time scale was short so these options were discounted. The Act provides options on the way regulation may be delivered. Several alternatives were considered including existing regulators. However, existing regulators were either not able to take on the additional responsibility or could not deliver the regulation in the timeframe.

An innovative solution was adopted. The Secretary of State for the Ministry of Justice (MoJ) is the Regulator. He has delegated the day-to-day Regulatory decisions to an Official who performs the role of Head of Regulation. The first Head of Regulation, Mark Boleat, completed his year of tenure on 14 August 2007. Kevin Rousell is the current Head of Regulation.

The Head of Regulation takes statutory regulatory decisions on behalf of the Secretary of State including authorisations, suspensions and cancellations of authorisation, and enforcement action against authorised and unauthorised businesses. The Head of Regulation is supported by a team based in MoJ HQ responsible for overseeing the operation of the regulatory system, the legislation, policy and funding of regulation.

The Monitoring and Compliance Unit (MCU) function is provided under contract to MoJ by Staffordshire County Council Trading Standards. MoJ is the first Government Department to work with a local authority to deliver a national system of regulation.

The innovative arrangement meant that the regulatory framework was implemented quickly, with a unit that had the appropriate experience of licensing, complaints handling and enforcement, and within the tight budget set aside for the implementation phase. The Impact Study that is being published simultaneously with this review sets out the key successes and achievements of the first year of authorisation. The executive summary is reproduced at Chapter 9.

Several statutory instruments have been made which provide further detail of the regulatory framework. Copies of all these and other publications mentioned in this review can be found on the Publication Page of the claims management website at [www.claimsregulation.gov.uk](http://www.claimsregulation.gov.uk)

## **Who we regulate**

The definition of claims management regulation in the Compensation Act 2006 is wide so it can apply to any claim for compensation. A statutory scope order narrows it down to specified activities and sectors. Any person carrying out the following activities in making a claim for compensation for personal injury, Industrial Injuries Disablement Benefit, criminal injuries, employment, housing disrepair or financial products or services must be authorised, unless exempt. Activities that are regulated include:

- Advertising for, or seeking out (for example by canvassing or direct marketing), persons who may have a cause of action;
- Advising a claimant or potential claimant in relation to his claim or cause of action;
- Referring details for a fee of a claim or claimant, or cause of action or potential claimant, to another person, including a person having a right to conduct litigation;
- Investigating or commissioning the investigation of the circumstances, merits or origins of a claim with a view to using the results in pursuing the claim;
- Representing a claimant whether in writing, personally to a tribunal, body or person.

Certain persons are exempted by a statutory order from the need to be authorised. These include those already regulated in respect of regulated claims management services – legal practitioners and insurers – and charities, not-for-profit agencies and independent Trade Unions.

Any person who is not exempted and is providing regulated claims management services in the sectors mentioned above must be authorised by the Claims Management Regulator. All those applying for authorisation must complete a authorisation form which can be downloaded from the claims management regulation website or by requesting a form. The form is carefully processed and checks made of the information provided. The MCU might seek further information from the applicant and will investigate any inconsistencies. When it is satisfied that the information provided is in order and meets the criteria for authorisation a recommendation is made to the Head of Regulation to authorise the person. When the person pays the regulatory fee they are issued with a certificate of authorisation, a unique CMR number, and their details are added to the CMR register which is also on the website; the person can then commence trading.

## **Regulatory objectives**

The regulatory objectives are:

- Protecting and promoting the interests of consumers

- Protecting and promoting the public interest
- Improving standards of competence and conduct of authorised persons
- Improving access to justice
- Promoting practices likely to facilitate competition between different providers of regulated claims management services

### **Regulations and Rules**

Claims management regulation is undertaken in accordance with statutory requirements. These include the criteria for authorisation, fees determination, rules criteria, complaints handling and enforcement. The Regulations will be amended in 2008 to include specific provisions on the minimum requirement for professional indemnity insurance and seizure powers.

There are three sets of rules that apply to authorised persons:

- Conduct of Authorised Persons Rules (May 2007)
- Complaints Handling Rules (December 2006)
- Client Account Rules (April 2006)

All authorised persons must comply with the Conduct Rules and the Complaints Handling Rules; businesses that handle clients' money must comply with the Client Accounts Rules. Compliance with rules is a condition of authorisation; monitoring compliance is a key responsibility for the MoJ. Where a business fails to comply with the Rules action will be taken in accordance with the enforcement policy.

### **CMR and Better Regulation**

The MoJ, in regulating claims management services under the Compensation Act 2006, is committed to the principles of good regulation. To realise this commitment we have monitored closely developments within the Government's Better Regulation Agenda. This includes the Regulator's Compliance Code – a statutory code that is based on the Hampton principles.

MoJ has made efforts to ensure compliance with specific obligations of the Regulator's Compliance Code in enforcing regulation in the first year. For example, our Enforcement Policy reflects the principles of the Macrory and Hampton Reviews and has guided the regulatory actions to ensure that they are proportionate and risk based. The MoJ applies a risk based approach to regulation and has developed a risk framework that is applied to all authorised businesses.

We have been careful to minimise the regulatory burdens on businesses, for example by keeping requirements to provide data and information to a minimum, and by keeping the rules and guidance under review. MoJ recently revised the

fee scales for claims management regulation and reduced them for businesses with a very low turnover. This addressed specific concerns that had been raised, predominantly by sole traders, and helped ensure that the fee levels were proportionate. To ensure effective consultation and feedback opportunities for those being regulated, regional workshops were held in April – May 2008.

MoJ has also been open, transparent and accountable in enforcing claims management regulation. The Impact Study and this report are part of that philosophy.

## Chapter 2 Authorised businesses

- The Authorisation process
- Renewal of authorisation
- A breakdown of businesses authorised in 2007/8
- Equality and Diversity
- Feedback from authorised persons
- Business service survey
- Professional indemnity insurance

### The authorisation process

Shortly after full implementation of the regulatory regime a formal review was carried out to evaluate how the authorisation process had contributed to the objectives of regulation and to consider any lessons learnt. The overall assessment indicated that the authorisation process had been very successful. There were no significant problems with either the form or the technology that supported it. Initial feedback from applicants indicated broad satisfaction with the arrangements.

The process made a significant contribution to meeting the objectives of the regulation and provided the necessary platform on which monitoring and compliance work could be effective. Key outcomes were:

- Claims management businesses realised that this was a serious regulatory regime that was likely to be enforced.
- Deficiencies in websites and contracts were largely addressed. In itself this meant that much of the malpractice in respect of endowment mis-selling had already been dealt with.
- A significant amount of information had been gathered on businesses that might seek to trade without authorisation.
- Authorised businesses that posed some risk were identified.

One significant lesson was that many applications were of a very poor quality. Perhaps the degree of this could have been anticipated given that the businesses to which regulation was being applied had little or no previous experience of regulation. More account could also have been taken of the nature of the applicants.

### Renewal of authorisation

When the regulatory regime was devised it was decided that all certificates of authorisation would run to a particular date, 28 February. At the end of the first year of authorisation the information held on the MCU database about authorised businesses was reviewed. All businesses were contacted in November 2007 asking them to confirm that information about the business that they provided in the application forms had not changed or to give details of any changes. Businesses were also required to complete a declaration of compliance with conditions of authorisation and provide details of turnover so that the Regulator could calculate the fee due for 2008/09.

One of the benefits of having a single date to renew certificates of authorisations is to enable the Regulator to collect aggregate data on activity in the market and therefore to be able to assess the changing nature of the market. The information provided during the renewals process also helped in compiling the Impact Study.

The following is the position on the renewals process at 3 April 2008.

Number of businesses issued renewal notices	1,609
Number of renewal notices returned	1,452
-of which voluntary surrenders of authorisation	87
-of which forms incomplete	30
Number of forms not yet returned	157

It is likely that most of the businesses whose forms were not returned and those whose forms were incomplete have ceased providing regulated claims management services. These businesses will either voluntarily surrender their authorisation and will notify the Regulator that they no longer provide regulated claims management services, or regulatory action will be taken. In the first instance their authorisation will be suspended. The authorisation register on the website specifies the status of each business and will therefore make clear if a business is no longer formally authorised.

### Breakdown of authorised businesses

The application form requires businesses to confirm the sector they will be providing regulated claims management services in, and the turnover for each sector. This information is essential, as a business will only be authorised to operate in the sector they specify in the form, and the turnover figure is needed to calculate the regulatory fee. The following table shows the breakdown of authorised businesses by sector as at 25 February 2008. At that time the total number of authorised businesses was 1,740.

**Authorised businesses at 25 February 2008**

<b>Sector</b>	<b>No. of businesses</b>	<b>Total Turnover</b>
Personal Injury	1,385	£173,934,677
Housing Disrepair	92	£279,503
Employment Matters	223	£3,823,963
Financial Products	427	£67,682,088
Criminal Injuries Compensation	438	£1,119,208
Industrial Injuries Disablement Benefit	234	£1,150,262

**Note:** Total aggregate number of businesses by sector is higher than the actual number authorised as some offer services in more than one sector.

The largest number of authorised businesses is in the North West and the Midlands, with London the next largest area (see table below). However, as many businesses market and gather claims by advertising nationally the place they are based is immaterial. As can be seen below there are several businesses located outside England and Wales.

**Region Analysis (April 2008)**

<b>Region</b>	<b>Total</b>	<b>%</b>
East	107	6
East Midlands	56	3
London	253	15
North East	30	2
North West	514	29
South East	193	11
South West	62	4
Wales	61	3
West Midlands	206	12
Yorkshire & Humberside	230	13
Other	29	2

Other Scotland 21, Poland: 2, Gibraltar: 2, Spain: 3, Guernsey: 1

## **Equality and diversity**

In developing the role of the MCU consideration has been given to ensuring that the functions and policy of the Unit will not create any barriers that could prevent access to services or employment opportunities. An initial screening has been carried out which confirmed there were no areas of immediate concern. A full equality needs impact assessment will be carried out in 2008. An equality and diversity statement has already been published on the CMR website as follows:

We welcome diversity, value the differences that individuals bring and aim to treat everyone fairly and with respect, in all that we do.

We will not tolerate any form of discrimination, including on the grounds of:

- Age
- Disability
- Gender
- Marital status
- Nationality
- Sexual orientation
- Race
- Religion

We undertake to deal with all such cases promptly where evidence is found, consistent with the law and our policies.

## **Feedback from authorised persons**

We have undertaken several public consultations since summer 2006 (further information on consultations this year is included in the chapter on Communications). Consultations on the regulations and rules provided an opportunity for those who might need to be authorised to comment on the proposals. We also held regional workshops in July/August 2006 in Newcastle, Bristol, London, Manchester and Newcastle that were attended by more than 300 businesses.

We are undertaking another round of workshops with authorised businesses in Spring 2008 in Birmingham, Leeds, Manchester and London. These will be participative events that will provide us with a clearer picture of the impact of regulation, help to clarify any burdens and benefits, and how businesses interact with others in the claims chain.

### **Business service survey**

We currently deal with on average 700 enquiries a month from authorised businesses. We continually strive to improve the service we provide to businesses and consumers. An independent researcher recently undertook a telephone survey of businesses that had contacted the MCU. An analysis of responses is at Annex A. The feedback from this survey will be used to refine our services. A similar survey will be conducted with businesses that attend the Spring 2008 workshops and on a monthly basis by telephone.

### **Professional Indemnity Insurance**

The consultation paper '*Claims Management Regulation – Professional Indemnity Insurance*' was published on 23 February 2007. It invited comments on the introduction of compulsory Professional Indemnity (PI) insurance for businesses that provide regulated claims management services, and included a draft requirement. The consultation period closed on 25 May 2007.

Part 1 of the Summary of Responses was published on 1 August 2007, together with a report on PI insurance commissioned from Andrew Fryer of Willis. It summarised the responses to the consultation paper and provided initial thoughts. The final conclusions paper was published on 16 November 2007.

The consultation exercise showed that any possible risk to the consumer that a PI insurance requirement might mitigate is restricted to cases where intermediaries represent claimants in the criminal and personal injury sectors. Following further research, it became clear that the Criminal Injuries Compensation Authority (CICA) has in place controls and a discretionary power that enables it to waive the time limit. It was therefore decided to restrict the requirement to those representing clients in the personal injury sector.

The Regulations will provide the power for the PI requirement; and we anticipate this will come into force on 1 July 2008, subject to Parliamentary approval. Guidance has been issued to assist those businesses that will need to comply with the PI requirement.

## Chapter 3 Regulatory performance

- **Baseline Study**
- **Impact Study**
- **Performance and business plan 2007/08**
- **Aims and objectives for 2008/09**

### **Baseline study**

In April 2007 a baseline study was published. The study made use of information in the authorisation process. The purpose was to help guide the regulatory regime by providing a first proper analysis of the market and of malpractice and to facilitate the analysis of the impact of regulation. For each market subject to regulation the report –

- Describes the market.
- Attempts to measure the size of the market.
- Identifies malpractice.
- Outlines the strategy for tackling malpractice.
- Analyses the likely impact of regulation.

### **Impact study**

An initial impact study was published on the Claims Management Regulation website in August 2007. This concluded that the regulatory regime for claims management activities was considered to have had a significant effect in reducing malpractice less than one year after the Compensation Act 2006 received Royal Assent. Specifically –

- Cold calling in person had been significantly reduced.
- Unauthorised marketing in hospitals had been reduced by about 90%.
- A joint approach was in place with the SRA to reduce other malpractice in the acquisition of personal injury claims.
- An effective short-term strategy had been developed for dealing with contrived accidents, the Department also taking a co-ordinating role for the various enforcement agencies and the insurance industry.

- Malpractice by companies handling claims against the Criminal Injuries Compensation Authority had been significantly reduced, including through some companies voluntarily leaving the market.
- Misleading use of the expression “no win, no fee” had largely been eliminated.
- Misleading claims on websites had been almost entirely removed and rules requiring websites to give a physical address were being complied with.
- The malpractice there was in respect of handling endowment claims had largely been removed.
- The growth of claims handlers dealing with bank charges had been controlled, preventing malpractice from developing.

However, the analysis concluded also that there remained much work to be done, in particular –

- Regular surveillance of websites to ensure that bad practices do not return.
- Eliminating all cold calling in person.
- Implementing the short-term strategy on contrived accidents and developing a longer-term strategy with partner agencies.
- Ensuring that the “exempt introducer” concept is not abused and beginning to deal with the unseen malpractice in the acquisition of personal injury claims, including ensuring full compliance with the SRA rules and the Rules of Conduct throughout the supply chain to solicitors.
- Ensuring that the regular closing down and creation of businesses is not used as a means of prolonging malpractice.

An Impact Study on the first full year of Regulation has been prepared by Mark Boleat and is being published at the same time as this review. The Executive Summary is reproduced in Chapter 9. The broad conclusions are very similar to those in the initial study.

### **MCU performance in 2007/08**

The Monitoring and Compliance Unit (MCU) was established in September 2006 and within three months it was accepting applications for authorisation from claims management businesses. The number of businesses applying for authorisation exceeded expectations and the MCU has expanded to cope with the increased workload. At the contract outset, it was anticipated that between 300 and 500 businesses might seek authorisation. By 23 April 2007, when the legislation

came fully into force, over 1,000 applications had been received and around 800 businesses had been authorised to trade. Applications continued to be received throughout 2007/08. The monitoring and compliance work, in combination with the requirement for remedial action by applicants for authorisation, has had a major impact on certain aspects of the claims management market as set out earlier in this review. The National Intelligence Model and tactical assessment and tasking approaches are used to progress enforcement activities in respect of individual businesses.

### **Aims and objectives for 2008/09**

As the number of authorised businesses continues to grow and regulatory activity increases, more is learnt about the nature of the industry. Whilst significant progress has been made against the priorities established in 2007, some new challenges have arisen. In order to meet these challenges and deliver the regulatory objectives the following have been identified as priorities for the regulation in 2008/09:

- Compliance and fairness of contracts that authorised businesses have with their clients.
- Ensuring that the dealings of authorised businesses with their clients are fair and reasonable. This includes addressing such issues as not maintaining sufficient contact with the consumer particularly with regard to taking on claims, and subsequently not updating the consumer. It also includes instances of aggressive marketing.
- Identifying and tackling non-compliant marketing (including websites, television, radio, leaflets and other media).
- Ensuring that the information provided by authorised businesses is true and valid.
- Identifying unauthorised activity and ensuring that the business is brought to compliance.
- Identifying and targeting cold calling in person.
- Dealing with unauthorised leaflets and advertising in medical facilities and public buildings.
- Working with partner agencies to tackle claims management businesses that support crime.

## Chapter 4 Enforcement

- Enforcement policy
- A risk based approach
- Enforcements and Investigations
- Dealing with malpractice

### Enforcement policy

We published an Enforcement Policy in April 2007. The Policy sets out the regulatory enforcement functions, the principles of enforcement that the Regulator has adopted and the standards that will the Regulator applies when carrying out enforcement action. It guides enforcement action undertaken using the enforcement powers in the Compensation Act 2006, but also reflects the principles in the Cabinet Office Enforcement Concordat 1998.

The regulatory aim is to encourage compliance by working with authorised persons. It is also the intention as far as possible to encourage compliance by unauthorised businesses. Formal enforcement action is taken where necessary but only if it is reasonable, consistent and proportionate to the risk posed to consumers.

We reviewed the Policy in January 2008 in the light of experience of enforcing regulation and other developments in the regulatory arena, including the publication of the final Regulator's Compliance Code which aims to move regulators towards a more risk based and proportionate approach. We concluded that the policy still met the regulatory objectives and the requirements of the Code. We intend to review the policy annually.

### A risk based approach

The enforcement policy is supported by a Risk Framework and reflects the principles of Macrory and Hampton Reviews. The risk framework was designed to target the malpractice that has led to consumers being disadvantaged by claims management businesses. This includes aggressive selling tactics, inappropriate acquisition of leads, misleading marketing activity and misleading and unfair contracts. The framework served three purposes –

- To influence the design of the application form.
- To shape the authorisation process.
- To guide monitoring, compliance and enforcement work.

All businesses are assigned a risk rating following authorisation of low, medium or high risk. Businesses risk rated medium and high are closely monitored whilst the issues of concern are addressed with the aim of reducing the risk rating quickly. A Tactical Assessment and Tasking Group has been established to monitor and review risk ratings and consider whether any regulatory action is required. This helps ensure that resources are focused on higher risk areas and businesses.

### **Dealing with malpractice**

Monitoring and compliance work has been carefully targeted at known problem areas to deal with the malpractice. The objectives have been to prevent unauthorised activity and bring authorised businesses to compliance with the rules of conduct. This has been particularly successful in respect of websites and contracts. It has not yet been necessary to make significant use of formal enforcement powers.

### **Refusal to authorise**

In order to grant an application for authorisation the Regulator must be satisfied that the applicant is competent and suitable to provide the regulated services. Where there is evidence which casts doubt on the applicant's competence and suitability e.g. criminal convictions, or history of committing relevant criminal offences (for example fraud or theft), the Regulator might not grant approval. In the first year of authorisation five applications for authorisation were refused. There were two appeals against the Regulator's decision to the Claims Management Services Tribunal; one was withdrawn and the Tribunal dismissed the other. 205 applications were terminated as the applicant either did not complete the authorisation process or did not pay the annual regulatory fee after they had submitted the application form and paid the annual fee. It is probably the case that a significant proportion of these businesses realised either that they would not be authorised or that if authorised they would no longer be able to continue with previous working practices.

### **Suspensions/cancellations**

We suspended the authorisation of a number of businesses because of their failure to meet a condition of authorisation to provide information and certify in writing that, since authorisation, their business has complied with the rules of conduct. At 30 April 58 businesses authorisation had been suspended because they failed to meet the request.

We have cancelled the authorisation of one business during the reporting year. Businesses whose authorisation is suspended will remain at that status until the Regulator is satisfied that they will comply with the conditions of authorisation or he cancels the authorisation.

If a business's authorisation is cancelled or suspended its changed status is recorded on the authorisation register which is on the claims regulation website.

### **Audits**

We use a risk-based approach to audit. 75 audits of businesses dealing with personal injury claims have been carried out. These have mainly been in the West Yorkshire, Lancashire, Luton and Birmingham areas. Problems found included no VAT registration, undeclared turnover, and business being run by persons not declared on the application form. Where there is a suspicion of tax evasion, information has been passed to HMRC. Otherwise, the businesses have been required to remedy any failings. Some businesses are still being investigated and more formal enforcement action may follow. A particular issue is the non-disclosure of individuals who have a significant influence over a claims management business.

Three audits were carried out of companies dealing with bank charges, on the basis of complaints received about the businesses. The issues were cold calling by telephone, failure to respond to customer queries, clients being unable to contact the business, and unclear promises about the refund of upfront charges. Following the audits the businesses implemented changes to client contracts and improvements in the way complaints are handled.

## Chapter 5 Complaint Handling

- **Complaints about authorised businesses**
- **Complaints handling rules**
- **Complaint statistics**
- **Enquiries on authorised businesses**

### **Complaints about authorised businesses**

Given the nature of the businesses being regulated, with many doing no more than refer personal injury claims, it was anticipated that the number of complaints would be low. This has been the case with the majority of complaints concerning businesses that have a contract with a client and mainly in the financial products and services sector. The aim of the Regulator is to try to assist the client to reach a satisfactory outcome. We also work with businesses where there are complaints to address any failings identified. Complaints are considered on a case by case basis and further action is taken where necessary.

### **Complaints handling rules**

Complaints handling rules for authorised businesses came into effect on 6 April 2007 and are available on the website. All authorised businesses must have a complaints procedure that meets basic standards. If the consumer is unhappy with the business's handling of the complaint, he may ask the Regulator to review it. We have published a Complaints Handling Procedure that sets out the formal actions we may take if a complainant is dissatisfied with the handling of their complaint by the authorised business.

### **Complaint statistics**

We have recorded complaints and enquiries made to the MCU since regulation commenced and since October 2007 we have monitored the number and type of complaints. In total there have been 1,216 complaints, over 80% of which were in respect of financial products and services.

Over 70% of complaints received came under the heading of "fair and reasonable" dealings with clients. Complaints typically concerned a company claiming a fee when it had done very little work; clients being misled into dealing with a business; and clients being misinformed.

### **Case study 1**

We have received a number of complaints about businesses advertising to help people make a complaint about bank charges, particularly about whether contracts were fair. Following the commencement of an agreed test case the FSA has waived its rules on complaints handling which means that most such complaints are now on hold. However, some businesses are continuing to take on new clients, which has caused confusion with many consumers who do not know the details of the case. We have issued guidance, available on our website, for both consumers and businesses about the test case and its effects.

### **Enquiries about authorised businesses**

We receive general enquiries about regulation and the authorisation process, but many of these relate to specific businesses such as whether they are authorised or how to tackle an issue with a business. Many of these enquiries could result in complaints, so it is important to look at the subject matter of each enquiry and tackle it appropriately. The information received may become the basis of enforcement action, where appropriate, but the focus is on resolving the issue to the satisfaction of the consumer, business and Regulator.

### **Case study 2**

A consumer had paid a fee to an authorised business after contact by telephone, but then decided to cancel within the cooling-off period of 14 days. He had been assured verbally by the business of a refund within 10-14 days, but this had not happened. We advised him to send a written request for a refund; he received no response. We contacted the business directly and reminded it of its duty to refund customers during the cooling-off period; the business responded by sending a cheque to the consumer.

## Chapter 6 Communications

- **Consumer Communications**
- **Awareness raising in the industry**
- **Involving stakeholders in policy development**
- **Informing the public and their advisors**
- **Consultations**
- **Guidance to businesses**
- **Working with other regulators**

### **Consumer Communications**

A key objective of regulation was to provide additional protection and confidence to consumers with genuine claims for compensation. One of our first tasks was to work with Advicenow on a revised version of their 'Claiming Compensation' leaflet, which explained in layman's terms what compensation is, that someone needed to be at fault to make a claim and how to find someone to help make the claim. We also published a Ministry of Justice leaflet 'Claims Regulation' that provided information on the main features of regulation and advised the public to check that those assisting them to make their claim were authorised to do so. The leaflets were sent to MPs, legal advice centres, libraries and Employment Tribunal hearing centres.

We have worked proactively with a number of key stakeholders to raise awareness about regulation. Articles have appeared in publications including Which? and Woman's Weekly. Information was placed on consumer websites such as Directgov and Consumer Direct. Citizens Advice and Jobcentreplus agreed to use their intranets and in-house magazines to get information to all their advisory staff so they had readily available information for members of the public.

### **Awareness raising in the industry**

A major factor in the success of claims management regulation has been the extensive communication programme targeted at the claims industry. The aim was to get key messages about regulation to all those who needed to know. This included businesses and others in the supply chain such as solicitors and insurers.

Positive briefings and articles during the parliamentary passage of the Compensation Act in the national and trade papers (including the Insurance Times, Law Society Gazette and Post Magazine) at the time of key debates on issues such as the scope of Regulation maintained the profile of this new and innovative

regulation. The Claims Standards Council (the trade body for the sector) continually updated their website to reflect the development of the legislation, and businesses registered with them received a comprehensive weekly bulletin on regulation and other related claims management information. This all helped to make businesses aware of the regulation.

A dedicated website [www.claimsregulation.gov.uk](http://www.claimsregulation.gov.uk) was established to provide businesses with a one-stop shop for information and advice and a facility to apply for authorisation on-line. Formal consultations on issues such as rules for authorised persons and fee levels gave those working in the industry a chance to comment on proposals.

### **Involving stakeholders in policy development**

We have engaged with a range of stakeholders on the development of claims regulation. In July 2006 we established the Claims Management Regulatory Consultative Group. The Group, which initially met monthly, is made up of representatives of other government departments and regulators, the insurance, finance and claims management industries, trade unions and the consumer bodies. They helped design and refine elements of policy and procedure and ensured that we had a balanced view of the effect and impact that regulation would have on claims businesses and consumers. The Group continues to meet quarterly to exchange views on the progress of regulation and discuss emerging areas of concern.

In the last year we have expanded our stakeholder network to include the Employment Tribunal and Employment Appeal Tribunal Judiciary. The Employment Sector was difficult to communicate with initially as many providers do not advertise on websites. We identified options to raise awareness amongst consumers using intermediaries to bring an appeal, and unauthorised representatives. As a direct result we have published leaflets providing guidance for consumers on claims management regulation, and posters are now prominently displayed in hearing centres.

We have expanded on this by devising a leaflet aimed at representatives who may require authorisation. The claim form that must be completed by people appealing to a Tribunal will also include information about claims management regulation. Targeting claimants at an early stage of the process will encourage them to consider more carefully the person they appoint to represent them.

### **Informing the public and their advisors**

The formal commencement of regulation on 23 April 2007 provided the opportunity to promote key messages more widely. Articles and news flashes appeared on the websites of organisations as diverse as the Law Society, Directgov and Which?

We continue to work with Her Majesty's Court Service and the Tribunal Service to advise those working in and attending Courts and Tribunals about regulation. The posters and leaflets devised to better inform users of Employment Tribunals

have been used to encourage Her Majesty's Courts Service (HMCS) users and staff to check that the person undertaking representation is authorised to do so and amendments have been made to claim forms and letters to incorporate the key messages.

### **Consultations**

We have published a range of consultation papers and responses. We published three consultation papers in summer 2006 covering the rules, regulations, and scope of regulation, exemptions, application forms and fees. In the last year we have published consultation papers on fee levels for 2008/09 and on the requirement for authorised businesses to have professional indemnity insurance.

A full list of publications, consultations and guidance notes can be found at Annex B.

### **Guidance to Businesses**

An integral part of regulation has been to ensure that businesses have clear and accurate guidance on the regulatory issues of concern to them. We have produced guidance notes and published them on the claims regulation website from the earliest days of the regime.

Initially, these notes clarified general information such as who needed to apply for authorisation and how to complete the application form, but they soon progressed to more specific topics such as how businesses should handle bank charge claims in the light of the High Court test claim announced in October 2007 and their obligations under the Data Protection Act. We will continue to issue guidance notes as and when needed.

Guidance notes have been published on the following topics –

- Who needs to be authorised under the Compensation Act 2006
- Completing the Application Form
- Marketing and Advertising Claims Management Services
- Complaint Handling Procedures
- Claims in respect of bank charges
- Guidance on submitting a claim at Court
- Data Protection Act; Obligations for authorised businesses.

We also publish periodic newsletters and later regulation bulletins that provide information on current claims management developments. These can also be found on the website and are circulated electronically to all authorised businesses.

### **Working with other regulators and complaints handling bodies**

We have worked closely this year with key regulators and other key organisations including the Solicitors Regulation Authority (SRA), the Financial Services Authority (FSA) and the Financial Ombudsman Service (FOS). This ensures that emerging areas of concern are identified at an early stage and any action agreed.

Most businesses offering services for personal injury will have close relationships with solicitors. It is important that the working relationships between authorised businesses and solicitors are well understood. The aim has been to stamp out abuses and ensure that authorised businesses and solicitors comply with their respective regulatory rules. We have developed a Memorandum of Understanding with the SRA to help facilitate the sharing of information and we meet regularly with senior staff at the SRA.

We have regular meetings with the FSA and FOS to discuss issues of mutual interest. In particular, discussions with the FOS have covered the ongoing bank charge scenario and the emerging claims market for Payment Protection Insurance as well as the endowment sector.

## Chapter 7 Finance

- Staffing
- CMR Funding
- Fee determination , income and expenditure
- CMR and small businesses
- Professional Indemnity insurance

### Staffing

There are currently 30 staff engaged in claims management work. This includes 7 in the central MoJ policy team and 23 in the MCU. Details of the senior staff are included in the contact list at Annex C.

### CMR Funding

All authorised businesses are required to pay –

- An application fee – a one-off fee to recover some of the costs the Regulator incurs in processing applications for authorisation; and
- Regulation fee (paid yearly) – which provides most of the funding needed to carry out the ongoing regulatory functions.

### Fee determination

The standard principle is that regulation should be self-financing. Our aim has been to ensure that fee levels are reasonable, proportionate and relate to the turnover of a business. We consulted on the fee levels before publishing the Fees Determination 2008/09.

The cost of establishing the regulatory regime in 2006/07 was £750,000, which was largely start up costs for the MCU. MoJ provided start-up funding to ensure that regulation was up and running as soon as possible.

The cost in 2007/08 was £1.5 million. This included the costs of MoJ staff, running the MCU and other costs such as funding the handling of appeals to the Claims Management Services Tribunal. The costs of regulation in 2007/08 were met from the fee income.

The tables and diagram below show the income and expenditure for 2007/8.

### CMR – Fee income 2007/08

Fee type	Amount (£)
Application fee	749,000
Regulation fee	811,000
Total	1,560,000

### Table – CMR - Expenditure 2007/08

Cost head	Amount (£)
Monitoring and Compliance	1,185,000
MoJ HQ Staff	300,000
Consultancy costs	50,000
Appeals	15,000
Travel and Subsistence	11,000
Total	1,561,000

### CMR and small businesses

In developing the regulatory framework for claims management regulation, MoJ consulted a wide range of stakeholders including consumer and small business groups such as the Federation of Small Businesses. Both groups expressed strong support for the statutory regulation of claims management services.

In order to ensure that the burdens imposed on small businesses were proportionate, we reviewed the fee levels for claims management after one year. A number of businesses and MPs had raised concerns about the cost of regulation for small businesses. The Fees Consultation sought views on the fee levels and whether there should be a lower fee for those with a low turnover. There was general consensus among respondents that the 2007/08 regulation fee for businesses with a very low turnover should be reduced. We responded by revising the fee scale allowing lower fees (between £100-£400 as opposed to a fixed fee of £400) to be paid by smaller businesses; this benefited over 450 businesses. Around 23% of these had a turnover under £5,000 and paid the lowest fee (£100), 43% had a turnover between £5,000 and £14,999 and paid £200 and 33% with a turnover between £15,000 and £24,999 paid £300.

### Professional Indemnity Insurance costs to businesses

There will be additional costs to some authorised businesses when the requirement to hold Professional Indemnity insurance comes into force on 1 July 2008. The

requirement will apply to businesses that represent claimants in the personal injury sector. The premiums for insurance cover will depend on the state of the professional indemnity insurance market and insurers' assessment of likely specific risks of the individual companies.

## Chapter 8 Forward Look

The Impact Study on the first year of claims management regulation that is being published at the same time as this report provides a comprehensive assessment of the claims management market and the impact regulation has had on the market. We accept the conclusions made in the Impact Study and the analysis of the challenges ahead.

Although there is little hard evidence from other stakeholders on the impact of regulation we are aware that many have seen changes in the way that the market operates. A survey by the Monitoring and Compliance Unit of 30 authorised businesses in March 2008 included the question: *"Do you feel regulation is improving the claims management market?"* 87% said that they did.

The Impact Study attributes the overall success to a number of factors –

- The small size of the sector being regulated.
- The speed with which the regulatory regime was implemented; normally those engaged in malpractice have several years to rearrange their businesses before legislation is implemented.
- The interest that those receiving claims have in curbing malpractice and their willingness to refuse to deal with businesses that have not been authorised.
- The Regulator's strategy for achieving compliance with the Rules of Conduct.

There is still much work to be done. The key challenges going forward are –

- Combating unauthorised activity.
- Regular surveillance of websites and other marketing material to ensure that bad practices do not return.
- Eliminating all cold calling in person.
- Working with other agencies to tackle claims management businesses involved in crime.
- Reducing the scope for abuse of the "exempt introducer" concept.
- Ensuring that authorised businesses provide the necessary information about their ownership.
- Ensuring that contracts are not unfair and that customers are not subsequently treated unfairly.

## Chapter 9 Impact Study April 2008 - Executive summary

The following is a copy of the executive summary from the Impact Study that has been published along side this review.

### **Background**

There has been significant malpractice in the provision of claims management services, particularly for personal injury cases. The Compensation Act 2006 provided for the regulation of claims management services in respect of personal injury, criminal injuries compensation, Industrial Injuries Disablement Benefit, employment, housing disrepair and financial products and services.

The Secretary of State for Justice is formally the Regulator. An outsider was brought in as a temporary civil servant and Head of Claims Management Regulation for a year from August 2006; subsequently an established civil servant has had this role. The Head of Regulation takes statutory decisions on behalf of the Secretary of State. Authorisation, monitoring and compliance work is handled by a Monitoring and Compliance Unit, provided by Staffordshire County Council under contract to and under the management of the Department.

### **The objectives of regulation**

The overriding objective has been to increase the protection of consumers of claims management services. Other objectives include –

- To tackle practices that have led to misperceptions and false expectations of compensation claims.
- To improve the efficiency and effectiveness of the system for those who have genuine claims.

### **The approach**

The approach to achieving the objectives has been –

- Understanding the market.
- Understanding the effects of regulation.
- Identifying how regulation can be effective, in particular “pressure points”.
- Drafting Rules of Conduct that address malpractice.

- Devising authorisation and compliance procedures to ensure that the Rules of Conduct are complied with.
- Working in partnership with other enforcement agencies.

Different approaches have been needed for the different markets; the approaches in the two principal markets – personal injury and financial services claims – have been very different.

A Baseline Study, published in April 2007, set out an analysis of the markets and the approach that would be adopted.

### **The authorisation process**

The authorisation process worked well. There were no significant problems with the application form or the technology. Feedback from applicants indicated broad satisfaction with the arrangements. The process made a significant contribution to meeting the objectives of the legislation –

- Claims management businesses realised that this was a serious regulatory regime that was likely to be enforced.
- Deficiencies in websites and contracts were largely addressed. In itself this meant that much of the malpractice in respect of endowment claims had already been dealt with.
- A significant amount of information was gathered on businesses that might seek to trade without authorisation.
- Authorised businesses that posed some risk to the achievement of the regulatory objectives were identified.

The process gave the necessary platform on which monitoring and compliance work could be effective.

One significant lesson was that many applications were of a very poor quality. Perhaps the degree of this could have been anticipated given that the businesses to which regulation was being applied had little or no previous experience of regulation. More account could also have been taken of the nature of the applicants.

### **Renewals process**

The initial certificates of authorisation all ran to a specific date, 28 February 2008. The renewal process went smoothly for those authorised businesses that completed the renewal form in good time, and contributed significantly to achieving compliance with the Rules of Conduct. The process confirmed the high turnover of businesses in the market. 87 businesses surrendered their authorisation and 187 have either not returned renewal forms or have returned incomplete forms. Around half the businesses that renewed had not been trading for a full year to September 2007.

## **Monitoring and compliance**

Monitoring and compliance work has been carefully targeted at known problem areas. The objectives have been to prevent unauthorised activity and bring authorised businesses to compliance with the rules of conduct. This has been particularly successful in respect of website and contracts. It has not yet been necessary yet to make significant use of formal enforcement powers.

## **Complaints handling**

It was not anticipated that there would be a significant number of complaints to the Regulator, and this has proved to be the case. Almost all the complaints have been in respect of financial products and services, three businesses accounting for a significant proportion of the total. People with a complaint about an authorised business generally discover the Claims Management Regulator when doing an internet search, or as a result of the requirement for authorised businesses to publish their complaints procedures on their websites.

## **Personal injury**

The Baseline Study identified five principal problems – misleading advertising; improper acquisition of business; opaque contracts; cases being run for the benefit of the intermediary not the client; and fraud. The Rules of Conduct banned cold calling in person, required any other cold calling to be in accordance with industry codes and prohibited business being acquired in a way that would put the solicitor to whom the business was passed in contravention of the rules governing solicitors' conduct.

Misleading use of the expression "no win no fee" and other misleading advertising have largely been dealt with through the authorisation process.

A small number of businesses that actively engaged in cold calling were identified and action has been taken to ensure that they comply with the Rules. A close working relationship with the Solicitors Regulation Authority (SRA) has been essential for this to be achieved. This has achieved reasonable success. Cold calling is now on a much reduced scale and by individuals rather than businesses.

Vigorous action has been taken against unauthorised marketing in hospitals. Such marketing has largely been eliminated.

Malpractice in respect of personal injury cases is now predominantly the responsibility of solicitors. The SRA needs better regulatory tools to deal with malpractice.

## **Personal injury – contrived accidents**

Contrived accidents lead to false insurance claims, predominantly personal injury, vehicle damage and related credit hire, in excess of £200 million a year and are

connected with other criminal activity. While insurance fraud was on the agenda when the legislation was enacted, contrived and induced accidents were not. When its importance was realised, a strategy was developed involving co-operation with the SRA, the Insurance Fraud Bureau, the Insurance Fraud Investigators Group, the City of London Police and other relevant bodies. The Ministry of Justice cannot be the lead enforcement agency in this area, but it has played a valuable role in assisting other enforcement agencies and facilitating the development of a strategy.

### **Criminal injuries compensation**

Criminal injuries compensation is a very small market (under £1 million a year) for claims management businesses. Some intermediaries have sought to give the impression that they are part of the official process and have also used unfair contracts. These issues have largely been addressed through the authorisation process.

### **Industrial Injuries Disablement Benefit**

Industrial Injuries Disablement Benefit is also a small market (under £1 million a year). Most businesses are also in the personal injury market. There has been limited malpractice and this will have been partly addressed in the authorisation procedure.

### **Employment issues**

Claims management companies have a small role in the employment market. This has not been a priority area for the first phase of regulation. The main issue appears to be quality of service.

### **Housing disrepair**

The market seems very small and local in nature. The strategy is to work with social landlords who perceive this as being a significant problem. In practice, local authorities have largely dealt with the problem themselves. However, claims management regulation has played its part, particularly in reducing "door knocking".

### **Endowment claims**

This is the second largest market after personal injury. Turnover was £68 million in the year to September 2006, but fell by more than a third in the following year as the number of outstanding potential claims fell sharply. The main problem areas have been misleading information on websites, in particular the use of scare tactics, and contracts that are weighted against the consumer. These issues have largely been dealt with through the authorisation process. The remaining problems relate to service issues and people being given misleading information by representatives of claims companies.

### **Other financial products**

Reclaiming bank charges became a big market as the regulatory regime was being implemented. Malpractice is similar to that in the endowment market and was largely addressed through the authorisation process. The business has been substantially reduced following the commencement of a test case in the courts.

No significant market has developed in respect of other financial products. Payment protection insurance is the most likely area for new business.

### **Wider issues**

Three wider issues have emerged in the analysis of the impact of regulation –

- The provision of basic information on the claims management regulation website has been useful to the Regulator, those who receive claims and the public.
- There has been some displacement of malpractice from business regulated under the Compensation Act 2006 to business that is not regulated under the Act.
- The expression “compensation culture” seems to have been less prominent, although claims management regulation cannot take all the credit for this.

### **Conclusions and future work**

The regulatory regime for claims management activities is considered to have had a significant effect in reducing malpractice in its first full year of operation. Specifically –

- Cold calling in person has been significantly reduced. This has reduced the number of frivolous claims and helped defuse the “compensation culture”.
- Unauthorised marketing in hospitals has been largely eliminated
- A strategy has been developed for dealing with contrived accidents, with the Department also taking a co-ordinating role for the various enforcement agencies and the insurance industry.
- Malpractice by companies handling claims against the Criminal Injuries Compensation Authority has been significantly reduced, including through some companies voluntarily leaving the market.
- Misleading use of the expression “no win no fee” has largely been eliminated.
- Misleading claims on websites have been almost entirely removed and

rules requiring websites to give a physical address are being complied with.

- What little malpractice there was in respect of handling endowment claims has largely been removed.
- The growth of claims handlers dealing with bank charges has been controlled, preventing significant malpractice from developing.

There remains much work to be done, in particular –

- Combating unauthorised activity.
- Regular surveillance of websites and other marketing material to ensure that bad practices do not return.
- Eliminating all cold calling in person.
- Working with other agencies to tackle claims management businesses involved in crime.
- Reducing the scope for abuse of the “exempt introducer” concept.
- Seeking to ameliorate the regulatory burden on small businesses particularly where claims management is a small part of their total business.
- Ensuring that authorised businesses provide the necessary information about their ownership.
- Ensuring that contracts are not unfair and that customers are not subsequently treated unfairly.

Very relevant to personal injury claims but outside the scope of the Claims Management Regulator is the need for more effective action to be taken to tackle solicitors who do not comply with the rules governing solicitors’ conduct.

The following table is reproduced from the Baseline Study (April 2007), with the addition of a final column on the right summarising impact.

Market sector	No of Businesses	Estimated annual size of market	Malpractice	Prognosis	Impact April 2008
Personal injury	1,128	£190m	Aggressive selling. Marketing in hospitals. Misleading contracts. Involvement in fraud.	Most difficult sector. Regulatory arbitrage and attempts to get round regulation are certain.	Marketing in hospitals, cold calling and misleading contracts largely dealt with. Arrangements in place to deal with aggressive selling and fraud.
Criminal injuries compensation	340	£1m	Claimants deceived into thinking they are dealing with CICA.	Good.	Significant; problem largely dealt with.
Industrial injuries disablement benefit	165	£1m	Claimants deceived into using intermediary.	Good.	Probably significant but little evidence.
Employment matters	130	£2m	Claimants deceived into using an intermediary.	Difficulty will be identifying malpractice.	Some evidence of poor quality advice and representation.
Endowment mis-selling	176	£75m	Scare selling tactics. Clients dropped if cases difficult.	Good, but a large sector to tackle.	Significant; malpractice largely eliminated.
Other financial products		£1m	Claimants deceived into dealing with an intermediary.	Should be able to prevent malpractice being developed on a significant scale.	Malpractice prevented from being developed in respect of bank charges.
Housing disrepair	65	£1m	Aggressive selling.	Local in nature, so problem will be to identify.	Little evidence other than "door knocking" reduced.
<b>Total</b>	<b>1,256<sup>1</sup></b>	<b>£275m</b>			

<sup>1</sup> Total is the total number of authorised businesses. Figures above the total shows the number of businesses active in each sector. Many businesses provide services in more than one sector.

## Annex A

### Business Satisfaction Survey – Claims Management Business Enquiries

#### 1. Introduction

This report covers research conducted during March 2008 with businesses that had made enquiries to the Claims Management Regulation Monitoring and Compliance Unit during February 2008. The research was designed to explore satisfaction with the service provided, with the aim of identifying any failures in the service or areas where improvements could be made. Businesses were also asked about their perceptions of the success of regulation in improving the claims management market.

#### 2. Methodology

A sample size of 30 businesses was agreed, to be randomly selected from all businesses that had contacted the Unit by telephone during February 2008.

On 28th February 2008, details of these businesses were downloaded from the Claims Management Regulation database and a sample of 90 businesses was selected using a randomly generated sequence of numbers. Calls were made to these businesses in turn, until 30 successful interviews had been conducted with the person who had made the enquiry. In order to promote consistency, all interviews were conducted by one caller.

A total of 68 calls were made in order to achieve 30 successful interviews:

- 29% calls answered but the person required was not available
- 22% calls unanswered (the line was engaged, rang out, or went to voicemail)
- 46% calls answered and the person required was available and willing to be interviewed<sup>2</sup>
- Only 1 call was made where the required person was available but was unwilling to be interviewed

The interviewees included businesses that had been through the authorisation process; businesses that had been through the 'renewals' process; authorised businesses enquiring about a particular practice or legal requirement; and businesses (including solicitors) checking whether a particular business was authorised.

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<sup>2</sup> This includes 1 interview which was discounted as the interviewee was found to be a consumer not a business

### 3. Results

#### 3.1 Question 1

*When you called, did you get through to an officer the first time you called?*

Yes	63%
No	37%

#### 3.2 Question 2

*If not, what happened when you called?*

Left message with receptionist	55%
Left message on answerphone	45%
No answer	0%
Line engaged	0%

The interviewees who had left a message were asked how quickly they received a call back:

Same day	27%
Following day	18%
A couple of days	18%
Has not received a call back	18%
Not sure/ They kept missing each other	18%

#### 3.3 Question 3

*Did you receive the advice that you needed from the officer that you first spoke to?*

Yes	70%
No	37%
N/a	3%

Interviewees who had not received the advice needed from the first officer they spoke to were asked what had happened:

- Officer could not answer query, but another officer called back with the required information.
- Officer was unable to answer query so a call back with the required information was necessary.

- Officer was unable to answer query, second officer provided the required advice.
- Information that was required could not be confirmed
- Received letters from CMU regarding application but officer did not know how to help straight away.
- Still waiting for confirmation that his website is compliant with regulations.
- The officer was unaware of a new piece of legislation due out in March that the interviewee had been advised of by his solicitor.

### 3.4 Question 4

*Was the officer polite and helpful?*

Yes	93%
No	3%
N/a	3%

The interviewee who answered 'No' to this question said that he had found the officer polite but not helpful.

### 3.5 Question 5

*Did you look for information on the CMR website before contacting the Unit for advice?*

Yes	73%
No	23%
No response	3%

Those interviewees who had looked for information on the website were asked whether they had found it clear and helpful.

Yes	68%
No	27%
No response	3%

Those interviewees who had looked for information on the website and had not found the website clear and helpful were asked to comment:

- The information required was not on the website.

- The information keeps being changed without telling anybody. More information is needed on the website for simple enquiries.
- Could not find information on the CMR website regarding the requirement for the business to have a complaints procedure on their website (he had received a telephone call saying that his website must comply).
- The website was experiencing some technical difficulties the day that he tried to use it.
- The website did not cover the information required and it contradicted the information provided by the company's solicitor.
- The interviewee was confused by the requirement to provide turnover figures for a year ending in September.

One interviewee was very complimentary, describing the information on the website as 'fantastic'.

### 3.6 Question 7

*Could you tell me how satisfied you were with the service that you received from the Unit – was it Poor, Acceptable, Good, Very Good?*

Very Good	50%
Good	30%
Acceptable	13%
Poor	3%
No response	3%

### 3.7 Question 8

*Do you have any suggestions for how the Claims Management Regulation Monitoring and Compliance Unit could improve its service to claims management businesses?*

Most of the interviewees took the opportunity to make comments and these have been grouped under three headings for convenience:

#### Authorisation

- Make forms clearer & provide scenarios to work from.
- Make forms less daunting as not everything is applicable to every company.

- Feels that prior to registration, the CMU should send every company a detailed list of what paperwork will be required to complete the authorisation process as he feels this will speed up everybody's application.
- The initial application forms are limited. Once you are waiting for authorisation, they become more in-depth. Why don't the CMU ask for all the information in one go as it surely saves time and money.
- It would be beneficial to businesses when making the application for authorisation, if they were provided with a reference number that they could check up with online as to the progress their application has made and with a rough indication as to how long the process will take (where are they in the queue).
- Would like to have received a timescale for how long the process takes from start to finish.
- The delay between receiving his invoice to actually receiving the authorisation is too long.
- He has been waiting for 3 months for his application to be accepted. He has called many times and is always told it will be with him in the next 2-3 days. He feels very strongly that the process should be quicker.
- His authorisation has been delayed for months because the MoJ sent out post without his business name on it (he shares an address with over 200 businesses) and because the MoJ are in 1958 not 2008 and insist on using the Royal Mail. They refused to communicate with him by e-mail, telephone or fax and this has meant that he has not been able to trade for 4 months and is losing money.

### **Requests for Advice**

- Written confirmation should be sent out to confirm the verbal information supplied.
- The amount of time for call-back was slow, felt it was probably down to workload and manpower, or lack of it!
- The CMU needs to respond quicker to calls for advice.

### **Enforcement**

- Now the industry is regulated, what are the MOJ doing about businesses that trade illegally - feels this needs to be highly publicised.

- Feels that there are still too many people trading who do not comply with regulations. He has provided a company's name who he knows does not comply.
- There are a lot of dubious businesses still trading. He reports them as and when he comes across them but never gets any feedback. Feels that the MoJ should provide feedback to businesses that provide information and should publicise successes to encourage other businesses to provide information.
- His competitor is still offering a financial incentive which is severely damaging his business. They are advertising that they are regulated by the MOJ, but are not sticking to the rules!
- Feedback should be given to businesses that provide information.

### **General**

- Very happy with service, no room for improvement.
- Thinks that the workshops are an excellent idea and will attend them.
- Would like to see more support for businesses.
- Businesses need to be kept more informed – suggests general meetings and then businesses could be given a booklet of information/ updates.
- The website needs a daily update as so many companies are regulated then de-regulated on a daily basis, they can check one day then the following it has changed.
- Instead of having a national body & database belonging to the MOJ, he suggests having a local MOJ office & contacts as he feels it would benefit everyone involved then.
- More emails need to be sent to keep businesses updated on this regulation.
- CMU needs to be more helpful and not appear to be trying to stop people working for a living.
- Both the MOJ & CMU need to appreciate modern technology (fax, email and telephone) rather than only 1st class Royal Mail.
- He received a publication late last year, by post, that appeared to have been posted on the website – he feels that the MoJ should collect e-mail addresses and circulate things like this by e-mail not post.

### 3.8 Question 9

*Do you feel that regulation is improving the claims management market?*

Yes	73%
No	7%
No response/ not able to comment	20%

Those interviewees who felt that regulation is not improving the market were asked in what ways they feel regulation is failing. A few made comments:

- You have now restricted his trade as he can no longer approach people. The “horse bucked ages ago” when companies such as Claims Direct & Accident Helpline were at their peak. Feels it is too late for the CM market now.
- Feels it is just another layer of bureaucracy. Joe Bloggs on the street is not bothered if a company is regulated or not, they just want to make a claim.
- That regulation has definitely improved the market as it has ‘seen a lot of toe-rags out of business’.
- That regulation has started to eliminate the poorer quality businesses although it will be a slow process.

One interviewee commented that he understands how regulation should be working but he would like more information on how it is actually working.

#### **Business Enquiries Survey – Comments from the MCU**

##### **Page 2, Paragraph 3.2**

18% of businesses who did not get through did not receive a call back. This amounts to two businesses. We have already put steps in place, following a complaint, to pick up on any messages we have had where through human error we have not responded.

##### **Page 3, Paragraph 3.5**

68% of businesses who looked for information on the website found it clear and helpful (but still had to ring us). We are planning –

1. To ask they rang in these circumstances in next surveys.
2. A review of the website (already programmed in).

**Page 5 – authorisation comments**

“He has been waiting 3 months for his application to be processed ....”

We have checked, due to the seriousness of this one, and it is not true. We have sent queries to which this trader has not responded.

“Authorisation has been delayed 3 months because MOJ sent post without his business name on.” The post was not received as his address is an accommodation address. He needs to resolve any non-delivery issue with the service provider he uses.

**Page 6 – general comments**

“We are in 1958.” This is a comment from a business that, due to its own organisation, struggles to receive post we send.

“We should collect e-mails.” We now have e-mail addresses for about half of the businesses and will continue to collect them and distribute publications this way if we have e-mail addresses.

## Annex B

### CMR Publications

All of these publications can be found at [www.claimsregulation.gov.uk](http://www.claimsregulation.gov.uk)

#### **Rules**

Conduct of Authorised Persons Rules 2007

Complaints Handling Rules 2006

Client Account Rules 2006

Fees Determination 2008 - 2009

#### **Guidance notes**

Who needs to be authorised under the Compensation Act 2006

Completing the Application Form

Marketing and Advertising Claims Management Services

Complaints Handling Procedures

Claims in respect of bank charges.

Guidance on submitting a claim at court.

Data Protection Act: Obligations for authorised businesses.

#### **Policy and analysis**

Risk Framework, April 2007

The Claims Management Regulation Baseline study, April 2007

Enforcement Policy, April 2007

Analysis of Applications for Authorisation, June 2007

Impact of Regulation, August 2007

#### **Consumer publications**

Complaints Procedure Leaflet

Consumer Information Leaflet

## Annex C

### Contact Information

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