



## **Association of Mortgage Intermediaries' response to the Ministry of Justice's Claims Management Regulation consultation on cutting the costs for consumers – financial claims**

This response is submitted on behalf of the Association of Mortgage Intermediaries (AMI). AMI is the trade association representing over 80% of UK mortgage intermediaries.

Intermediaries active in this market act on behalf of the consumer in selecting an appropriate lender and product to meet the individual consumer's mortgage requirements. Our members also provide access to associated protection products. Approximately 70% of all UK mortgage transactions are advised by intermediaries.

Our members are authorised and regulated by the Financial Conduct Authority (FCA) to carry out mortgage and insurance mediation activities. Firms range from sole traders through to national firms and networks, with thousands of advisers.

### **Response**

We are pleased to see measures being introduced to improve the claims management sector. Our members still receive high proportions of spurious claims from claims management companies (CMCs) who use aggressive marketing techniques on consumers. We fundamentally believe that CMCs do not add any value in this market, which is demonstrated by the lower uphold rates for complaints made using CMCs. Consumers can complain directly to firms, who are transparent about their complaints processes, and this can be done for free. We struggle to see the services CMCs provide to consumers, yet those who do choose to use them should be able to make a fully informed and unbiased decision. We believe they are currently unable to do this due to these firms' behaviour, lack of transparency and unjustifiable fees.

In specific redress exercises, firms can and have worked directly with the FCA to ensure affected consumers are contacted and appropriately compensated. The financial services industry should continue to raise and improve awareness of such issues in order to successfully engage directly with consumers.

The independent review led by Carol Brady proposed several operational objectives for the regulator, including:

- Fees charged by CMCs should be in proportion to their costs and services and presented in a transparent manner.
- CMCs offer clear, fair and not misleading information about their services and the value they offer to consumers

We agree with these objectives and we therefore support the proposals outlined in this paper.

Our members also receive equally speculative claims from legal practitioners carrying out claims management services. We would welcome clarity on how these proposals will ensure a level playing field across different firms carrying out the same activity.

## Questions

**Q1: Do you have any comments regarding the proposals to implement [in respect of PPI and PBA claims]:**

- **A cap of 15% (Inc. VAT) of the net amount of the final compensation awarded with a single lender, where any final compensation amounts to less than £2,000?**

See Q2.

- **A cap of £300 for the total net value of relevant claims awarded with a single lender that amount to more than £2,000?**

See Q2.

- **A maximum cancellation fee of £300 where a consumer cancels their contract after the 14 day 'cooling off' period and providing an itemised bill to that consumer?**

See Q2.

- **A ban on any charges being imposed on consumers where there is no relationship or relevant policy between the consumer and a lender?**

We support this proposal however we do not understand why this will apply to PPI and PBA claims only. We don't believe consumers should pay to raise a complaint in the first place, let alone being charged where no complaint can even be made and most likely as a result of cold calling. We agree that this proposal should hopefully reduce the number of speculative claims that are submitted but in order for this to be effective this ban should apply to all financial claims.

- **A ban on receiving or making payment for referring or introducing a consumer to a third party?**

We agree with this proposal, which is consistent with the current ban on referral fees for personal injury claims, but would suggest that this should be extended to all financial claims not just those relating to PPI and PBA. By limiting this ban as currently proposed we believe CMCs will look to focus on canvassing business via other financial claims. To avoid creating a 'loophole' and to ensure consistency such incentives should be removed consistently across this sector.

**Q2: Do you have any comments regarding the consideration of alternative proposals to implement [in respect of PPI and PBA claims]:**

- **A cap of 10% (Inc. VAT) of the net amount of the final compensation awarded with a single lender, where any final compensation amounts to less than £2,000?**

We agree with the alternative proposal for a lower cap.

- **A cap of £200 for the total net value of relevant claims awarded with a single lender that amount to more than £2,000?**

We agree with the alternative proposal for a lower cap.

- **A maximum cancellation fee of £200 where a consumer cancels their contract after the 14 day ‘cooling off’ period and providing an itemised bill to that consumer?**

We agree with the alternative proposal for a lower cancellation fee.

**Q3: Do you have any comments regarding the proposed cap of 25% (Inc. VAT) of any final compensation awarded for other claims in the financial claims sector?**

We support a cap for the wider financial claims sector although we question the rationale behind the proposed level. We note the paper refers to PPI and PBA as ‘bulk’ claims, however this does not mean that all other types of financial claims are complex and require further work.

We believe the cap should be consistent across the whole financial claims sector and by differentiating the level by the type of claim (which is based on current complaint volumes), the rules will not be future-proofed. The growth of PBA claims has only arisen in the last two years; it is unknown if there will be other significant claims which would be described as ‘bulk’, yet under the current proposal affected consumers would be subject to a disproportionately higher charge. It would not be practical in future to revise the rules to include new definitions under ‘bulk’ complaints. The higher cap may also be seen as a loophole and drive CMCs to focus on other claims.

**Q4: Do you have any comments in relation to the proposed ban on upfront fees charged to consumers for any financial claim?**

We believe that high-pressure selling tactics and a lack of transparency are the primary reasons why consumers engage with CMCs for financial claims. We agree that upfront fees provide an inappropriate incentive for CMCs to canvas business without any standard of care. Upfront fees should not be charged in an environment where there is no cost and no difference in process for consumers to complain directly with the firm and subsequently to the financial ombudsman.

**Q5. In relation to the analysis and rationale set out regarding these proposals, is there any information that has not been taken into account that should have been?**

Apart from the issues set out elsewhere in this response we have nothing further to add.

**Q6. Do you have any evidence relating to the total volume of claims made by CMCs?**

No comment.

**Q7. Do you have any evidence relating to the average amount of consumer redress per case?**

No comment.

**Q8. Do you have any evidence on the number of cancellations which occur for work completed after a 14 day “cooling off period”?**

No comment.

**Q9. Do you have any evidence on how much a reduction in ‘nuisance’ calls will benefit lenders and/or the Financial Ombudsman?**

No comment.

**Q10. Do you have any evidence on how much a reduction in ‘speculative’ claims would save lenders and/or the Financial Ombudsman?**

No comment.

**Q20. Is there a need to consider further fee controls in other regulated claims sectors such as Personal Injury or Employment in future?**

Considering that in 2014-15<sup>1</sup> more than 99% of CMC turnover was directly or indirectly related to financial services with PPI and packaged bank accounts accounting for 59% (£458.2 million) and 40% relating to the insurance aspect of personal injury claims (£309.7 million), we believe that as a minimum fee controls should be applied to all financial services claims therefore covering the personal injury sector as well.

With the government accepting Carol Brady’s recommendations and specifically the decision to move regulatory responsibility to the FCA, we would consider that for consistency fee controls should be introduced across all six regulated claim sectors.

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<sup>1</sup> Independent review of claims management regulation: [final report](#) March 2016